



Business brief on the amendments to the Tax Code

**Respective amendments are effective
from 1 January 2022**

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1

Tax Administration and Financial Sanctions

Tax Administration

Tax Evasion Schemes

The right of the tax authority to identify tax evasion schemes (**Article 23.1.6-1 of the Tax Code**)

Current edition	Note on amendments in the new edition
<p>To ensure imposition of taxes, interests, financial sanctions and administrative penalties on the basis of actual economic indicators, when revealing the scheme of tax evasion, the main purpose of which is to obtain tax advantages during field tax audit;</p>	<ol style="list-style-type: none">1. From now on, the tax authorities will execute the respective right not only during on-site tax audits but also during the desk audits2. The tax authority will be entitled to publish the revealed tax evasion schemes

Tax Administration

Banks' obligations with respect to the registration of taxpayers

Amendments on opening of accounts by taxpayers (**Article 35 of the Tax Code**)

Henceforth, the procedures provided in the Tax Code for opening of financial accounts in banks (application to be submitted to the tax authority, obtaining a certificate-duplicate) will also apply to opening of financial accounts in other credit organizations and national postal operators.

Tax Administration

Provision of information by banks and other credit organizations, carrying out certain banking activities

Update in information to be provided in respect of transactions performed via financial accounts (**Article 76.1-1 of the Tax Code**)

Current edition	Note on amendments in the new edition
<p>Notwithstanding the provisions of Article 76.1 of the Tax Code, in order to determine the taxpayers' tax liabilities, the banks shall provide monthly information on transactions carried out on accounts opened based on certificate-duplicates of the taxpayers registered for VAT purposes in electronic format to a body (institution) determined by the relevant executive authority in the form approved by the body (institution) determined by the relevant executive authority by the 10th day of the month following the end of each month.</p>	<ol style="list-style-type: none">1. Based on amendments, the information will be provided not only on transactions carried out on accounts of taxpayers registered for VAT purposes, but also on transactions carried out on accounts of taxpayers not registered for VAT purposes.2. Similar to banks, credit organizations and national postal operators will also provide such information.

Tax administration and Financial Sanctions

New obligations of taxpayers

Obligation of a taxpayer	Financial sanctions for violations
Medium and large businesses have to submit financial statements at the request of the tax authority (16.1.6.):	For failure to submit financial statements upon the request of the tax authority, the financial sanction in the amount of AZN 1,000 shall apply (57.3)
<p><u>Except for taxpayers engaged in public and oil and gas sectors</u>, other taxpayers must provide information on the imported goods* to the tax authority where they are registered prior to the date of import (16.1.11-11.):</p> <p>The tax authorities have a right to inspect the place of storage (unloading) of goods in respect of which information on import was provided within 3 working days from the date of import of those goods and record the results in the form of a protocol (23.1.3-2.)</p>	<p>For failure to submit, or for distortion of the information on imported goods, a taxpayer shall be subject to a financial sanction at the below rates of the invoice value of the imported goods or its distorted portion (57.5.):</p> <ul style="list-style-type: none"> ➤ At the rate of 2 percent in relation to micro-businesses; ➤ At the rate of 5 percent in relation to other persons.

- * The above-mentioned taxpayers must provide the tax authority with the following information on imported goods:
- ▶ the place of storage (unloading) of goods used in the exercise of property, lease or other rights and (or) registered with the tax authorities as a business site (object);
 - ▶ in case goods are stored in the place not owned by the importer - agreement between the importer and owner of the place where goods are stored and information on such place;
 - ▶ in case goods are delivered based on order – information on persons placing the order (TIN for taxpayers; name, surname, patronymic and FIN for individuals) and amount of each person's order;

Tax Administration and Financial Sanctions

New obligations of taxpayers

Provision of information on raw materials usage

Except for micro and small businesses, taxpayers engaged in manufacturing activities shall submit to tax authorities annually until January 31 information about the standard quantity of raw material usage required to manufacture a unit of product.

Amendments to the submitted information regarding changes within the year in the manufacturing process, including manufacturing of new products, shall be submitted to the tax authorities during the calendar year **(New article - 16.1.4-2.)**

Registration of business site

! Failure to register taxpayer's business site (object) with tax authority in accordance with established rules or submission of distorted information regarding the site (object) shall result in application of following financial sanctions **(New article - 58.2-1.)**

**AZN
40**

- ▶ Micro businesses
- ▶ Non-profit organizations
- ▶ Persons engaged in non-entrepreneurial activity

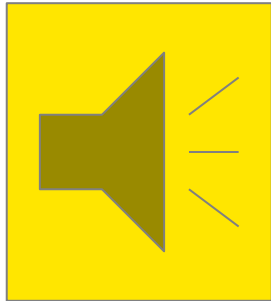
**AZN
400**

- ▶ Other persons

Tax Administration and Financial Sanctions

New obligations of taxpayers

Obligation of a taxpayer	Financial sanction for violation
Taxpayers registered for VAT purposes must submit to the tax authority in an electronic format information on their payables and receivables for the tax year on the same day as VAT returns (16.10.)	For failure to provide information on payables and receivables financial sanction in the amount of AZN 100 shall be applied to the taxpayer on basis of the decision of the head (deputy) of the tax authority (57.6)



Previously only information on movement of receivables accumulated as of 31 December 2019 was presented in the VAT returns on a monthly basis. According to the amendment, taxpayers now have to provide information on their payables to the tax authorities.

Medium and large business entities and small business entities shall submit to the tax authorities information about receivables and payables accrued before 1 January 2022 and 1 January 2023, respectively in a form approved by Ministry of Economy until 31 March 2022 and 31 March 2023, respectively.

Other Financial Sanctions

- ▶ For failure to properly record income and expenses in the manner prescribed by the Tax Code, financial sanction at the rate of 20 percent (*previously was 10 percent*) of unrecorded expenses shall apply in respect of the buyer **(58.8.3.)**

Tax Administration and Financial Sanctions

Recording of purchase and sale of goods

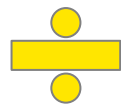
Effective article

- ▶ For failure to provide documents supporting purchase or receipt of goods (electronic invoice, invoice, delivery act, import customs declaration, purchase act, electronic purchase act, return act), a following financial sanction calculated from value of purchased goods shall apply to the buyer:
 - ▶ for commitment for the first time in a calendar year at the rate of 10%,
 - ▶ for commitment for the second time in a calendar year at the rate of 20%,
 - ▶ for commitment for the third or more times in a calendar year at the rate of 40%.
- ▶ The value of goods is determined based on purchase price or if the purchase price may not be identified, wholesale market price **(58.16.)**

Legislative updates

(58.16.) If electronic invoices issued for sales of goods purchased without proper documentation lack details, including the name of the goods, then purchase price of such goods shall be determined as follows:

Sales price of goods



1.2

! Documents registering the sale and purchase of goods submitted (issued) after the commencement of the tax control measure (with consideration of timing prescribed by the Tax Code for the preparation of these documents) are not considered, and financial sanctions apply in the manner outlined above.

Tax Administration and Financial Sanctions

New requirements for payment orders

When carrying out a payment transaction between the taxpayers, the following information shall be indicated in the payment order issued to the bank or other persons carrying out banking transactions (**New article - 16.11.**):

- ▶ Serial and number of electronic invoice

When making payments for goods (works, services) received from the same taxpayer on a regular and permanent basis during the calendar month and involving the issuance of electronic invoices:

- ▶ Date and number of the agreement between the parties or the addendum thereto

On foreign trade activities

- ▶ Serial and number of the customs freight declaration
- ▶ Date and number of the invoice for the acquired works and services

On debt repayments

- ▶ Date and number of the loan agreement or the debt claim between the parties with indication that the purpose of payment is the debt repayment

On advance payments

- ▶ Date and number of the claim or the agreement between the parties or the addendum thereto with indication that purpose of payment is to perform advance payment

! For failure to indicate, or for distortion of the above information in the payment order a tax sanction in the amount of AZN 100 shall be imposed on each such payment order on the basis of the decision of the head (deputy) of the tax authority (**New article - 57.7.**)



2

Tax Audits

Tax Audits

Desk Tax Audits

Amendment to effective articles

The timing for conducting the desk tax audit has changed per tax type as following:

- ▶ For profit and income tax returns



- ▶ For other tax returns as well as notifications on calculation of advance tax payments



According to the amendments, notification on calculation of advance tax payments submitted by the taxpayer will be also a subject of desk audit.

Tax Audits

Desk Tax Audits

Amendment to effective articles

Addition to Article **37.2** on conducting desk tax audit on the basis of information received from the authorized bodies of foreign states on income received from abroad

When relevant information on income from abroad is received from the authorized bodies of foreign states, the desk tax audit shall be carried out within 30 working days from the date of receipt of the information for the period specified in Article 85.4 of the Tax Code.

Note/ Article 85.4

When relevant information is received from the authorized bodies of foreign states, tax audits shall cover the period of 5 years prior to the date of the decision of the tax authority to carry out the audit (excluding compulsory state social insurance, unemployment insurance and compulsory medical insurance fees).

Tax Audits

On-site Tax Audits

Legislative updates

When carrying out on-site tax audit, the period covered by the audit and (or) the types of taxes may be increased in the following cases, taking into account the periods specified in this Article: (**new Article 36.3-1.**)



- ▶ Based on the application of the taxpayer;



- ▶ When the tax authority has information from known sources about cases of tax evasion in the period following the period covered by on site tax audit;



- ▶ When there is a relevant decision of the court or law enforcement agencies to conduct tax audits in accordance with the criminal procedure legislation.
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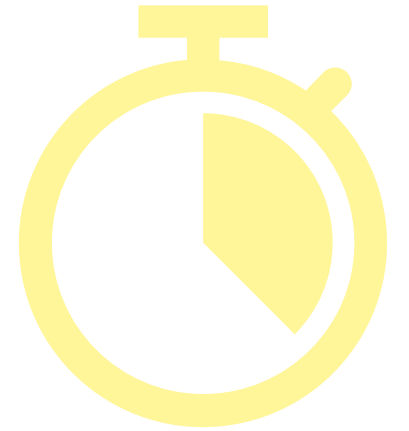
Tax Audits

On-site Tax Audits

Amendment to effective articles

On-site audit may not last longer than 30 **days working days**. In exceptional cases, based on the decision of a higher tax authority, the term of on-site audit may be extended up to 90 **days working days**.

On the basis of justified decision of a higher tax authority, the period of issuance of act on the results of on-site tax audit may be extended for not longer than 30 **days working days** (Article 38.2.)



Tax Audits

On-site Tax Audits

Legislative updates

The maximum duration of additional tax audit procedures has been set.

Article 49.1-2



- Additional tax audit procedures are considered a continuation of the previous on-site tax audit and can be carried out only 1 (one) time with duration not exceeding 60 working days. No decision may be taken to re-conduct additional tax audit procedures based on the results of already conducted additional tax audit procedures.



3

Market Price

Market Price

Market price deviation limits

Market Price could apply for tax purposes in cases **(14.3.3.)**:

- ▶ If the deviation between the level of prices applied by the taxpayers within 30 days to similar or identical goods (works, services), **taking into account factors affecting the formation of market prices of goods (works, services)**, is significantly different (lower or higher) from the percentages shown below for relevant economic activities:

10%

Wholesale trade

20%

Construction and manufacturing

30%

Other economic activities

! *Note The respective article determines the cases for application of market price in transactions held between independent parties*



4

Transfer Pricing

Transfer Pricing

Expansion of the application of Transfer Pricing

- ▶ New Controlled Transactions (14-1.2.) and the filing of notifications on such transactions (16.1.4.)

<p>Filing threshold : annual turnover > 500 kAZN</p>	<ul style="list-style-type: none">▶ Transactions between the resident of AR and non-resident related parties, as well as between the same resident and any of their establishments, branches or other subsidiaries located in another country (territory).
<p>Filing threshold : None</p>	<p>Transactions between a resident of AR or a Permanent Establishment of a non-resident in AR and a non-resident, if:</p> <ul style="list-style-type: none">▶ The transaction involves of sales commodities traded on international commodity exchanges;▶ Total turnover of a resident of AR or a Permanent Establishment of a non-resident in AR exceeds 30 million AZN and the share of a transaction with any non-resident exceed 30 percent of total revenue or expenses respectively.

- ▶ The requirement to provide documentation upon request from the tax authorities is specifically envisaged (14-1.9.)

! The sanction imposed by for the failure to submit or submission of notification on controlled transactions reflecting incorrect information has been increased from AZN 500 to **AZN 2,000 (57.4.)**.



5

Foreign Entity under Control

Foreign Entity under Control

Newly-Introduced Notion

Foreign entity under control

For taxation purposes a non-resident enterprise registered in states (territories) with concessive taxation shall be subject to taxation in the Republic of Azerbaijan in the following cases:

- 1 If a resident entity owns directly or indirectly more than 50% of the voting shares and more than 50% of the charter capital of a foreign entity or has a right to receive more than 50% of profit of such foreign entity **and**
 - 2 If the actual amount of tax paid on profit of a foreign entity under control is at least two times less than profit tax payable under the tax legislation of the Republic of Azerbaijan and
 - 3 If more than 30% of the annual profit of a foreign entity is made up of the following:
 - ▶ Interest income on financial assets;
 - ▶ Intellectual property royalties;
 - ▶ Income from sale of shares and equity interests;
 - ▶ Income from financial leases;
 - ▶ Income from insurance, banking and other financial activities;
 - ▶ Income from businesses generating income from goods and services that do not create economic value
-

Foreign Entity under Control

Elimination of double taxation

- ▶ When the profit of a foreign entity under control is subject to taxation in the Republic of Azerbaijan the taxes imposed on the same taxable subject shall be considered.
- ▶ Income that is not subject to taxation in the Republic of Azerbaijan:
 - ▶ Dividends from foreign entity under control;
 - ▶ When a resident entity is a subsidiary of a foreign entity under control - taxable profit related to such resident entity;
 - ▶ Income generated through a permanent representative office of a foreign entity under control in the Republic of Azerbaijan; as well as income gained from an enterprise established in the Republic of Azerbaijan and taxed in the Republic of Azerbaijan.

Taxation of income of an entity under control in the Republic of Azerbaijan

The reports shall be submitted in the format and within the time frame to be approved by the Ministry of Economy.

A financial sanction in the amount of **AZN 2,000** shall be applied for failure to provide information on an entity under control in the prescribed manner and within set deadlines.



6

Withholding Tax

Withholding Tax

Withholding tax on income of non-residents at the source of payment

New article

Article 125-1.

Taxation of payments to countries and territories with preferential taxation and persons established (registered) in countries and territories with preferential taxation at the source of payment.

Regardless of other provisions of the Tax Code, 10% tax shall be withheld at the source of payments made to countries and territories with preferential taxation.

Withholding Tax

Income from an Azerbaijani Source

Amendments and additions to Article 13.2.16.14-1.

- ✓ Direct and indirect payments to persons incorporated (registered) in countries and territories with preferential taxation, including their branches and representative offices in other countries, as well as to bank accounts in countries and territories with preferential taxation made by residents and permanent establishments of non-residents in the Republic of Azerbaijan, as well as by individuals who are not registered with the tax authorities are considered income from an Azerbaijani source.

Below enlisted cases of payments to countries and territories with preferential taxation are not treated as income from an Azerbaijani Source:

- ▶ Repayment of principal amount of debt (excluding interest);
- ▶ Transfers of resident banks to the correspondent accounts of such banks;
- ▶ Payments made by individuals who are not registered with the tax authorities with respect to purchase of goods (works, services) for personal consumption from countries and territories with preferential taxation, as well as for purchase of movable and immovable property;

Withholding Tax

Income from an Azerbaijani source

(Continued) Below enlisted cases of payments to countries and territories with preferential taxation are not treated as income from an Azerbaijani Source:

- ▶ payments for the acquisition of bonds;
 - ▶ payments of dividends derived from investments to the Republic of Azerbaijan and interest from deposits held in financial institutions of the Republic of Azerbaijan;
 - ▶ payments of salaries and pensions to residents of countries and territories with preferential taxation;
 - ▶ payments of duties and other fees to the competent authorities, payments related to obtaining of permits and certificates.
 - ▶ return of payment made to a country or territory with preferential taxation in accordance with Article 13.2.16.14-1 back to a bank account of payer from the receiver bank account within 1 year (including the day of settlement of returned amount).
-

Withholding Tax

Withholding tax on income of non-residents at the source of payment

Ammendments to effective article

Article 125-1.

Taxation of payments to countries and territories with preferential taxation and persons established (registered) in countries and territories with preferential taxation at the source of payment.

Regardless of other provisions of the Tax Code, 10% tax shall be withheld at the source of payments made to countries and territories with preferential taxation.

New article

Article 150.6.

In case of suspension of activity of taxpayers liable to withhold tax in the Republic of Azerbaijan, as well as upon liquidation of a legal entity or a permanent establishment of a non-resident, or termination of the activity of an individual, shall submit a withholding declaration to the tax authorities within 30 days.

Withholding tax

Responsibilities of the taxpayer

New article

Article 16.12.

Local bank, branch office of the foreign bank in the Republic of Azerbaijan or the local post operator shall execute payment orders of legal entities, individual entrepreneurs, as well as other individuals conducting controlled transfers of funds to countries with preferential taxation after executing the order to transfer the statutory tax payment of 10% to the state budget.

Withholding Tax

Timing of tax liability

Timing of obligation to withhold tax from income from an Azerbaijani source is determined in accordance with the following (*Excluding tax withheld in connection with employment*) (**New article - 150.5**):

- 1 At the time of payment in case of payments in cash, at the receipt of the payment order by the bank in case of non-cash payments;
 - 2 In case of cancellation or repayment of financial liabilities by the taxpayer to a creditor (by mutual settlement of liabilities, i.e. offset, and in other similar cases), at the time of repayment (offset) of the liabilities;
 - 3 At the time of execution of a payment order from individuals who are not registered with the tax authorities intended to transfer funds to countries and territories with preferential taxation by the bank.
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7

Permanent Establishment

Permanent establishment

New and updated articles

According to the proposed amendments, extensive definition of a permanent establishment includes, not limited to:

1

Construction and repair sites, installation, **montage** or assembly facilities, and supervisory activities associated therewith **(19.2.5.)**

If the above-mentioned activities are carried out by a non-resident main contractor:

- ▶ **The duration of activity of subcontractors engaged by and related to and/or whose work is overseen by the main contractor for the purposes of such activity shall be added to the main contractor's term of activity (New article - 19.2-1.)**

The above article is applicable only in case duration of subcontractors' activity exceeds 30 days.

2

Persons performing the function of a permanent establishment of a non-resident legal entity or physical person, acting on their behalf, **accumulating a client base for their benefit and organizing works with their clients**, entitled to prepare and conclude contracts in the name thereof and commonly carrying out the enlisted responsibilities **(19.2.10.)**

Permanent establishment

New article

- ▶ If a non-resident and its related party carry out a joint activity concerning any of the activity types enlisted below in the Republic of Azerbaijan with an entrepreneurial purpose or if the results of such joint activity are not of preparatory or auxiliary nature and/or if the activities carried out by such parties, being a substantial part of their unit business process, are of a complementary nature in relation to each other, the activities of such persons are considered a permanent establishment (**New article - 19.3-1.**).
 - Exclusive storage of or exposition of its own goods and products by the non-resident enterprise;
 - Storage of reserves of its own goods and products for the purpose of processing by a third party and consequent export from Azerbaijan;
 - Purchasing goods or gathering the information by the non-resident enterprise exclusively for its own needs;
 - Carrying out of any other preparatory or auxiliary activity by the non-resident enterprise for its own needs.
-



8

Profit Tax

Profit Tax

Exemptions and Privileges

Exemptions and Privileges

Article
106.1.4.

Income of public entities received from works and services provided in the 2 year period from 1 January 2020 based on a contract with a structure, established by the relevant executive authority, at the expense of funds allocated from the state budget for the purpose of execution of duties envisaged in the charter of and entrusted to those public entities is exempt from tax. **Exemption does not apply in respect of income of public entities, obtained from provision of other paid services or works and interest income.**

Article
106.1.18

Except for the legal entities 51% or more of shares of which are directly or indirectly owned by the state and public entities established by the state, payments made by taxpayers not exceeding 10% of profit of such taxpayers for the reporting year to enterprises, institutions and organizations engaged in scientific, educational, athletic or cultural activities and corresponding to the criteria specified by an authority (structure), established by the relevant executive authority are exempt from profit tax for 10 years starting from 1 January 2019 and to **public and social purposes funds established by President of AR are exempt from profit tax for 8 years starting from 1 January 2021.** Provisions of this article apply exclusively to the expenses paid on a cashless basis.

Profit tax

Expenses related to income generation

New articles

Article 108.4.

Business trip expenses (excluding per diem payments) incurred within the territory of AR and confirmed by supporting documents are deductible from income within the levels set by the relevant executive authority (Cabinet of Ministers). In case relevant supporting documents are not available in respect of hotel expenses, 50% of the portion set for hotel expenses per day of business trip within the territory of AR is deductible for profit tax purposes.

Article 108.5.

Losses arising from spoilage and other damages within natural loss limits set by the respective executive authority are deductible for profit tax purposes.

Profit Tax

Deductible repair expenses

Deduction of repair expenses from income

Amendments to effective articles

Article
115.1.

The amount of annual deductible repair expenses incurred in respect of **computing machinery being the product of high technology category of fixed assets** is determined as 5 percent of the prior year's residual value of such fixed assets.

Article
115.6.

If leased fixed assets are not at the balance sheet of the lessee, or if repair work is conducted at the expense of the lessor or compensated by the leasing payment, *the percentage limits of repair expenses for such fixed assets* shall not be applied to the Lessee.

New article

Article
115.6-1.

Repair expenses not compensated by leasing payment or not reimbursed by the lessor for leased fixed assets not being on the balance sheet of the lessee, are capitalized by the lessor and amortized at the rates stipulated for the category to which repaired leased fixed asset belongs.

Profit Tax

Procedure for accounting of income and expenses

Micro entrepreneurial businesses may use cash method or accrual method for calculation of income and expenses.

Small, medium and large businesses shall use the accrual method for the calculation of income and expenses. **(130.4.)**

Requirement is effective for medium and large businesses from 1 January 2022 and for small businesses from 1 January 2023

Write-off by banks and credit organizations of interest calculated on loans received before and unpaid by 1 January 2021 by persons who became victims or were wounded in the Patriotic War are deductible for profit tax purposes. Provisions created for the principal amounts of the abovementioned loans are deductible from income **(130.7.)**

Profit Tax

Non-recognition of revenue or loss

New article - 144.1.4.

- ✓ Revenue or loss from transfer of immovable property, as well as of enterprises in the form of a property complex, by legal entities or individuals to state bodies (structures) on a gratuitous basis is not considered for the determination of taxable income.

Profit Tax

Current tax payments

- ▶ Current tax payments on income tax or profit tax of taxpayers who did not have activity **or taxable profit (income)** in the previous tax year shall be calculated quarterly within the calendar year on the basis of stipulated tax rates **(151.5.)**
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9

Personal Income Tax

Personal Income Tax

Income tax rates

14% income tax shall be withheld from annual income derived from non-business activity indicated below **(101.2.)**:

- ▶ Financial aid, rewards and grants paid by legal entities or individual entrepreneurs to individuals not employed by them

- ▶ Income derived from provision of **goods** referred to in the Law of the Republic of Azerbaijan "On Cashless Payments" by individuals who are not registered with the tax authorities as taxpayers is taxed at a **5** percent (*previously, 2 percent*) rate without consideration of deductible expenses **(101.6.)**
 - agricultural products
 - non-ferrous and ferrous metal scrap
 - paper, glass and plastic products for utilization and other purposes
 - tires used for utilization purposes
 - raw leather

Note: Except for the income exempt from taxes

Personal Income Tax

Exemptions and privileges on income tax

102. Exemptions and privileges

Article 102.1.3.1.	Financial aid and lump-sum grants for the payment of medical treatment fees, including surgery fees	
	Within the country - up to AZN 10,000	Abroad – up to AZN 50,000
Article 102.1.3.3.	Financial aid to family members of victims of the war up to AZN 20,000 .	
Article 102.1.3.4.	Financial aid to military servicemen and civil persons who acquired disabilities as a result of military operations to preserve the independence, sovereignty and territorial integrity of the AR - up to AZN 20,000 . <i>This privilege is provided to civil persons receiving financial assistance on condition of presenting a document confirming disability as originating from military operations procured from the body (structure), defined by Ministry of Labour and Social Protection of Population.</i>	

Personal Income Tax

Exemptions and privileges on income tax

102. Exemptions and privileges

*Article
102.1.4.*

Government allowances, gratuitous government transfers, government pensions, government living allowances, allowances paid in accordance with Labor Code of the Republic of Azerbaijan to employees, **including heirs of employees whose contract is terminated due to death**, in cases of termination of **activity of a legal entity, its branch or representative office, as well as individual entrepreneurship activity**, and termination of labor contract due to staff redundancy, as well as one-time individual payments or moneyed assistances from the resources of the State Budget based on the Laws of the Republic of Azerbaijan and decisions of the appropriate government authorities. This exemption does not apply to temporary disability allowances.

*Article
102.1.25-1.*

Income from write-off of debt to banks and other credit organizations of persons who became victims or were wounded in the Patriotic War.

Note: in case the taxpayer has acquired the status or presented the confirmation documents bestowing upon them the privileges listed in the article 102 of the Tax Code after their employment contract has come into force, taxes withheld from their salary will be calculated taking into account those privileges from the date at which their employment contract came into force.



10

E-delivery note

Electronic delivery notes

Additions to e-delivery note forms

The following changes have been made to the electronic delivery note (e-delivery note) forms to be issued depending on the nature of the transactions performed by a taxpayer (**Article 71-1.5**):

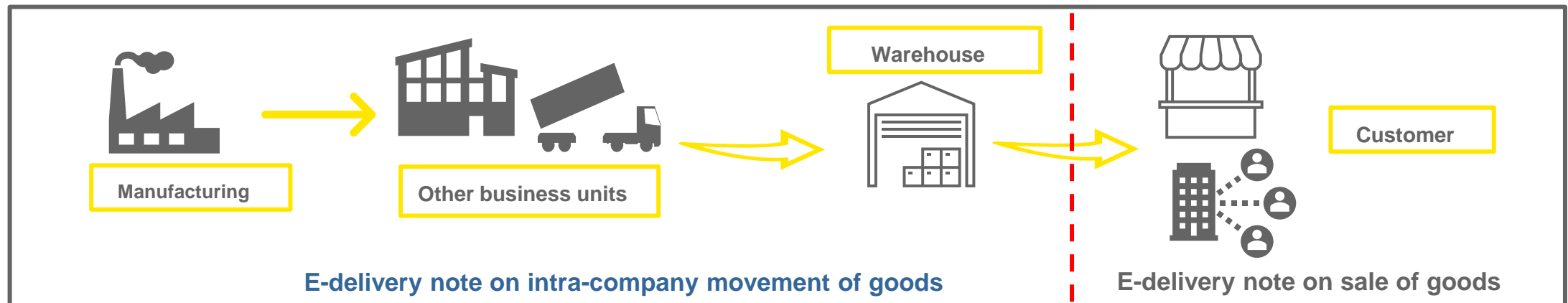
- ▶ on return of goods **(works, services)**;
 - ▶ on transfer of goods **(works, services)** by the principal (consignor) to the agent (consignee);
 - ▶ issued by the agent (consignee) to the buyer **(subagent)** of goods **(works, services)**;
 - ▶ on the return of goods **(works, services)** by an agent (consignee) to the principal (consignor);
 - ▶ on the transfer of goods for processing, **or custody**;
 - ▶ on the return of goods that undergone processing **or previously transferred to the custody**;
 - ☐ **on intra-company movement of excisable goods (except oil products);(New article 71-1.5.10)**
 - ☐ **on sale with an export note. (New article 71-1.5.11)**
-

Electronic delivery notes

E-delivery note on intra-company movement of excisable goods

The newly introduced “e-delivery note on intra-company movement of excisable goods (except oil products)” under Article 71-1.5.10 shall be issued by the following persons (**New article 71-1.6**):

- ▶ manufacturers of excisable goods
- ▶ importers of excisable goods



Transfer of excisable goods by the manufacturer of such goods from manufacturing area to its other business objects (premises) or loading such goods into vehicles for transactions not ordered in advance shall be formalized by the above-mentioned e-delivery note.



*A financial sanction in the amount of **AZN 100** shall be imposed on a taxpayer for each intra-company movements carried out without formalizing the respective e-delivery note. This article will be effective from July 1, 2022. However, the changes do not specify the timing for issuance of e-delivery note on intra-company movement of excisable goods.*

Electronic delivery note

Other provisions

Legislative updates

- ▶ In case of transfer of goods (works, services) by an agent (a commissioner) to a subagent, as well as transfer of goods (works, services) by a subagent to a buyer, e-delivery note prescribed under Article 71-1.5.5 of the tax code shall be issued mentioning the respective note on transfer of the transaction to a subagent and its performance by the subagent. **(New article 71-1.7)**

Amendment to the effective article



Financial sanctions shall apply for the provision of goods without issuing e-delivery note (when it is required), **provision of goods from wholesale trade and manufacturing units, as well as from warehouses by formalizing as a retail sales**, as well as for the failure to issue delivery note on intra-company movement of goods for shipment of goods from an entity (object) and loading into vehicles for transactions not ordered in advance, as follows:

- for the first time - at the rate of 10%,
 - for the second time - at the rate of 20%,
 - for the third and subsequent times - 40% of the sale cost of goods provided.
-

Electronic delivery notes

E-consignment note vø E-waybill

Legislative updates

Article 71-3

Electronic consignment note and electronic waybill for freight vehicles

Article 71-3.1

In accordance with the Law of the Republic of Azerbaijan “On road transport”, e-consignment note and e-waybill shall be issued for transportation of marketable goods.

Article 71-3.2

The form, application, registration and use of e-consignment note and e-waybill for freight vehicles shall be approved by the body (institution) determined by the relevant executive authority.

Transition Article*

The above-mentioned article shall come into force on the same day as the form, application, registration and use of the e-consignment note and e-waybill for freight vehicles shall be approved by the Cabinet of Ministers.



11

Value Added Tax and Excise Tax

Value Added Tax

Taxable transactions

Amendment to effective articles

Article 159.1

Trade markup applied for the wholesale and retail sale of agricultural products (of local or foreign origin) shall be subject to VAT for 3 years effective from January 1, 2022.

Transition article:* In case of subsequent sale of agricultural products remaining in the possession of such VAT payers, acquired respectively with payment of VAT and relevant offset prior to January 1, 2022, the VAT shall be calculated from the full sales value of those goods.

Persons who have acquired agricultural products by paying VAT and having respectively claimed VAT must submit information on those agricultural products remaining in their possession to the tax authority where they are registered by January 31, 2022 in the form prescribed by Ministry of Economy.

Article 159.5

If a taxpayer acquires goods (works, services) that are subject to VAT and claims, or is entitled to claim a credit for the VAT paid, then the use of such goods, works or services for non-commercial activities, and loss, shortcomings, spoilage, writing-off without full depreciation or theft of goods (except for force majeure cases, **losses from spoilage within natural loss rates set by legislation, deterioration within natural loss rates, etc.**) shall nonetheless be deemed a transaction that is subject to VAT.

Value Added Tax

VAT exemptions

Amendment to effective articles



The import and sale of mass media products and books (except for e-books) and textbooks as well as paper rolls or sheets for the production (publishing) of the goods (items) *which list is approved by the body (institution) determined by the relevant executive authority (the Cabinet of Ministers)* **(Article 164.1.7.)**



editorial, publishing and printing activities (except for advertising activities) related to the production of printed mass media products and books (including e-books), and textbook kits **(Article 164.1.8.)**

Additions to legislation



Leasing (renting) of agricultural machinery to producers engaged in agricultural activities without transferring ownership title **(New Article 164.1.34-1.)**



provision of agro-technical services to producers engaged in agricultural activities **(New Article 164.1.34-2.)**

Value Added Tax

VAT exemptions

Amendment to effective articles



the provision of works and services under the agreement with a body (institution) established by the relevant executive authority, by public legal entities created on behalf of the state, the list of which is approved by the body (institution) established by the relevant executive authority, for the fulfillment of the obligations stipulated by their charters and assigned to them at the expense of funds allocated from the state budget, - from January 1, 2020 for a period of **4** year; **(Article 164.1.48-1.)**

Other provisions



Addition to transfer of an enterprise

A transfer by legal entities and individuals of real estate, as well as enterprises in the form of asset portfolio to the state bodies (institutions) on a free of charge basis shall not be considered a taxable transaction (New article 164.1.34-1.).

Value Added Tax

VAT exemptions



import and **sale** of vehicles with electric engines only (**Article 164.1.41**)



import and sale of hybrid cars with a production time of up to 3 years and an engine capacity of up to 2,500 cm³ – from 1 January 2022 for a period of 3 years (**Article 164.1.41-1**)



import of Level 2 and Level 3 chargers for electric vehicles – from 1 January 2022 for a period of 3 years (**Article 164.1.41-2**)

Value Added Tax

Zero (0) rate VAT

Amendment to effective articles

Article 165.1.4

Apart from international and transit cargo and passenger transportation, including freight handling services directly related to transit cargo transportation (except for international postal services), performance of works and services directly connected with international and transit flights, zero (0) rate VAT shall apply to **provision of forwarding services connected with international and transit cargo transportation.**

Article 165.5

Limitation on refund of VAT paid by individuals for goods acquired from persons engaged in retail trade or public catering in the territory of the Republic of Azerbaijan is expanded to purchase of **vehicles, alcohol beverages and tobacco products**, in addition to oil and gas products.

Additionally, **refund of VAT paid for healthcare services provided by medical institutions will be allowed.**

Transition article: In relation to alcoholic beverages and tobacco products the above-mentioned article will be effective from October 1, 2022.*

Article 165.6

When an individual acquires one or more residential and (or) non-residential premises in the same building, VAT is claimable in the amount of VAT paid in relation to a part of the acquired residential or non-residential premises not exceeding 500 m².

Value Added Tax

Place of works performed or services provided

Amendment to effective articles

The following additions have been made to Article 168.1.5, which determines the place of work or provision of services for VAT purposes based on the location of the recipient of works or services, and location of permanent establishment in case works or services are directly related to the permanent establishment of the recipient of works or services:

- ▶ transfer or assignment, **as well as granting rights of use** on patents, licenses, trademarks, copyrights and other similar (analogical) rights;
 - ▶ services on **provision of workforce (when employees work at the place where the recipient of these services operates).**
- 

Value Added Tax

VAT claimable



Unless otherwise provided by this article, the amount of input VAT paid upon the purchase of goods (works, services) on transactions subject to VAT shall be claimed when paying the value of transactions from **the buyer's bank account to the bank account of the provider of these goods (works, services)** and the amount of VAT to a VAT deposit account. **(Article 175.1)**



When goods brought in the territory of the Republic of Azerbaijan as temporary imports and placed under the special “temporary import” customs regime are subsequently placed under the “release for free circulation” customs regime, VAT on import shall be claimed in the reporting month when goods are released into free circulation. (Article 175.10)



Input VAT paid for agricultural products purchased by taxpayers engaged in wholesale and retail sale of agricultural products **is not claimable for 3 years effective from January 1, 2022. (New article 175.12)**

Excise Tax

Adjustment of taxable turnover

New articles

Adjustment of taxable turnover

Article 186-1.1.

Where an excise tax has been applied in respect of goods dispatched from production facility, the excise tax accrued on goods returned to facility due to spoilage or expiry date or any other reason could be reversed in the reporting in the period the goods were returned.

Article 186-1.2.

Where an excise tax has been applied in respect of goods dispatched from production facility, to any commercial facility of a producer, the tax payer could reverse the excise tax accrued on such goods returned due to spoilage or expiry date based on application to the tax office and respective documentation of return and acceptance. The documentation takes place in 5 five days from the day of application to the tax office with participation of tax officials.

Article 186-1.3.

The reversal of the excise tax accrued on goods returned due to spoilage or expiry date could be achieved in the reporting month of completion of respective return and acceptance documentation. Such documentation should be provided to the tax office. In case goods returned due to spoilage or expiry date are destroyed, the excise tax that was claimed from the budget in respect of production of such goods should be returned to the budget.

Excise Tax

Tax Rates

The below excise tax rates are applied in respect of Alcohol (including energetic drinks) and tobacco (including shisha and electric cigarettes) goods produced in AR **(190.3.)**:

Consumable alcohol (including denaturized ethyl alcohol containing more or less than 80% of alcohol) per liter	4,0 AZN per liter
Vodka, strong beverages and bases for such, liquors and liquor products	
Cognac and cognac bases	

Excise Tax

Tax Rates

New Article

- ▶ Tax rate in respect of vehicles with engine volumes >3000 cubic centimeter and production date more than 3 years **(190.4.1-3.)**:

Taxable base	Excise tax rate
Passenger vehicle:	
- Engine volume 4,000 cubic centimeter	5,600 AZN + 15 AZN for each cubic centimeter of the engine volume between 3001-4000 cubic centimeters
- Engine volume 5,000 cubic centimeter	20,600 AZN + 40 AZN for each cubic centimeter of the engine volume between 4001-5000 cubic centimeters
- Engine volume more than 5,000 cubic centimeter	60,600 AZN + 80 AZN for each cubic centimeter of the engine volume above 5000 cubic centimeters

- ▶ For vehicles imported to the territory of AR with production date more than 7 years the excise tax shall apply at the rates indicated in the above articles indexed for petrol vehicles at 1.2 and for diesel vehicles at 1.5 **(190.4.1-4.)**



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Other taxes (Property, Land and Mining taxes)

Property Tax

General changes

- ▶ Property tax on individuals' buildings, water and air transport facilities shall be designated as local (municipal) tax. Tax on other property shall be designated as state tax.
 - ▶ Fixed assets on the balance sheet of an individual entrepreneur shall be subject to property tax (excluding buildings, water and air transport facilities).
 - ▶ Fixed assets of the enterprises falling under the category of transportation shall be subject to property tax.
-

Land Tax

Amendments to effective articles

General notion

Article 203.1. The land tax shall be calculated in the form of fixed payment for land area independent from the results of economic activity of land owners or **persons renting or using the land on alternative bases**.

Taxpayers

Article 204 The taxpayers of land tax are the individuals and enterprises who own, **rent or use on other bases** land plots on the territory of the Republic of Azerbaijan, **including land plots owned by state and municipalities and rented or used on alternative bases**.

Taxable base

Article 205 Land plots owned, **rented or used on alternative bases** by enterprises and individuals within the AR shall be objects of taxation.

Land Tax

New Article

Tax privileges

*Article
207.8.*

Based on supporting documents (contractor agreement of the person conducting geological exploration, plan of geological exploration, report regarding geological exploration), land tax is reduced by 75% for land plots subject to search, evaluation and exploration of subterranean natural resources (excluding oil and gas reserves) based on geological survey documents. Provisions of this article do not apply to land plots subject to search, evaluation and exploration of subterranean natural resources (excluding oil and gas reserves) based on geological survey documents from which natural resources are extracted within the same tax year.

Mining Tax

Tax rates

Depending on type, tax is applied at the following rates to each cubic meter of natural resources extracted from the earth (**216.2.**):

Name of natural resources subject to mining tax	Mining tax rate (AZN)
Non-metallic natural resources:	
- gypsum, alabaster	1,0

[New article](#)

Tax privileges

Article
217-1.

Excluding oil and gas, mining tax calculated for the extracted natural resources in a calendar year shall be reduced by an amount not exceeding land tax calculated and paid for the plot from which the natural resources were extracted.
