

Contents

Recent Amendments to the Azeri Tax Code

Changes to Other Legislation

The Azeri Tax Code has undergone a number of important changes effective of 1 January 2007. Below is a summary of the most important amendments, including a recent amendment taking an effect as of 1 February 2007 that may be relevant to your business activities in Azerbaijan. In this issue we also comment on some of the most recent changes to other Azeri legislation.

Recent Amendment to the Azeri Tax Code

Profits Tax

Effective 1 January 2007, companies providing therapeutic nourishment, milk and similar products to their employees can take the resulting expenses as deductions for profits tax purposes. Such deductions will be allowed within the norms to be established by the government.

Withholding Tax

The new amendments have also clarified the ambiguity surrounding the application of withholding tax rates on payments to non-resident companies for lease of property and royalties in Azerbaijan. Previously, the Tax Code contained contradictory provisions which imposed two different tax rates, 10% and 14%, to lease and royalty payments (with respect to both movable and immovable property). As a result of the most recent amendments, the Tax Code now clearly states that lease and royalty payments to non-resident companies should be taxed at the source of payment at a rate of 14%.

VAT

Clarification of Article 168.1.1

The amendments have clarified Article 168.1.1 regarding the application of VAT to work or services related to immovable property located in Azerbaijan. Among other things, VAT will apply to, for instance, construction, installation or agent and expert services provided in relation to immovable property in Azerbaijan.

Additions of new types of services to Article 168.1.5

The "place of performance" for VAT purposes will now also be determined as the place where the purchaser is registered for the following additional services:

- provision of telecommunication services (receipt, transmission and broadcasting of signals, documents, pictures or sounds, or any other information via telegraph, radio, optic or other electromagnetic means; including granting or purchase of rights for such receipt, transmission or broadcasting);
- radio and television broadcasting, provision of postal services;
- provision of services via computer, internet or other electronic networks, electronic email or by similar means; including granting of rights to use such networks or services.

Hence these services will be subject to Azeri VAT, provided that the purchaser of such services is registered in Azerbaijan.

Excise Tax

Imported automobiles are now also subject to excise tax. The rates of excise tax will depend on the engine capacity of the automobiles and will range between AZN 0.15 and AZN 4 per 1 sm³ of the engine.

Land Tax

The land tax calculations will apply based on fixed “manat” rates as defined in the amendments resulting in a significant increase.

New Simplified Tax Regime for Construction Companies

Companies engaged in construction of apartments will now have to register as simplified taxpayers and pay a fixed amount of tax based on the area of the construction. It should be noted, however, that a distinct set of rules under the simplified tax regime will apply to these taxpayers. Furthermore, the abovementioned tax rates will vary depending on the district/region where the building is constructed.

Additionally, construction companies will be required to register for VAT purposes and pay VAT under special rules to be determined by the decree of the Cabinet of Ministers.

Other Important Changes

Conventional Financial Unit

In accordance with the amendments to the Tax Code, the term ‘conventional financial unit’ (previously 1.1 manat) has been substituted with ‘manat’ throughout the text of the Code. This change will mainly affect those subject to exemptions for personal income tax purposes (such as war participants or veterans) as well as a number of thresholds, e.g. relevant to the VAT registration/de-registration requirement.

Late Interest Payment

The late payment interest has been increased to 0.1% compared to the previously applicable 0.05%. At the same time, the increase to 0.1% will also apply in relation to incorrectly withheld and overpaid taxes.

Request of Additional Documents

The amendments have introduced a new article (Article 42.4). In accordance with this new article, taxpayers are required to submit all necessary documents or their copies at the request of the tax authorities in connection with the application of double tax treaties. As the article further states, these documents will have to be submitted within 20 days following the request of the tax authorities. In case the requested documents are not provided within this deadline, the tax authorities may undertake an extraordinary field audit.

Minimum fee for lease of non-residential areas

In accordance with Article 124.4 of the Tax Code, there will be a minimum monthly fee for lease of immovable property (other than residential premises) to be set by the relevant state authority for taxation purposes.

Tax Lien

An amendment was made to Article 90.1 of the Tax Code which states that the property of taxpayers failing to pay their taxes within 30 days (compared to 60 days as previously) following distraintment of their property will be put in auction.

One off Allowances

According to amendment to Article 102.1.3, one-off allowances made to physical persons will not be taxable up to 1,000 AZN. Meanwhile, neither the Tax Code nor amendment defines the term of such allowances for the purposes of this article. It is expected that this term will be covered by the relevant decree of the Cabinet of Ministers to be introduced soon.

The amendment is effective 1 February 2007.

Change to Other Legislation

Minimum Monthly Salaries and Base Pension

The President has recently signed a new decree to increase the minimum monthly salaries and base pensions to 50 AZN as of 1 February 2007. As discussed in our earlier Business Brief, this change will, among other things, affect self-employed individuals paying fixed social taxes and will result in an increase of the allowances for temporary loss of working ability and maternity leave.

www.ey.com/azerbaijan

This publication represents an overview of certain changes in the legislation of the Azerbaijan Republic. The information contained in this publication is for general guidance only. You should neither act, nor refrain from acting, on the basis of such information. Ernst & Young disclaims all responsibility for all consequences of using the information contained in this publication.

Ernst & Young Holdings (CIS) B.V.
Hyatt International Centre
Hyatt Tower III, 1st Floor
Izmir Street, 1033
Baku, AZ 1065, Azerbaijan
Tel 994 12 490 70 20
Fax 994 12 490 70 17

Tax Services:
Erlan Dosymbekov
Erlan.B.Dosymbekov@az.ey.com
Assurance:
Jody Campbell
Jody.Campbell@az.ey.com