

## TAX AND LEGAL UPDATE

December 2011 - 2



### PROFIT DIRECTED TO CAPITALIZATION

Azerbaijan Republic Constitutional Court Plenary session issued a new resolution dated 7 December 2011 to clarify taxation issues arising upon transfer of net profit to charter capital for capitalization. According to the resolution, unless the net profit of legal entity is not distributed and not paid as a dividend among its shareholders and percentage correlation of shareholders shares is not changed, then net income transfer to capitalization is not considered as a dividend as per article 13.2.15. of Azerbaijan Republic Tax Code and therefore, this transfer should not be taxed as a dividend.

Also, resolution sets out that, the increase of nominal value of the shareholders' shares as a result of direction of retained earnings to increase of charter capital can be taxed only in the case of share sale. This tax will be income tax for physical persons and profit tax for legal entities.

Returning back, starting from 1<sup>st</sup> January 2009 banks, insurance and reinsurance companies in Azerbaijan are exempted from profit tax on part of their profit that is directed to increasing capitalization. That incentive is in force for three years and will lose its power by the end of 2011.

### HOLIDAYS IN 2012

As per decree of the Cabinet of Ministers, dated 7 December 2011, the holiday days for 2012 are set as below:

Novruz Holiday – 20 - 24 March;

Ramadan Holiday – 19, 20 August;

Gurban Holiday – 25, 26 October.