

# Tax & Legal Alert

Republic of Azerbaijan • Number 2 - February 2010

## Tax & Legal Services

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## EXEMPTION FROM INCOME TAX ON DEPOSITS

The Law of the Azerbaijan Republic has been approved by a decree of the President, dated 21 December 2009, provides exemption from personal income tax on interest earned from deposits.

According to the new Law, physical persons are exempt from personal income tax on interest income from deposits in banks or other credit organizations for three years effective from 1 January 2010.

## NEW ADDRESS TO SUBMIT TAX REPORTS

According to the news published in the official site of Ministry of Taxes, now the taxpayers should file their tax reports to the Department for Receipt of Tax Reports at the address Binaqadi district, Ziya Bunyadov avenue 15, AZ1108. Taxpayers registered with the Special Regime Tax Service Department should continue to file tax reports to this Department.

## NEW INSTRUCTIONS FOR SPECIAL ECONOMIC REGIME FOR EXPORT OIL AND GAS PROJECTS

Detailed instructions on implementation of the Law on Special Economic Regime for Export oriented Oil & Gas Activity (please see our Alert # 3, April 2009 issue) have been issued by a decree of the Cabinet of Ministers in November 2009. The decree specifies the list of documents required to obtain the following approvals:

- permission to employ more expatriate employees than stated in the Law (permission is to be issued by the Ministry of Labor and Social Protection);
- certificate confirming the application of the special regime.

The decree also specifies the procedure for issue of certificates. To obtain the certificate, the contractor or subcontractor should file an application form and copies of the below documents to the Ministry of Industry and Energy:

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- tax registration certificate of the legal entity;
- identity of the physical person and its tax registration (if the contractor or a subcontractor is a physical person);
- direct or indirect contract (or its substitute) with the operator of the project;
- document issued by the customs authority and showing the applicable customs regime (e.g. temporary import/export, processing of goods within the customs border, transit, etc.).

Additional documents listed in the decree may be requested for issue of the certificate.

After receipt of the above listed documents the Ministry of Industry and Energy sends them to the State Oil Company of Azerbaijan Republic to obtain their expert opinion.

According to the Rules, the certificate should be issued (or cancelled) by the Ministry of Industry and Energy. Subsequently, the Ministry will notify the Ministry of Taxes and the State Customs Committee about the issue (or cancellation) of the certificate.

## NEW RULES FOR SPECIAL ECONOMIC ZONES

Several rules and forms applicable to the Special Economic Zones (SEZ) (please see our Alert # 5, July 2009 issue) have been issued by decrees of the Cabinet of Ministers in December 2009 and January 2010. The following rules have been approved by the decrees:

- the rules for registration of residents of SEZ;
- the form of a SEZ registration certificate and the application form for registration of legal entities and physical persons with the administration of SEZ;
- simplified customs rules within the borders of SEZ;
- balance sheet form and rules for its preparation for resident branches and representative offices in SEZ.

## EXEMPTIONS FROM CUSTOMS DUTIES FOR SPECIAL ECONOMIC ZONES

Changes to the Law on Customs Tariff in December 2009, stipulate exemption from customs duties for goods (excluding goods subject to excise tax) imported into or exported from Special Economic Zones (SEZ). According to the changes, the following goods are exempt from customs duties:

- goods imported into SEZ from outside of Azerbaijan;
- when goods which were imported into SEZ from outside of Azerbaijan are exported outside of Azerbaijan;
- goods produced or processed in SEZ are exported outside of Azerbaijan;
- goods produced or processed in SEZ are temporarily exported from Azerbaijan for repair, completion, exhibition, etc.;
- goods imported / exported between SEZs in Azerbaijan.

## CHANGES IN LABOR PENSIONS

The new law on changes and amendments to the Law on Labor Pensions and corresponding decree of the President has been issued. The changes are effective from 1 January 2010 and include the following:

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- at least 12 years (until 1 January 2010 it was 5 years) of "insurance work experience" (social insurance contributions should be calculated and paid to the budget for the employee during these 12 years) is eligible to pension;
- pension age for men is to be increased from 62 to 63 till 1 January 2012 by adding 6 months each year and for woman from 57 to 60 till 1 January 2016 by adding 6 months each year.

## APPLICATION OF ADMINISTRATIVE PROCEDURAL CODE

According to the Law of Azerbaijan Republic dated 25 December 2009, the application date of Administrative Procedural Code (Code) has been deferred until 1 September 2010. Before, the effective date was set to be 1 January 2010. The Code stipulates the rules and procedures of review and resolution of conflicts of administrative legal nature in court, such as claims to cancel or change administrative sanctions applied by the administrative body.

## AMENDMENTS TO THE ADMINISTRATIVE DELINQUENCIES CODE

Amendments and changes to the Administrative Delinquencies Code (Code) have been approved by a decree of the President, dated 21 December 2009.

Now the maximum amount of the administrative fine that can be collected from physical persons has been increased:

- up to AZN 3,000 (previously AZN 1,000) for physical persons; and
- up to AZN 10,000 (previously AZN 5,000) for officers of company.

Additionally, a new paragraph has been added to the Code, which sets the rate of the fine levied for employing more foreigners in export oriented oil-gas activity than stated by the law (with exceptions stipulated in the legislation).

- AZN 2,000 – 2,500 for officers of companies;
- AZN 10,000 – 12,000 for legal entities.

## WEBSITE REQUIREMENT FOR GOVERNMENTAL BODIES

A decree of the President published on 27 December 2009 requires the governmental bodies, including the ones listed below, to disclose publicly available information by opening and continuously updating respective internet sites.

- State Customs Committee;
- State Migration Service;
- Ministry of Labor and Social Protection of Population;
- Ministry of Taxes;
- Ministry of Internal Affairs;
- Ministry of Foreign Affairs;
- Ministry of Justice;
- Ministry of Industry and Energy;
- Ministry of Economic Development;
- Ministry of Finance.

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## LAW ON NON-BANK CREDIT ORGANIZATIONS

The Law on Non-Bank Credit Organizations was approved by the President on 8 February 2010. The Law covers the main principles applicable to non-bank credit organizations (NBCO) as below:

- license for opening of NBCO and its branches is issued by the Central Bank of Azerbaijan Republic;
- NBCO may not collect deposits from legal entities and physical persons;
- NBCO may be financed from the following sources:
  - charter capital and earned income;
  - borrowings;
  - contributions, grants and other non-refundable resources from legal entities and physical persons;
  - other sources not forbidden by the law.
- aid granted by international organizations, governments of foreign countries and other donors and income earned from these funds may not be transferred to another country by NBCO;
- annual financial reports approved by an independent auditor should be submitted to the Central Bank of Azerbaijan Republic within 5 months after the end of the financial year.