**Code of the Republic of Kazakhstan**

**On Taxes And Other Mandatory Payments**

**To The Budget**

**(The Tax Code)**

(Law of the Republic of Kazakhstan No. 279-II dated June 12, 2001)

(With changes introduced by Laws of the Republic of Kazakhstan No. 310-II dated March 21, 2002; No. 312-II dated March 21, 2002; No. 358-II dated Nov. 23, 2002; No. 375-II dated January 8, 2003; No. 394-II dated March 13, 2003; No. 416-II dated May 16, 2003; No. 475-II dated July 4, 2003; No. 483-II dated July 10, 2003; and No. 500-II dated November 29, 2003)

1. GENERAL SECTION

PART 1. GENERAL PROVISIONS

Chapter 1. BASIC PROVISIONS

Article 1. Relations regulated by this Code

This Code shall regulate relations among government authorities with regard to the establishment, introduction, and procedure for the calculation and payment of taxes and other mandatory payments to the budget, as well as relations between the state and the taxpayer involving the fulfillment of tax obligations.

Article 2. Tax legislation of the Republic of Kazakhstan

1. The tax legislation of the Republic of Kazakhstan shall consist of this Code, as well as regulatory legal acts, the adoption of which is provided for by this Code.

2. No one may be assigned the obligation to pay taxes and make other mandatory payments to the budget that are not provided for by this Code.

3. Taxes and other mandatory payments to the budget shall be established, introduced, amended, or repealed following the procedure and under the conditions established by this Code.

4. If there should be a contradiction between this Code and other legislative acts of the Republic of Kazakhstan, for purposes of taxation the provisions of this Code shall apply. It shall be prohibited to include provisions governing tax relations in nontax legislation, except in those cases specified by this Code.

5. If an international agreement that has been ratified by the Republic of Kazakhstan establishes regulations that differ from those contained in this Code, the regulations of said agreement shall apply.

Article 3. Scope of tax legislation

1. Tax legislation shall apply throughout the entire territory of the Republic of Kazakhstan and shall apply to individuals, legal entities, and their structural subdivisions.

2. Legislative acts of the Republic of Kazakhstan that make amendments and additions to this Code by way of establishing new taxes and other mandatory payments to the budget, or changing the rates and tax base of existing taxes and other mandatory payments to the budget, may be adopted no later than December 1 of the current year and may enter into force no earlier than January 1 of the year following the year in which they are adopted.

Article 4. Principles of taxation in the Republic of Kazakhstan

1. Tax legislation of the Republic of Kazakhstan shall be based on the principles that: the payment of taxes and other mandatory payments to the budget must be compulsory, taxation must be clearly defined and fair, there must be a single tax system, and tax legislation must be public.

2. The provisions of the tax legislation of the Republic of Kazakhstan may not contradict the principles of taxation established by this Code.

Article 5. The principle of the compulsory nature of taxation

A taxpayer shall be required to fulfill tax obligations in accordance with the tax legislation in full and within the established deadlines.

Article 6. The principle of the clear definition of taxation

Taxes and other mandatory payments to the budget of the Republic of Kazakhstan must be clearly defined. The clear definition of taxation shall mean that it is possible to identify in the tax legislation all the grounds for taxation and the procedure by a which a taxpayer’s tax obligations arise, are fulfilled, and are discharged.

Article 7. The principle of fair taxation

1. Taxation in the Republic of Kazakhstan shall be universal and compulsory.

2. The granting of tax concessions of an individual nature shall be prohibited.

Article 8. The principle of a single tax system

The tax system of the Republic of Kazakhstan shall be a single system throughout the entire territory of the Republic of Kazakhstan that applies to all taxpayers.

Article 9. The principle of public tax legislation

Regulatory legal acts that govern taxation matters shall be subject to mandatory publication in official published materials.

Article 10. Basic concepts used in this Code

1. The basic concepts used in this Code for purposes of taxation shall be as follows:

1) charitable assistance – property provided free of charge to individuals for the purpose of giving them social support, ~~and~~ to nonprofit organizations, and to organizations engaging in activities in the social sector, for the purpose of supporting their chartered activities;

2) interest – payments for loans; for property provided (received) under a financial leasing arrangement in the form of interest in accordance with the legislative acts of the Republic of Kazakhstan which govern financial leasing; for investments (deposits) ; under savings insurance agreements; and on debt securities – the discount or coupon (with the discount or premium based on the value of the initial placement and/or purchase value);

3) winnings – any type of income in kind or in monetary form received by taxpayers in contests, competitions (Olympiads), festivals, lotteries, and drawings, including drawings based on deposits and debt securities;

4) grant – property provided free of charge by states, governments of states, international and state organizations, and foreign nongovernmental public organizations and foundations, whose activities are of a charitable and international nature and are not in conflict with the Constitution of the Republic of Kazakhstan, and that are included in a list established by the Republic of Kazakhstan government based on findings of government bodies, to the Republic of Kazakhstan, to the Republic of Kazakhstan government, to legal entities, and also to individuals; by foreigners and stateless persons to the Republic of Kazakhstan and the Republic of Kazakhstan government to achieve certain goals (objectives);

5) humanitarian assistance – property provided free of charge to the Republic of Kazakhstan in the form of food, consumer goods, technology, supplies, equipment, medical equipment and medicines, and other articles sent from foreign countries and international organizations to improve the living conditions and daily lives of the population, and also to prevent and clean up emergencies of a military, environmental, natural, and industrial nature, distributed by the Republic of Kazakhstan government through authorized organizations;

6) dividends – income payable on stocks; the portion of net income distributed by a legal entity among its partners and founders; income from the distribution of property in the event of the liquidation of a legal entity, and also in the event that a founder or partner withdraws his share interest in a legal entity, with the exception of property invested by a founder or partner as a contribution to authorized capital;

7) discount on debt securities – the difference between the face value and initial placement value (not incorporating a coupon) or purchase value (not incorporating a coupon) of debt securities;

8) debt securities – financial instruments certifying a loan arrangement. Debt securities include government securities, bonds, and other securities recognized as debt securities in accordance with the legislation of the Republic of Kazakhstan;

9) share interest – a participating share held by individuals and legal entities in the property of jointly created organizations and consortiums, with the exception of joint-stock companies;

10) other mandatory payments – mandatory contributions of money (fees, duties, charges, and payments) to the budget, effected in specified amounts;

11) individual entrepreneur – an unincorporated resident or nonresident individual who is engaged in entrepreneurial activity;

11-1) engineering services – engineering consultation services, work of a research, construction design, or analytical and computation nature, preparation of feasibility projects, and development of recommendations in the area of organization of production and management and realization of output;

~~12) other separate structural subdivision of a legal entity – any territorially separate subdivision of a legal entity that performs some of its functions, and whose location is equipped with fixed work stations. A work station is considered fixed if it has been created for a period of more than one month.~~

13) exchange rate difference (positive, negative) – the difference arising on operations to be effected in foreign currency. ~~This difference arises between the date on which an operation is effected and the date on which settlement on the operation is performed, as a result of the entry of operations in the accounting records in the national currency;~~

14) coupon on debt securities (referred to hereinafter as a coupon) – the amount paid (payable) by an issuer in excess of the face value of debt securities in accordance with the terms of issue;

15) person – an individual or legal entity; individual – a citizen of the Republic of Kazakhstan, a citizen of a foreign state, a stateless person; legal entity – an organization created in accordance with the legislation of the Republic of Kazakhstan or a foreign state (foreign legal entity). For the purposes of this Code, a company, organization, or other corporate entity created in accordance with the legislation of a foreign state shall be viewed as an independent legal entity regardless of whether it has the status of a legal entity in the foreign state in which it was established;

16) accrual method – a tax accounting method according to which income and expenditures are recorded as of the moment the work is performed, services are provided, goods are shipped for the purpose of their realization, and property is received, regardless of the time of payment;

17) taxes – mandatory monetary payments to the budget which are established by the state through legislation on a unilateral basis, which are effected in specific amounts and are not subject to repayment, and for which no compensation is provided;

18) tax debt – the amount of arrears, as well as the unpaid amount of penalties and fines;

19) taxpayer – a person who is a payer of taxes and other mandatory payments to the budget;

20) tax agent – ~~a legal entity or~~ an individual entrepreneur, private notary, attorney, or legal entity, including a nonresident, engaging in activity in the Republic of Kazakhstan via a permanent establishment, branch office, or representative office, which has been assigned responsibility in accordance with this Code for the calculation, withholding, and transfer of taxes withheld at the source of payment;

21) tax regime – the aggregate of the rules of tax legislation which are applicable by a taxpayer in the calculation of all tax liabilities with regard to the payment of taxes and other mandatory payments to the budget established by this Code;

22) arrears – taxes and other mandatory payments to the budget that have been assessed and not paid on time;

22-1) users of mineral resources – individuals and legal entities engaging in operations involving the use of mineral resources, including oil operations, on the territory of the Republic of Kazakhstan in accordance with legislative acts of the Republic of Kazakhstan;

~~23) fixed capital – tangible assets with a useful life of more than one year;~~

24) premium on debt securities – the difference between the initial placement value (not incorporating a coupon) or purchase value (not incorporating a coupon) and the face value of debt securities, the terms of issue of which provide for payment of a coupon;

25) derivative securities – securities certifying rights to an underlying asset of the given derivative securities. Derivative securities include: options, swaps, forwards , futures , depository receipts, warrants, and other securities recognized as derivative securities in accordance with the legislation of the Republic of Kazakhstan. Underlying assets may be standardized lots of commodities, securities, foreign exchange, and financial instruments;

25-1) employee – an individual involved in labor relations with an employer and directly performing work under an individual labor (collective) agreement; a member of a board of directors of a joint-stock company, with the exception of government officials;

26) realization – the shipment of goods, performance of work, and rendering of services with a view to their sale, exchange, or free-of-charge transfer, as well as the transfer of pledged goods to the holder of the pledge;

27) royalties – payment for:

the right to use mineral resources in the process of the extraction of minerals and the processing of industrial materials;

the use of or right to use copyrights, software, patents, designs, or models, trademarks and other similar kinds of rights; the use of or the right to use industrial, commercial, or scientific research equipment; the use of know-how; the use of or right to use motion pictures, video films, audio recordings, or other recorded media; ~~technical assistance provided in connection with this;~~ Water and air craft leased under bareboat or demise charter agreements shall pertain to industrial equipment;

27-1) market exchange rate for currencies:

the weighted average exchange rate for the tenge against foreign currency reached at the main trading session of the Kazakhstan Stock Exchange and determined following the procedure established by the Republic of Kazakhstan Ministry of Finance in conjunction with the National Bank of the Republic of Kazakhstan;

the exchange rate of the tenge against foreign currencies which are not traded on the Kazakhstan Stock Exchange shall be calculated using cross rates following the procedure established by the Republic of Kazakhstan Ministry of Finance in conjunction with the National Bank of the Republic of Kazakhstan;

28) special tax regime – a separate procedure for settlements with the budget established for certain categories of taxpayers, which provides for the application of a simplified procedure for the calculation and payment of certain types of taxes, and the charge for the use of parcels of land, as well as for the submission of tax reports on these taxes;

29) structural subdivision of a legal entity – a branch office or representative office~~, or other separate structural subdivision~~;

30) foreign economic activity commodity nomenclature – a system of commodity classification codes based on the harmonized commodity description and coding system;

31) authorized government agency – a state body of the Republic of Kazakhstan that provides for tax control to monitor the fulfillment of tax obligations to the state;

32) authorized agencies – government bodies of the Republic of Kazakhstan, other than tax authorities, authorized by the Republic of Kazakhstan to perform the calculation and/or collection of mandatory payments to the budget;

32-1) information processing services – services to perform the collection and summarization or systemization of data arrays and to put at the disposal of the user the results of that information processing;

33) electronic taxpayer document – an electronic document transmitted in an established electronic format, certified by the electronic digital signature of a taxpayer, after it has been received and its authenticity has been confirmed

34) electronic digital signature of a taxpayer – a series of electronic digital symbols created using electronic digital signature means, which serves to confirm the validity, authorship, and integrity of electronic documents;

35) securities – stocks, debt securities, derivative securities, and other objects of property rights that are recognized as securities in accordance with the legislation of the Republic of Kazakhstan.

2. Other special concepts and terms of tax legislation shall be used in the meanings defined in the relevant articles of this Code.

3. The concepts of civil and other branches of legislation of the Republic of Kazakhstan used in this Code shall be applied in the meaning in which they are used in those branches of legislation, except as otherwise provided by this Code.

Chapter 2. RIGHTS AND RESPONSIBILITIES OF A TAXPAYER AND A TAX AGENT. REPRESENTATION IN TAX RELATIONS

Article 11. Rights of a taxpayer

1. A taxpayer shall have the right:

1) to obtain information from tax service authorities regarding current taxes and other mandatory payments to the budget, and amendments to the tax legislation;

2) to personally represent his own interests in matters pertaining to tax relations or to act through a representative or with the participation of a tax consultant;

3) to obtain the results of tax control activities;

4) to provide explanations to tax service authorities regarding the calculation and payment of taxes and other mandatory payments to the budget based on the results of tax control activities;

5) to obtain a statement from a personal account regarding the status of settlements with the budget for the fulfillment of a tax obligation;

6) to appeal notices based on tax audit reports and the actions (inaction) of officials of tax service authorities, following the procedure established by this Code and other legislative acts of the Republic of Kazakhstan;

7) to request that a tax secret be protected;

8) not to furnish information and documents that do not pertain to taxation.

2. A taxpayer shall have other rights provided for under the tax legislation of the Republic of Kazakhstan.

Article 12. Responsibilities of a taxpayer

1. A taxpayer shall be required:

1) to fulfill a tax obligation in full and in a timely manner in accordance with this Code;

2) to comply with lawful requests from tax service authorities with regard to the elimination of violations of the tax legislation that are identified, and also not to hinder their lawful activities in the performance of their official duties;

3) to allow officials of tax service authorities to inspect property that is an object of taxation or an object related to taxation, on the basis of a relevant order;

4) to file tax reports and documents following the procedure provided for under this Code, as well as information and documents provided for by the legislation of the Republic of Kazakhstan governing state monitoring of the use of transfer prices;

5) to effect monetary settlements with consumers, carried out in commercial transactions or when providing services, using cash, bank payment cards, and checks, with the mandatory application of cash registers with fiscal memory and the presentation of a receipt to the consumer personally in accordance with this Code;

6) to file a request with a tax authority for a documentary audit in connection with the reorganization (other than ~~reorganization through conversion~~ instances stipulated by the fifth part of item 7 of Article 69 of this Code) and/or liquidation of a legal entity.

2. A taxpayer shall carry out other responsibilities provided for under this Code.

Article 13. Rights and responsibilities of a tax agent

1. A tax agent shall have the same rights and bear the same responsibilities as a taxpayer, except as otherwise provided by this Code.

2. A tax agent shall also be required:

1) to calculate taxes withheld at the source of payment properly and in a timely manner in accordance with the special section of this Code;

2) to withhold the appropriate taxes from a taxpayer and transfer them to the budget in accordance with the procedure and within the deadlines provided for by this Code;

3) to maintain a record of income paid to taxpayers, as well as taxes withheld and transferred to the budget, including a personal record for each taxpayer;

4) to file tax reports with the tax authority where it is registered, following the procedure established under the special section of this Code;

5) to apply the provisions of item 6-1 of Article 177 of this Code.

Article 14. Representation in tax relations governed by this Code

1. A taxpayer shall have the right to participate in relations governed by the tax legislation through a legal or authorized representative.

2. A person who is authorized to represent a taxpayer on the basis of the law shall be recognized as a legal representative of a taxpayer.

3. An individual or legal entity who is authorized by a taxpayer to represent his interests in relations with tax service authorities shall be recognized as an authorized representative of a taxpayer. An authorized representative of a taxpayer shall act on the basis of a power of attorney (charter documents) granted by a taxpayer, which contains a specific list of the representative’s authorities.

4. Personal participation by a taxpayer in relations governed by the tax legislation shall not deprive him of the right to have a representative, just as participation by a representative shall not deprive a taxpayer of the right to participate personally in said relations.

5. The actions (inaction) of a taxpayer’s representatives, performed in connection with the participation by the given taxpayer in relations governed by the tax legislation, shall be recognized as the actions (inaction) of the taxpayer.

Chapter 3. TAX SERVICE AUTHORITIES. CUSTOMS AUTHORITIES.

COOPERATION BETWEEN TAX SERVICE AUTHORITIES AND OTHER GOVERNMENT AGENCIES

Article 15. Tasks and structure of tax service authorities

1. Tax service authorities shall be assigned the task of ensuring that taxes and other mandatory payments to the budget are received in full, that mandatory pension contributions and social payments to the State Social Insurance Fund are transferred in full and in a timely manner, and they shall also be responsible for performing tax control activities to monitor a taxpayer’s fulfillment of his tax obligations.

2. Tax service authorities shall consist of the authorized government agency and tax authorities.

3. Tax authorities shall include interregional tax committees, the tax committees of the oblasts and the cities of Astana and Almaty, interregional tax committees, and tax committees of regions, cities, and districts within cities. In case of establishment of special economic zones, tax committees may be formed on the territories of these zones.

4. Tax authorities shall be directly subordinate to the respective higher-level tax service authority through a vertical hierarchy and shall not be classified as local executive government authorities.

5. The authorized government agency shall be responsible for supervision of tax authorities.

6. The top officials of tax authorities shall be appointed to the position by the top official of the authorized government agency.

Article 16. Rights of tax service authorities

1. Tax service authorities shall have the right:

1) to draft and approve regulatory legal acts provided for under this Code;

2) within the limits of their competence, to provide clarifications and commentaries on how tax obligations arise, are fulfilled, and are terminated;

3) to perform tax control activities following the procedure established by this Code;

4) to conduct inspections of monetary documents, accounting books, reports, estimates, cash on hand, securities, statements, returns, and other documents related to the fulfillment of tax obligations, in compliance with the requirements established by legislative acts of the Republic of Kazakhstan;

5) to request that a taxpayer furnish documents regarding the calculation and payment (withholding and transfer) of taxes and other mandatory payments to the budget following the forms established by the authorized government agency, explanations regarding the completion of these forms, as well as documents confirming that taxes and other mandatory payments to the budget and mandatory pension contributions to pension savings funds and social payments to the State Social Insurance Fund, have been calculated correctly and paid promptly (withheld and transferred);

6) in the course of performing a tax audit following the procedure determined by legislative acts of the Republic of Kazakhstan, to confiscate from a taxpayer documents containing evidence that tax violations have been committed;

7) to inspect any objects of taxation and objects related to taxation that are used for the purpose of earning income, regardless of their ~~location~~ location *[Translator’s note: This is a grammatical change only, occurring many times in the rest of the text. I won’t mark the change in future instances.]*, and to conduct an inventory of a taxpayer’s property (except for residential premises);

8) to obtain information from a taxpayer in the form of electronic documents, based on a list approved by the Republic of Kazakhstan government and in accordance with the procedure established by the authorized government agency;

9) in matters concerning the taxation of a taxpayer being audited who is an individual entrepreneur or a legal entity, to obtain in accordance with procedures established by legislation of the Republic of Kazakhstan from banks or institutions performing certain types of banking operations information about the existence of bank accounts and the numbers of these accounts, and the balances and movement of funds on these accounts in compliance with the requirements established by legislative acts of the Republic of Kazakhstan regarding the disclosure of information that constitutes a commercial secret, bank secret, or other secret protected by law;

10) to determine a taxpayer’s tax obligation indirectly in those cases provided for under the special section of this Code;

10-1) to bring in specialists from other state agencies to participate in tax audits;

11) to file suit in court in accordance with the legislation of the Republic of Kazakhstan.

12) to file petitions with the courts calling for the liquidation of a legal entity on grounds provided for under subitem 4) of item 2 of Article 49 of the Civil Code of the Republic of Kazakhstan.

2. Tax service authorities shall also have other rights provided for by legislative acts of the Republic of Kazakhstan.

Article 17. Responsibilities of tax service authorities

1. Tax services authorities shall be required:

1) to observe a taxpayer’s rights;

2) to protect the interests of the state;

3) to perform tax control activities to monitor the fulfillment of tax obligations by a taxpayer, the full computation and timely disbursement of social payments to the State Social Insurance Fund, as well as the withholding and transfer of mandatory pension contributions to pension savings funds in a timely manner;

4) to maintain a record of taxpayers, objects of taxation, and objects related to taxation, and a record of taxes and other mandatory payments to the budget that have been assessed and paid;

5) to explain the procedure for filling out required tax reporting forms;

6) to perform tax audits in strict compliance with the relevant orders;

7) to maintain tax secrecy in accordance with the provisions of this Code;

8) to deliver a notice to a taxpayer regarding fulfillment of a tax obligation within the deadlines and in those cases specified by this Code;

9) to provide a statement from a taxpayer’s personal account regarding the status of settlements with the budget related to the fulfillment of tax obligations, at the taxpayer’s request, within no more than three days;

10) to keep on file for five years copies of receipts issued to a taxpayer confirming the fulfillment of a tax obligation for the payment of taxes and other mandatory payments to the budget;

11) to monitor compliance with the procedure for the recording, storage, appraisal, and realization of property turned over to the state, its full and timely transfer to the relevant authorized authority in accordance with legislation of the Republic of Kazakhstan, as well as the transfer of proceeds from its realization to the budget in full and in a timely manner;

12) to apply methods to ensure the fulfillment of tax obligations and to collect a taxpayer’s tax debt on a compulsory basis in accordance with this Code;

13) to impose administrative fines on a taxpayer in accordance with the Republic of Kazakhstan Code on Administrative Offenses.

2. If cases of intentional evasion of taxes and other mandatory payments to the budget are discovered in the course of a tax audit, as well as cases of deliberate, fraudulent bankruptcy that point to criminal activity, tax authorities shall forward to the relevant law enforcement authorities materials that fall within their jurisdiction, so that a procedural decision can be made in accordance with legislative acts of the Republic of Kazakhstan.

3. Tax service authorities shall also carry out other responsibilities provided for under the tax legislation of the Republic of Kazakhstan.

Article 18. Conflict of interest

Officials of tax service authorities shall be prohibited from carrying out their official duties with respect to a taxpayer who is a close relative of the official in question (parents, spouses, brothers, sisters, children) or who is related by marriage (brothers, sisters, parents, and children of spouses), and/or in which said officials have a direct or indirect financial interest.

Article 19. Powers of customs authorities to collect taxes

Customs authorities shall collect taxes and other mandatory payments to the budget in accordance with this Code and the customs legislation of the Republic of Kazakhstan when goods cross the customs border of the Republic of Kazakhstan.

Article 20. Powers of authorized agencies

The powers of authorized agencies to collect mandatory payments to the budget shall be defined under the special section of this Code.

Article 21. Powers of local executive government authorities

1. Local executive government authorities may collect taxes on property and means of transport and the land tax paid by an individual taxpayer.

2. Local executive government authorities shall perform said collection of taxes on the basis of a receipt, which is a registered high-security document, established by the authorized government agency and the Republic of Kazakhstan Ministry of Finance.

3. Local executive government authorities shall be required:

1) to issue receipts to an individual taxpayer confirming the payment of taxes;

2) to deposit taxes with a bank in full and in a timely manner, no later than the day following the day on which a receipt is issued confirming the payment of taxes, and if there is no bank in the given population center, to transfer them to the local budget within no more than three business days;

3) to ensure that receipts are filled out properly and are stored securely;

4) to file a report with a tax authority on the use of receipts, as well as the deposit of taxes with a bank (transfer of taxes to the local budget), following the procedure and within the time periods established by the authorized government agency.

4. Local executive government bodies shall arrange for the issuance of single-use coupons.

Article 22. Cooperation between tax service authorities and other government agencies

1. Tax service authorities shall cooperate with central and local government agencies, shall implement joint supervisory measures, and shall provide for the sharing of information.

2. Government agencies shall be required to provide assistance to tax service authorities in the performance of activities related to monitoring compliance with the tax legislation.

3. Tax service authorities and customs authorities shall carry out their assigned tasks related to tax supervision in cooperation with one another.

4. Tax service authorities and local executive government authorities shall cooperate with one another in the collection of taxes.

Article 23. Legal and social protection of officials of tax service authorities

1. Officials of tax service authorities shall be protected under the law in the performance of their official duties.

2. Should a tax service official suffer bodily injury of moderate severity in connection with the performance of his job, he shall be paid lump-sum compensation equal to five times his monthly wage at the expense of republican budget funds, with the subsequent recovery of this amount from the guilty parties in accordance with the legislation of the Republic of Kazakhstan.

3. Should a tax service official suffer severe bodily injury in connection with the performance of his job, which results in his inability to perform professional activity in the future, he shall be paid lump-sum compensation equal to five times his annual salary at the expense of republican budget funds, with the subsequent recovery of this amount from the guilty parties, in addition to the difference between his salary and pension (for life).

4. In the event of the death of a tax service official in the performance of his official duties, the family of the deceased or his dependents (heirs):

1) shall be paid a lump-sum benefit equal to ten times the annual salary earned by the deceased in the last position he held, at the expense of republican budget funds;

2) shall be awarded a government social benefit for loss of a breadwinner in the amount and following the procedure established by the legislation of the Republic of Kazakhstan.

5. Damage to the health and property of a tax service official, as well as damage to the health and property of family members and close relatives of a tax service official, in connection with the performance of his official duties shall be compensated in full at the expense of republican budget funds, with the subsequent recovery of this amount from the guilty parties.

PART 2. TAX OBLIGATION

Chapter 4. GENERAL PROVISIONS

Article 24. Tax obligation

1. A tax obligation shall be understood to mean an obligation of a taxpayer to the state arising in accordance with the tax legislation, by virtue of which a taxpayer is required to register with a tax authority, identify objects of taxation and objects related to taxation, calculate taxes and other mandatory payments to the budget, prepare tax reports, file them within the established deadlines, and pay taxes and make other mandatory payments to the budget.

2. The state, in the person of a tax service authority, shall have the right to require that a taxpayer meet his tax obligations in full, and in the event that they are not met or not met properly, it shall have the right to apply methods to ensure their fulfillment and measures to collect the taxes owed on a compulsory basis following the procedure provided for under this Code.

Article 25. Objects of taxation and objects related to taxation

Objects of taxation and objects related to taxation shall be understood to be property and actions, the existence of which means that a taxpayer incurs a tax obligation.

An object of taxation and an object related to taxation shall be determined for each type of tax and other mandatory payment to the budget in accordance with the special section of this Code.

Article 26. Tax base

The tax base shall be the value, physical, or other characteristics of an object of taxation and an object related to taxation, on the basis of which the amount of taxes and other mandatory payments payable to the budget is determined.

Article 27. Tax rate

1. The tax rate shall be the amount of tax assessed per unit of measure of the tax base.

2. The tax rate shall be established as a percentage or as an absolute amount per unit of measure of the tax base.

Article 28. Tax period

The tax period shall be understood to mean the period of time established for certain taxes and other mandatory payments according to the special section of this Code, at the end of which the tax base is determined and the amount of taxes and other mandatory payments payable to the budget is calculated.

Chapter 5. FULFILLMENT OF A TAX OBLIGATION

Article 29. Fulfillment of a tax obligation

1. The fulfillment of a tax obligation shall be performed by a taxpayer independently, except as otherwise established by this Code.

2. A taxpayer shall carry out the following actions in the fulfillment of a tax obligation:

1) he shall register with a tax authority;

2) he shall maintain a record of objects of taxation and objects related to taxation;

3) he shall calculate the amount of taxes and other mandatory payments payable to the budget proceeding from the objects of taxation and objects related to taxation, the tax base, and the tax rate;

4) he shall prepare tax reports and file them with tax service authorities following the established procedure and within the established deadlines;

5) he shall pay the taxes and other mandatory payments to the budget that have been calculated and assessed, following the procedure and within the deadlines established by the tax legislation, as well as penalties and fines in the event of failure to fulfill a tax obligation.

A tax obligation must be fulfilled by a taxpayer following the procedure and within the deadlines established by this Code.

3. A taxpayer shall have the right to fulfill a tax obligation ahead of schedule.

4. An obligation of a taxpayer that is fulfilled in noncash form shall be considered fulfilled as of the day an acceptance of a payment order for the amount of taxes and other payments is received from a bank or institution performing certain types of banking operations, and an obligation paid in cash shall be considered fulfilled as of the moment the taxpayer deposits the amount in question with a bank or an authorized agency.

5. A tax obligation of a taxpayer that is fulfilled by a tax agent shall be considered fulfilled as of the day it is withheld.

6. A tax obligation to pay taxes may also be fulfilled through crediting, following the procedure established under Article 39 of this Code.

7. A tax obligation to pay taxes and to make other mandatory payments to the budget shall be fulfilled in tenge, with the exception of cases stipulated by legislative acts of the Republic of Kazakhstan governing the activities of joint-stock companies, and also cases in which legislative acts of the Republic of Kazakhstan and provisions of use of mineral resources contracts specify in-kind payment or payment in foreign currency.

Article 30. Provisions specific to the calculation of taxes and other mandatory payments to the budget in the fulfillment of a tax obligation

1. The calculation of taxes withheld at the source of payment shall be performed by a tax agent.

2. In those cases provided for in the special section of this Code, the responsibility for calculating certain types of taxes and other mandatory payments to the budget may be assigned to a tax authority and to authorized agencies.

Article 31. Notice by tax service authorities regarding fulfillment of a tax obligation

1. Written notification sent to a taxpayer by a tax service authority regarding the need for the taxpayer to fulfill a tax obligation shall be recognized as a notice.

2. The types of notices shall be limited to those listed below and shall be sent to a taxpayer within the following deadlines:

1) a notice regarding the amount of taxes and other mandatory payments to the budget calculated by a tax authority in accordance with item 2, Article 30, of this Code – no later than three business days from the day they are calculated;

2) a notice regarding the assessed amount of taxes and other mandatory payments to the budget, penalties and fines based on the results of a tax audit – no later than three business days from the day the tax audit report is delivered;

4) a notice regarding measures being taken to ensure fulfillment of a tax obligation not met within the required deadline, with the exception of the case established under subitem 1) of Article 45 of this Code – upon expiration of the deadlines indicated in subitems 1) and 2) of item 1 of Article 47, and in item 1 of Article 48 of this Code;

5) a notice regarding measures being taken for the compulsory collection of a tax debt – no later than five business days before the compulsory collection measures are implemented;

6) a notice regarding collection action against money held on debtors’ bank accounts – no later than five business days before the collection action is taken;

7) a notice regarding the elimination of violations discovered on the basis of office verification – no later than two business days from the day the violations in tax reports are discovered;

8) a notice regarding the assessed amount of taxes and other mandatory payments to the budget, penalties, and fines based on the results of a review of a taxpayer’s appeal – no later than five business days from the day a decision on the appeal is made;

9) a notice regarding the elimination of violations of tax legislation – no later than five business days from the day they are discovered.

3. A notice shall indicate the last name, first name, and patronymic or full name of the taxpayer; the taxpayer’s registration number; the date of the notice; the amount of the tax obligation in those cases provided for by the legislation of the Republic of Kazakhstan; the requirement to fulfill the tax obligation; the grounds for sending the notice; and the appeal procedure.

The forms to be used for notices shall be established by the authorized government agency.

4. A notice must be delivered personally to the taxpayer (his representative) with a signed receipt of delivery, or by some other method that allows for confirmation that the notice was sent and received.

4-1. A taxpayer shall be required to comply with a notice provided for under subitem 7) of item 2 of this article within ten business days of the date the notice is delivered to the him.

5. The provisions contained in this article shall also apply to a notice sent to a tax agent.

Article 32. Deadlines for fulfillment of a tax obligation

1. The deadlines for fulfillment of a tax obligation shall be established by this Code. The time period established by this Code shall begin on the day following the actual event or legal action that defines its starting point. The deadline shall expire at the end of the last day of the period established by this Code. If the last day of the time period falls on a weekend or holiday, the deadline shall expire at the end of the next business day.

2. In the event that tax authorities send a notice of assessed taxes, other mandatory payments to the budget, penalties, and fines based on the results of tax control activities, as well as a notice regarding elimination of violations of the tax legislation of the Republic of Kazakhstan, the tax obligation must be fulfilled within ten business days of the day following the day on which the notice was delivered to the taxpayer.

3. In the event that a taxpayer agrees with the assessed amount of taxes, other mandatory payments to the budget, penalties, and fines based on the results of a tax audit indicated in a notice (other than assessed excise taxes and taxes withheld at the source of payment), at the taxpayer’s request the deadline for the fulfillment of the tax obligation may be extended by 60 business days. In this case, the amount indicated shall be payable to the budget, in addition to a penalty for each day the payment deadline is extended, and it shall be paid in equal installments every 15 business days over the given period.

4. Deadlines for the fulfillment of tax obligations involving the payment of ~~arrears~~ tax indebtedness by joint-stock companies with state participation in their authorized capital, for which a compulsory  ~~additional stock~~ issue of declared stocks is being held in accordance with a court decision, shall be suspended from the moment that the court decision regarding the ~~additional stock issue~~ compulsory issue of declared stocks enters into force until the stock placement (realization) is completed.

Article 33. Procedure for the discharge of a tax debt by a taxpayer

The discharge of a tax debt shall be carried out in the following order:

1) penalties assessed;

2) fines assessed;

3) the amount in arrears.

Article 34. Fulfillment of a tax obligation of a legal entity undergoing liquidation

1. The tax debt of a legal entity undergoing liquidation shall be discharged at the expense of the given legal entity’s funds, including proceeds from the realization of its property, in the order of priority established by legislative acts of the Republic of Kazakhstan. The tax debt of structural subdivisions of a legal entity undergoing liquidation shall also be discharged in this process. A tax obligation that arises during the liquidation period shall be fulfilled as it arises, within the deadlines and following the procedure established by the tax legislation of the Republic of Kazakhstan.

2. If the property of a legal entity undergoing liquidation is insufficient for the discharge of its tax debt in full, the balance of the tax debt shall be discharged by the founders (partners) of the legal entity being liquidated in those cases established by legislative acts of the Republic of Kazakhstan.

3. If a legal entity undergoing liquidation has overpaid taxes and other mandatory payments to the budget, the excess shall be credited against the discharge of the tax debt of the legal entity being liquidated, following the procedure established under Article 39 of this Code.

If a legal entity undergoing liquidation has no tax debts, the excess amount of taxes and other mandatory payments to the budget shall be refunded to the legal entity.

Article 35. Fulfillment of a tax obligation in the event of the reorganization

of a legal entity

1. Fulfillment of the tax obligation of a reorganized legal entity shall become the responsibility of its legal successor (legal successors).

2. The establishment of a legal successor (legal successors), as well as the share of legal successors in the discharge of the tax debt of a reorganized legal entity, shall be carried out in accordance with the civil legislation of the Republic of Kazakhstan.

3. The reorganization of a legal entity shall not be grounds for a change in the deadline for the fulfillment by the legal entity’s legal successor (legal successors) of its tax obligations involving the payment of taxes and other mandatory payments to the budget.

4. Taxes and other mandatory payments to the budget paid in excess of the required amount by a legal entity prior to its reorganization shall be credited by the tax authority against the discharge of the tax debt of the reorganized legal entity.

5. If a reorganized legal entity has no tax debts, the excess amount of taxes and other mandatory payments paid by the legal entity to the budget shall be refunded to its legal successor.

Article 36. Discharge of a tax debt of a deceased individual

1. The tax debt of a deceased individual owed as of the day of his death shall be discharged by his heir (heirs) up to the value of the property inherited and in proportion to the heir’s share in the estate as of the date it is received.

2. In the event that there is no heir, the tax debt of a deceased individual owed as of the day of his death shall be considered discharged.

Article 37. Fulfillment of a tax obligation of a person recognized by the courts as missing

1. In the event that a court recognizes an individual as missing, the tax obligation of such an individual shall be suspended as of the day such a decision is handed down.

2. The tax debt of an individual recognized by a court as missing shall be discharged by the person authorized by the appropriate trust authority to manage the property of the missing person.

3. If the property of a person recognized as missing in accordance with the established procedure is insufficient to discharge a tax debt, the outstanding amount of the tax debt of the missing person shall be written off by the tax authority on the basis of a court decision regarding the insufficient property.

4. In the event that a court revokes a decision declaring a person missing, a tax debt that was previously written off shall be reinstated regardless of the statute of limitations established for the tax obligation.

Article 38. Statute of limitations for a tax obligation

1. A tax service authority ~~may~~ are entitled to assess taxes and other mandatory payments to the budget or revise the assessed amount of taxes and other mandatory payments to the budget up to five years from the end of a tax period, except in instances stipulated by this article.

1.1. With regard to taxpayers engaging in activity in accordance with a mineral resources use contract, the tax service authority shall be entitled to assess taxes and other mandatory payments to the budget or revise the assessed amount of taxes and other mandatory payments to the budget if their calculation method uses domestic profitability norm (VNR) indicators and R-factor indicators (return indicators), for five years after expiration of the mineral resources use contract.

2. A taxpayer shall have the right to request that excess taxes and other mandatory payments to the budget that have been paid be credited or refunded up to five years from the end of a tax period.

Chapter 6. CREDITING AND REFUND OF EXCESS TAXES AND OTHER MANDATORY PAYMENTS PAID IN SETTLEMENTS WITH THE BUDGET FOR THE FULFILLMENT OF A TAX OBLIGATION

Article 39. Crediting of excess taxes paid by a taxpayer in settlements with the budget for the fulfillment of a tax obligation

1. The amount of excess tax paid shall be the difference between the amount of tax paid to the budget and the amount assessed for a tax period taking into account obligations on the given type of tax for previous tax periods.

The amount of excess tax paid shall also be the amount of tax paid that is subject to return to a nonresident taxpayer in accordance with Article 198-1 of this Code.

2. The amount of excess tax paid to the budget shall be credited on a mandatory basis against the discharge of a tax debt at the taxpayer’s request, within ~~five~~ ten business days of the date the taxpayer submits a request, in the following order:

1) against the discharge of penalties and fines on the given type of tax;

2) against the discharge of penalties and fines on other types of taxes;

3) against the discharge of arrears on other types of taxes;

4) against future payments on the given type of tax and other types of taxes.

2-1. The amount of excess tax paid to the budget that is collected by customs authorities upon the movement of goods across the customs border of the Republic of Kazakhstan shall be credited against the payment of tax indebtedness in accordance with procedures established by this article, at the taxpayer’s request, within ten business days of the date of submission of a request, with attachment of confirmation from the tax authority of the excess tax paid.

3. The crediting of excess tax payments shall be effected by the tax authority through which taxes are paid to the budget, following the procedure established by this article, except as otherwise established by this Code.

3-1. In the event that the deadline established under item 2 of this article is not met, a penalty shall be charged in an amount equal to two times the official refinancing rate established by the National Bank of the Republic of Kazakhstan for each day of delay in meeting the crediting deadline.

4. Excess taxes paid to the budget may not be credited against the discharge of a tax debt of a different taxpayer.

Article 40. Refund of excess taxes and other mandatory payments paid to the budget in the fulfillment of a tax obligation

1. The amount of excess tax paid shall be transferred to a taxpayer’s bank account at his request after the crediting provided for under Article 39 of this Code has been performed.

2. An excess tax payment shall be refunded at the place where the tax was paid within 15 business days of the date a refund request is filed, except as otherwise established by this Code.

2-1. Taxes and other mandatory payments to the budget paid in excess that are collected by customs authorities upon the movement of goods across the customs border of the Republic of Kazakhstan shall be refunded at the place of payment within 15 business days from the date of submission of a request for a refund with attachment of confirmation from the tax authority of the taxes and other mandatory payments to the budget paid in excess.

3. If the deadline established under item 2 of this article is not met, a penalty equal to 2 times the official refinancing rate established by the National Bank of the Republic of Kazakhstan shall be assessed for each day of delay in meeting the refund deadline.

4. Excess mandatory payments made to the budget shall be refunded in accordance with this article, except as otherwise established by this Code.

Chapter 7. CHANGE IN DEADLINES FOR FULFILLMENT OF A TAX OBLIGATION TO PAY TAXES

Article 41. The concept of and general conditions for changing deadlines for the fulfillment of a tax obligation to pay taxes

1. A change in deadlines for the fulfillment of a tax obligation to pay taxes shall be understood to mean a postponement to a later date of the deadline established by this Code for the payment of taxes (other than taxes withheld at the source of payment and excise taxes) on the basis of a valid application from a taxpayer, but this postponement shall not exceed ten months of a calendar year.

2. The right to fulfill a tax obligation within amended deadlines may not be transferred to another person.

3. A change in deadlines for the fulfillment of a tax obligation to pay taxes shall not exempt a taxpayer from the payment of a penalty for late payment of taxes in accordance with Article 46 of this Code, except in those cases established under the special section of this Code.

4. A change in deadlines for the fulfillment of a tax obligation to pay taxes shall be effected against a pledge of the taxpayer’s property or a bank guarantee, except in those cases established under the special section of this Code.

5. The procedure for changing deadlines for the fulfillment of a tax obligation to pay taxes against a pledge of the taxpayer’s property and a bank guarantee shall be determined by the Republic of Kazakhstan government.

Article 42. Agency authorized to adopt a decision to change the deadline for fulfillment of a tax obligation to pay taxes

1. A decision to change deadlines for the fulfillment of a tax obligation to pay taxes that are applied to the republican budget, as well as those distributed between the republican and local budgets, shall be made by the authorized government agency, with the exception of cases established under Article 249 of this Code.

2. A decision to change deadlines for the fulfillment of a tax obligation to pay taxes that are applied in full to local budgets shall be made by the tax authority with which the taxpayer is registered, in consultation with the local executive government authority.

Article 43. Expiration of a decision to change deadlines for fulfillment of a tax obligation to pay taxes

1. A decision to change deadlines for fulfillment of a tax obligation to pay taxes shall expire on the expiration date specified in the decision.

2. A decision to change deadlines for fulfillment of a tax obligation to pay taxes shall expire ahead of schedule in the event that the taxpayer pays all taxes due prior to the expiration of the deadline established in the decision or in the event that the taxpayer violates the conditions for the change in deadlines for fulfillment of a tax obligation to pay taxes.

Article 44. Procedure for taking collection action and realization of a taxpayer’s

pledged property

1. In the event that the conditions for a change in deadlines for the fulfillment of a tax obligation are not met or are not met properly, when the obligation is secured by a pledge (or bank guarantee), tax service authorities shall have the right to take collection action against the taxpayer’s pledged property or to demand execution of the bank guarantee.

2. The realization of property pledged by a taxpayer shall be carried out in accordance with the procedure established by the civil legislation of the Republic of Kazakhstan.

Chapter 8. METHODS TO PROVIDE FOR THE FULFILLMENT OF A TAX OBLIGATION THAT HAS NOT BEEN MET BY THE DEADLINE

Article 45. Methods to provide for the fulfillment of a tax obligation that has not been met by the deadline

The following methods may be employed to provide for the fulfillment of a taxpayer’s tax obligation that has not been met within the established deadline:

1) assessment of a penalty on the outstanding amount of taxes and other mandatory payments to the budget;

2) suspension of expenditure operations on bank accounts;

3) a restriction on the disposition of property to the discharge of the taxpayer’s tax debt.

Article 46. Penalty on the outstanding amount of taxes and other mandatory payments to the budget

1. A penalty shall be understood to mean the amount charged on an overdue tax obligation as established under item 3 of this article.

2. The amount of a penalty shall be assessed and paid regardless of the implementation of measures aimed at the compulsory fulfillment of a tax obligation to discharge a tax debt, as well as other enforcement measures for the violation of tax legislation.

3. A penalty shall be assessed for each day of delay in the fulfillment of a tax obligation, starting on the day following the deadline for the payment of the tax and other mandatory payment to the budget, and including the day on which payment is made to the budget, in an amount equal to 2 times the official refinancing rate established by the National Bank of the Republic of Kazakhstan on each day of delay.

4. The penalty shall be assessed against banks or institutions performing certain types of banking operations for failure to comply with the proper order of priority for the debiting of taxes and other mandatory payments, penalties, and fines from bank accounts, and also for a delay in the transfer (posting) of taxes and other mandatory payments, penalties, and fines debited from taxpayers’ bank accounts, and cash accepted at the cash departments of banks or institutions performing certain types of banking operations, for the payment of taxes and other mandatory payments, penalties, and fines.

5. A penalty shall not be assessed on the arrears of a taxpayer who has been declared bankrupt, as of the moment a court issues such a decision, or on the arrears of a taxpayer with respect to whom a compulsory liquidation decision has been issued, or a ruling is made regarding the application of a rehabilitation procedure, as of the day such a decision or ruling enters into force.

6. A penalty shall not be assessed against creditors of banks undergoing compulsory liquidation for failure to discharge arrears in a timely manner, if the only reason for the arrears was the liquidation of the servicing bank, as of the moment a decision regarding the bank’s compulsory liquidation enters into force.

7. A penalty shall not be assessed on arrears, for the discharge of which ~~an additional stock issue~~ a compulsory issue of declared stocks is being made in accordance with a court decision, as of the moment the court decision regarding the ~~additional stock issue~~ compulsory issue of declared stocks enters into force and until the placement of the stocks is completed.

8. A penalty shall not be assessed on arrears as of the moment a court decision declaring an individual missing enters into force and until such a decision is rescinded.

9. In the event that the deadline for applying the credit established under item 2 of Article 39 of this Code is not met, a penalty shall not be assessed on the amount of arrears that is proportional to the amount of excess tax paid and indicated in the taxpayer’s request for a crediting of excess tax paid, on the condition that there is confirmation of the excess tax paid.

This rule shall not extend to those cases established under this Code.

Article 47. Suspension of expenditure operations on a taxpayer’s bank accounts

1. The suspension of expenditure operations on the bank accounts (other than correspondent accounts) of a legal entity and individual entrepreneur shall be carried out in accordance with the procedure established by legislative acts of the Republic of Kazakhstan in the following cases:

1) the taxpayer has failed to file tax reports within ten business days of deadline for their submission;

2) a tax debt has not been discharged 30 business days from the established payment deadline;

3) officials of a tax service authority are not allowed access to conduct a tax audit and inspect objects of taxation and objects related to taxation, except in cases in which they have violated the procedure established by this Code for the performance of a tax audit.

The suspension of expenditure operations on bank accounts shall be carried out with notification of the taxpayer within the time period established under Article 31 of this Code, and it shall extend to all of the taxpayer’s expenditure operations, except operations related to the discharge of a tax debt.

2. An instruction from a tax authority to suspend expenditure operations on a taxpayer’s bank accounts shall be issued in accordance with the form established by the authorized government agency in conjunction with the National Bank of the Republic of Kazakhstan, and it shall enter into force as of the day it is received by a bank or institution performing certain types of banking operations.

3. An instruction from a tax authority to suspend expenditure operations on a taxpayer’s bank accounts shall be subject to unconditional execution by banks or institutions performing certain types of banking operations.

4. An instruction to suspend expenditure operations on bank accounts shall be rescinded by the tax authority that issued the instruction to suspend expenditure operations no later than one business day after the day on which the reasons for the suspension of expenditure operations on bank accounts are eliminated.

In the event that a taxpayer’s bank account is closed in accordance with the legislation of the Republic of Kazakhstan, the bank shall return the instruction to suspend expenditure operations on the account to the appropriate tax authority, together with a notice of closure of the taxpayer’s bank account.

5. In the event of an appeal of a notice of assessed taxes and other mandatory payments to the budget, and penalties and fines based on the results of a tax audit, expenditure operations on bank accounts shall not be suspended.

Article 48. Issuance of a decision to restrict the disposition of a taxpayer’s property to the discharge of the taxpayer’s tax debt

1. In the event that a tax debt is not discharged within ten business days of the date an instruction is issued to suspend expenditure operations on a ~~legal entity’s~~ taxpayer’s bank accounts, the disposition of property shall be restricted to the discharge of the tax debt. In this case, a notice shall be sent to the ~~legal entity~~ taxpayer within the time period established under Article 31 of this Code.

A decision to restrict the disposition of property shall be issued following the form established by the authorized government agency.

An encumbrance on real estate shall be registered in accordance with legislation of the Republic of Kazakhstan.

2. A decision to restrict the disposition of a taxpayer’s property shall be issued with respect to property owned by the taxpayer or under the taxpayer’s economic control (except in those cases in which the contract regarding the placement of property under economic control prohibits its alienation).

When a decision is issued to restrict the disposition of a taxpayer’s property that has been transferred to another party under a financial leasing arrangement and/or has been pledged as security, the seizure of this property and a change in the terms of the contract shall be prohibited from the moment that the tax authority issues the decision regarding this property and until the decision is rescinded.

3. A decision to restrict the disposition of property shall be adopted by a tax authority on the basis of available data on the taxpayer’s personal account regarding the amount of tax debt.

4. On the basis of a decision to restrict the disposition of property, a property inventory certificate shall be prepared in the amount of the tax debt, with a warning to the taxpayer of liability for violation of the conditions for the possession, use, and disposition of the property.

An inventory of property subject to restricted disposition shall be prepared indicating its price, determined on the basis of the taxpayer’s accounting data, or an independent appraisal performed in accordance with a legislative act of the Republic of Kazakhstan on appraisal activity, and a certificate shall be drawn up in duplicate, following the form and procedure established by the authorized government agency.

The tax authority shall be required to furnish a taxpayer, who is present at the time a restriction is placed on the disposition of property, with the decision to restrict the disposition of property and one copy of the property inventory certificate.

5. A decision to restrict the disposition of property shall be rescinded by a tax authority no later than one business day after the taxpayer has discharged the tax debt.

Chapter 9. MEASURES AIMED AT COMPULSORY COLLECTION

OF A TAX DEBT

Article 49. Measures aimed at compulsory collection of a tax debt

Tax authorities shall have the right to apply measures aimed at compulsory collection, except in cases in which a notice based on a tax audit report has been appealed. Compulsory collection measures that are applied shall be carried out on the basis of a notice sent to a taxpayer in accordance with Article 31 of this Code. Compulsory collection of a tax debt shall be carried out in the following order:

1) at the expense of funds held on bank accounts;

2) at the expense of cash;

3) from debtors’ accounts;

4) through the realization of property subject to restricted disposition;

5) compulsory ~~offering of an additional stock issue~~ issue of declared stocks.

Article 50. Collection of a tax debt at the expense of funds held on bank accounts

1. In the event of nonpayment or incomplete payment of a tax debt owed by a taxpayer on the basis of returns and/or statements, and also on the basis of the results of tax audits, a tax authority shall have the right to take compulsory collection action against the bank accounts of ~~legal entities and individual entrepreneurs~~ a taxpayer and/or its structural subdivisions that are not independent payers of taxes to recover the amount of the tax debt, without ~~the taxpayer’s~~ their consent.

The provisions of this item do not apply to bank accounts for which, in accordance with the legislative act of the Republic of Kazakhstan on pension security, imposition of collection is not permitted.

2. Collection of a tax debt from a taxpayer’s bank accounts shall be carried out on the basis of a collection order issued by a tax authority.

3. When a bank executes a collection order issued by a tax authority for the collection of a tax debt from one bank account of a taxpayer, collection orders presented by the tax authority on other bank accounts opened by the taxpayer at the given bank shall be returned by the bank to the tax authority without being executed, accompanied by a payment document confirming the execution of the tax authority’s collection order, if such collection orders were presented by the tax authority in the same amount, for the same type of debt, for the same reporting period.

4. A collection order shall be presented following the form established by regulatory legal acts of the Republic of Kazakhstan, and shall indicate the bank account of the taxpayer or tax agency from which the tax debt is to be collected.

5. In the event that there are no funds on a ~~tenge~~ bank account in tenge of a taxpayer, a tax debt shall be collected from the taxpayer’s ~~foreign exchange~~ bank accounts in foreign currency on the basis of collection orders presented by tax authorities in tenge.

6. Provided that a client holds sufficient funds with a bank to satisfy all claims against the client, a collection order for the recovery of a tax debt shall be executed by a bank or an institution performing certain types of banking operations on a priority basis and no later than one business day after the day on which the order is received, within the limits of the funds available on the bank account.

7. If there are insufficient funds or no funds on a taxpayer’s bank account, when several claims are presented against a client the bank shall effect the withdrawal of the client’s funds as funds are posted to the account, in the following order of priority:

1) first priority shall be given to enforcement documents calling for the satisfaction of claims for restitution for injury to life and health, as well as claims for the collection of alimony and child support payments;

2) second priority shall be given to obligations of the client to transfer mandatory pension contributions to pension savings funds and enforcement documents calling for the withdrawal of funds to cover severance pay settlements and labor compensation to persons working under employment agreements, including contracts, and to provide payments under copyright agreements;

3) third priority shall be given to the client’s obligations to the budget.

8. If there are no funds on a taxpayer’s bank account against which a tax authority has presented a collection order for the recovery of a tax debt, the bank that has accepted the collection order for execution, when closing the taxpayer’s account in accordance with the legislation, shall return said collection order to the respective tax authority together with a notice of the closure of the taxpayer’s bank account.

Article 51. Collection of a tax debt at the expense of cash

1. A tax debt shall be collected at the expense of cash if there are no funds available on a bank account.

2. The collection of a tax debt at the expense of cash shall be understood to mean the seizure by a tax authority from a taxpayer of cash that appears in the taxpayer’s accounting (cash) records (including foreign exchange cash).

The collection of a tax debt at the expense of a taxpayer’s cash shall be carried out by a tax authority on the basis of a notice of the application of measures aimed at the compulsory fulfillment of a tax obligation to discharge a tax debt.

3. The seizure of cash shall be documented by a seizure certificate, following the form established by the authorized government agency.

4. Cash that is seized from a taxpayer must be turned over to a bank or an institution performing certain types of banking operations no later than one business day after the day on which it is seized, so that it can be deposited in the taxpayer’s bank accounts and subsequently transferred to the budget. In the absence of any bank accounts, cash seized from a taxpayer shall be paid to the budget no later than one business day after it is collected.

Article 52. Collection of a taxpayer’s tax debt from its debtors’ accounts

1. In the event that there are no funds on a taxpayer’s bank accounts and a taxpayer has no cash, a tax authority shall have the right to take collection action, up to the amount of the tax debt, against funds held on the bank accounts of third parties that owe a debt to the taxpayer (referred to hereinafter as debtors). Debtors shall be sent notices of the collection action against funds on their bank accounts to discharge the taxpayer’s tax debt up to the amount recognized by the debtors as the amount owed by them to the taxpayer at that particular point in time under the terms of the relevant agreements.

No later than 20 business days from the receipt of a notice, a debtor shall be required to furnish the tax authority that sent the notice with a certificate of verification of mutual settlements, compiled jointly with the taxpayer as of the date on which the notice was received.

2. The certificate of verification of mutual settlements between a taxpayer and a debtor must contain the following information:

1) the name of the taxpayer and the debtor, and their registration numbers;

2) the name of the tax authority with which the taxpayer and the debtor are registered;

3) the particulars of the bank accounts of the taxpayer and the debtor;

4) the amount owed by the debtor to the taxpayer;

5) the legal particulars, official stamp, and signatures of the taxpayer and the debtor;

6) the date on which the verification certificate was prepared.

3. On the basis of the verification certificate of mutual settlements, the tax authority shall present a collection order against the debtor’s bank account to recover the tax debt owed by the taxpayer.

4. The bank, or institution performing certain types of banking operations, of a taxpayer’s debtor shall be required to execute the collection order presented by the tax authority to recover a taxpayer’s tax debt in accordance with the requirements set forth in Article 50 of this Code.

5. Provided that there is a verification certificate of mutual settlements prepared in accordance with the requirements of this article, in the event that a debtor effects payments in favor of a taxpayer within 90 business days of the moment that a notice from a tax authority is presented, the tax authority shall have the right to present a collection order against the debtor’s bank account to recover the amount of the taxpayer’s tax debt up to the amount of payments made.

Article 53. Recovery of a tax debt through the realization of a taxpayer’s property

subject to restricted disposition

1. Tax authorities shall have the right, without the consent of a taxpayer that is a legal entity or individual entrepreneur, to take collection action against a taxpayer’s property that is subject to restricted disposition up to the amount of the tax debt in those cases in which there are no funds on the taxpayer’s bank accounts, the taxpayer has no cash, and there are no funds on the bank accounts of the taxpayer’s debtors.

2. A taxpayer shall be required to ensure the safekeeping and proper care of property subject to restricted disposition until the restriction is lifted. In the event of a failure to comply with this provision, the taxpayer shall be required to provide reimbursement for expenses related to preparing the property subject to restricted disposition for auction and shall bear liability for unlawful actions with respect to said property in accordance with the laws of the Republic of Kazakhstan.

Article 54. Procedure for the realization of a taxpayer’s property subject to restricted disposition for recovery of a tax debt

The realization of property subject to restricted disposition shall be carried out at a special auction, the procedure for the performance of which shall be determined by the Republic of Kazakhstan government.

Article 55. Compulsory ~~additional stock issue~~ issue of declared stocks by a taxpayer that is a joint-stock company with state participation in its authorized capital

In the event that a tax debt is not discharged by a taxpayer that is a joint-stock company with state participation in its authorized capital after all the measures provided for under subitems 1)–4) of Article 49 of this Code have been carried out, ~~tax authorities~~ an authorized government agency shall have the right to file a petition with the courts calling for a compulsory ~~additional stock issue~~ issue of declared stocks, following the procedure established by the legislation of the Republic of Kazakhstan.

Article 56. Declaring a taxpayer bankrupt

1. In the event that a legal entity or individual entrepreneur fails to discharge a tax debt after all of the measures provided for under Article 49 of this Code have been carried out, a tax authority shall have the right to pursue measures to have the taxpayer declared bankrupt in accordance with legislative acts of the Republic of Kazakhstan.

2. The procedure for liquidation of a legal entity that has been declared bankrupt shall be carried out in accordance with the legislation of the Republic of Kazakhstan on bankruptcy.

Chapter 10. GROUNDS FOR DISCHARGE OF A TAX OBLIGATION

Article 57. Discharge of a tax obligation of an individual

A tax obligation of an individual shall be discharged:

1) upon his death;

2) upon entry into force of a court decision declaring him to be deceased.

Article 58. Discharge of a tax obligation of a legal entity

A tax obligation of legal entity shall be discharged:

1) following its complete liquidation;

2) following its complete reorganization through a takeover (with respect to the legal entity that has been taken over), merger, spin-off, or conversion.

2. SPECIAL SECTION

PART 3. GENERAL PROVISIONS

Chapter 11. TYPES OF TAXES AND OTHER MANDATORY PAYMENTS TO THE BUDGET

Article 59. General provisions

1. Taxes and other mandatory payments to the budget established by this Code shall be in force in the Republic of Kazakhstan.

2. Taxes shall be divided into direct and indirect taxes. The indirect taxes shall include the value-added tax and excise tax.

3. Taxes and other mandatory payments to the budget shall be included in the revenues of the respective budgets following the procedure set forth in the Republic of Kazakhstan Law “On the Budget System” and legislation on the republican budget for the respective year.

Article 60. Taxes

1. Corporate income tax.

2. Individual income tax.

3. Value-added tax.

4. Excise taxes.

5. Taxes and special payments of users of mineral resources.

6. Social tax.

7. Land tax.

8. Vehicle tax.

9. Property tax.

Article 61. Fees

1. Fee for state registration of legal entities.

2. Fee for state registration of individual entrepreneurs.

3. Fee for state registration of rights to real property and real estate transactions.

4. Fee for state registration of radio-electronic equipment and high-frequency devices.

5. Fee for state registration of mechanical means of transport and trailers.

6. Fee for state registration of marine and river vessels and small craft.

7. Fee for state registration of civilian aircraft.

8. Fee for state registration of medicines.

9. Fee for travel by motor vehicles on the territory of the Republic of Kazakhstan.

10. Auction fee.

~~11. Stamp tax.~~

12. Licensing fee for the right to engage in certain types of activity.

13. Fee for issuing permits to television and radio broadcasting organizations to use the radio frequency spectrum.

Article 62. Charges

1. Charge for the use of parcels of land.

2. Charge for the use of surface water resources.

3. Charge for environmental pollution.

4. Charge for the use of wildlife resources.

5. Charge for the use of forest resources.

6. Charge for the use of specially protected natural areas.

7. Charge for the use of the radio frequency spectrum.

8. Charge for the use of navigable waterways.

9. Charge for the placement of outdoor (visual) advertising.

Article 63. Stamp duty

Stamp duty.

Article 64. Customs payments

1. Customs duty.

2. Customs fees.

3. Charges for an advance ruling.

4. Fees.

Chapter 12. REGULATIONS FOR TAX ACCOUNTING AND TAX REPORTING

Article 65. Regulations for tax accounting

1. Taxpayers shall determine objects of taxation and objects related to taxation according to the accrual method, under the procedure and the conditions established by this Code.

2. For the purposes of taxation, an operation in foreign currency shall be converted into the national currency of the Republic of Kazakhstan, the tenge, using the market exchange rate for currencies as of the day the operation (payment) is effected.

3. The accounting of inventory for tax purposes shall be carried out in accordance with accounting regulations.

4. With respect to all taxes, barter transactions shall be treated as the realization of goods (work, services) at the applicable prices, accompanied by the mandatory documentation of these transactions in the form of invoices.

Article 66. Preparation and storage of accounting records

1. Accounting records shall consist of primary documents, accounting registers, and other documents that serve as the basis for determining objects of taxation and objects related to taxation, and also for calculating tax obligations.

2. Accounting records shall be prepared in the form of paper documents and/or in electronic form and shall be kept on file until expiration of the statute of limitations established by this Code for each type of tax or other mandatory payment to which the records apply, starting with the tax period following the period in which the accounting records were compiled, except in those cases provided for under items 3 and 4 of this article.

3. Accounting records of taxpayers operating in accordance with a use of mineral resources contract shall be kept on file until expiration of the statute of limitations established by this Code for the tax period following the period in which the contract expired.

4. Accounting records that confirm the value of fixed assets, including those transferred (obtained) under a financial leasing arrangement, shall be kept on file until expiration of the statute of limitations established by this Code for the last tax period in which depreciation deductions are calculated for each asset. Accounting records that confirm the value of fixed assets not subject to depreciation for taxation purposes shall be kept on file until expiration of the statute of limitations established by this Code for the tax period in which the assets are realized.

5. Primary documents and accounting registers shall be prepared by a taxpayer in the official language or in Russian.

If there are certain documents that have been prepared in foreign languages, a tax authority shall have the right to request that they be translated into the official language or into Russian.

6. When accounting records are prepared in electronic form, a taxpayer shall be required to provide hard copies of these records at the request of tax authorities for monitoring purposes and in the course of an audit.

Article 67. Separate accounting and rules for maintaining separate accounting

1. Taxpayers who are engaged in types of activities for which different taxation conditions are specified by this Code shall be required to maintain separate accounting of the objects of taxation and objects related to taxation.

2. Separate accounting shall be performed by taxpayers through the preparation of statements on the basis of accounting data. These statements shall be prepared separately for each type of activity (for users of mineral resources – for each mineral deposit, except as otherwise provided under the use of mineral resources contract).

3. All income and expenditures related to a particular type of activity must be supported by the relevant accounting records.

Article 68. Tax reports

1. Tax reports shall consist of documents containing information about the calculation of tax obligations, which are submitted to tax authorities by a tax agent.

2. Tax reports shall consist of the documents referred to in this item, as well as attachments and addenda to them:

tax returns, statements that are to be compiled by a taxpayer for each type of tax and other mandatory payments to the budget, and also for mandatory pension contributions to pension savings funds and social payments to the State Social Insurance Fund;

a statement of the proposed amount of individual income tax from a nonresident individual;

applications for a patent to apply special tax regimes;

applications to obtain registration cards for recording objects of taxation and objects related to taxation, in accordance with Articles 397 and 531 of this Code;

applications for a refund of the value-added tax from the budget;

applications to apply the provisions of international treaties on the avoidance of double taxation;

registers of invoices;

documentation submitted by taxpayers who are subject to electronic monitoring in accordance with this Code.

3. A tax report is a written declaration and/or electronic document of a taxpayer or a tax agent that is submitted to tax authorities in accordance with the procedure established by this Code, which must contain information about the objects of taxation and objects related to taxation, and also about the calculation of tax obligations and other data related to the calculation and payment of taxes and other mandatory payments to the budget.

4. In the absence of specific data that are to be reflected in a tax return and/or statements, the relevant attachments thereto established by the authorized government agency shall not be submitted.

Article 69. Procedure for the preparation and filing of tax reports

1. Tax reports shall be prepared independently by a taxpayer, a tax agent, or their representatives, following the procedure and forms established by the authorized government agency in accordance with this Code.

2. Tax reports shall be prepared in the form of paper documents and/or in electronic form in the official language or in Russian. When tax reports are prepared in electronic form, a taxpayer or tax agent shall be required to provide hard copies of these records at the request of tax authorities.

3. Tax reports in the form of paper documents must be signed by the taxpayer or tax agent (manager and chief accountant), and they must also be certified by the official stamp of the taxpayer or tax agent. When tax reports are prepared in electronic form, the electronic document must be certified by the electronic digital signature of the taxpayer. In the event of the absence or incapacity of an individual taxpayer, tax reports shall be signed and certified by his representative.

~~4. A representative of a taxpayer or tax agent who provides services related to the preparation of tax reports shall be required to sign them, affix his official stamp, and indicate his own taxpayer registration number.~~

5. When a taxpayer or tax agent prepares tax reports, including those cases in which the reporting materials are prepared by a representative, the taxpayer or tax agent shall bear liability for the accuracy of the data indicated in the tax reports.

6. Tax reports shall be filed by a taxpayer or tax agent with the respective tax authorities following the procedure and within the deadlines established by this Code.

7. Within three business days of the date of a decision to reorganize or liquidate, the taxpayer shall notify the tax authorities of that in written form.

In the event of the reorganization via merger, takeover, or spin-off or the liquidation of a taxpayer (legal entity), separate tax reports shall be prepared for each ~~reorganized or liquidated~~ taxpayer to be reorganized or liquidated from the beginning of the tax period to the day on which the reorganization or liquidation is completed, on the basis of the transfer act or separation or liquidation ~~and transfer~~ balance sheets, respectively. ~~These reports shall be submitted to the tax authorities within 15 days of the date the reorganization or liquidation decision is made.~~

The reporting indicated in this item shall be submitted within three business days from the date of approval of the transfer act or separation or liquidation balance sheet together with an application for performance of a desk audit in connection with the reorganization or liquidation of the legal entity.

An application for performance of a desk audit in connection with the reorganization of a legal entity via a spin-off shall be submitted within three business days from the date of approval of the separation balance sheet.

The provisions of this item shall not apply to legal entities that are being reorganized via restructuring and also takeover of another legal entity.

8. Taxpayers and tax agents shall have the right to choose how to file their tax reports:

1) in person;

2) by registered letter, with a return receipt;

3) in an electronic form that allows for computer processing of information, in those cases established by the authorized government agency.

9. The date on which tax reports are filed with a tax authority shall be the date on which the tax authority receives the documents or the date of notification of the delivery of the reports sent by electronic mail.

Tax reports delivered to a post office or other communications agency before midnight on the last day of the time period established by this Code shall be considered to have been filed on time, provided that the time and date they were received by the post office or other communications agency are noted on them.

10. Tax reports shall be accepted without prior office verification.

Tax reports shall be considered not to have been filed with a tax authority if:

1) the taxpayer’s registration number is not indicated or it is incorrectly indicated therein;

2) the tax period is not indicated;

3) the requirements of this article regarding the signature and certification of tax reports have not been met

4) the structure of the electronic format as established by the authorized government agency has been violated.

Article 70. Extension of the deadline for the filing of a tax return

1. When a written application is received from a taxpayer prior to the deadline for the filing of a tax return established by this Code, the authorized government agency shall have the right to extend the deadline for the filing of the tax return by a period of not more than three months.

2. An extension of the deadline for the filing of a tax return in accordance with this article shall not change the deadline for payment of the tax.

Article 71. Changes and additions to tax reports

1. Changes and additions to a tax return and statements shall be permitted until expiration of the statute of limitations established by this Code.

2. Changes and additions to a tax return and/or statement shall be made by a taxpayer through the preparation of a supplemental tax return and/or statement for the tax period to which the given changes and additions apply.

3. A supplemental tax return and/or statement shall indicate on the appropriate lines only the amount of the difference that has been identified compared to the previously submitted tax return and/or statement.

4. When a supplemental tax return and/or statement is filed prior to the beginning of an audit, taxes and other mandatory payments to the budget identified by the taxpayer shall be paid to the budget without the assessment of fines.

Article 72. Time period for keeping tax reports on file

1. Tax reports shall be kept on file by taxpayers, tax agents, and tax authorities until the expiration of the statute of limitations determined by this Code.

2. In the event of the reorganization of a taxpayer or tax agent that is a legal entity, obligations related to the storage of tax reports covering the period that the reorganized entity was in operation shall be assumed by its legal successor.

Chapter 13. PROVISIONS SPECIFIC TO TAX ACCOUNTING OF CERTAIN TYPES OF OPERATIONS

§ 1. Provisions specific to taxation when transfer prices are used

Article 73. Monitoring the application of transfer prices

Tax service authorities shall monitor the proper application of prices in transactions following the procedure and in those cases provided for under legislative acts of the Republic of Kazakhstan governing issues of government monitoring of the application of transfer prices.

When it is determined that a transaction price differs from a market price, tax authorities shall make adjustments in objects of taxation and tax obligations in accordance with the legislation of the Republic of Kazakhstan.

§ 2. Provisions specific to taxation in other cases

Article 74. Financial leasing

1. The transfer of depreciable fixed capital for a period greater than three years under a leasing agreement concluded in accordance with the legislation of the Republic of Kazakhstan shall be considered financial leasing if it meets ~~the following conditions~~ one of the following conditions:

1) the leasing agreement provides for the transfer of ownership of fixed capital to a lessee and/or the granting of the right to a lessee to acquire fixed capital at a fixed price;

2) the duration of the financial leasing arrangement exceeds ~~80~~ 75 percent of the useful life of the fixed capital ~~with the exception of financial leasing of agricultural equipment, the duration of which must be at least three years.~~;

3) The current (discounted) value of leasing payments over the entire period of financial leasing shall exceed 90 percent of the value of fixed capital transferred under the financial leasing.

The value of fixed capital transferred (received) under a financial leasing arrangement (through a leasing arrangement) shall be determined at the point that the leasing agreement is concluded.

For the purposes of taxation, such a transaction shall be treated as the purchase of the fixed capital by the lessee. The lessee shall be treated as the owner of the fixed capital, and the leasing payments as payments on a credit granted to the lessee.

2. For the purposes of this article, the duration of a financial leasing arrangement shall include the additional time period by which the lessee has the right to extend the financial leasing arrangement under the terms of the agreement.

Article 75. Common share ownership

In the case of an agreement on common share ownership or joint entrepreneurial activity, or another agreement that provides for two or more owners, but does not provide for incorporation, each owner shall account for and shall be taxed with respect to objects of taxation and objects related to taxation in accordance with the procedure established by this Code.

Article 76. Procedure for determination of objects of taxation in certain cases

1. In the event of a violation of the procedure for maintaining accounting records, due to accounting records being lost or destroyed as a result of force majeure circumstances, the tax service authorities shall determine the objects of taxation and objects related to taxation on the basis of indirect methods (assets, liabilities, turnover, costs, expenditures).

1-1. Should an employee accrue income from a tax agent for a full workday in an amount less than the minimum wage established by the law of the Republic of Kazakhstan on the republican budget for the respective fiscal year, tax authorities shall determine the object of taxation with respect to the social tax based on the given minimum wage amount.

2. In the event that an individual has shown income that is not consistent with expenditures effected on personal consumption, including the acquisition of property, tax authorities shall determine income and taxes on the basis of expenditures effected by the taxpayer, taking into consideration income from previous periods.

3. Income shall also be subject to taxation where other persons and agencies dispute the legality of the income that has been earned.

4. If income is subject to transfer to the budget on the basis of a court decision in those cases provided for by legislative acts of the Republic of Kazakhstan, said income shall be seized less the amount of tax that has been paid on it.

PART 4. CORPORATE INCOME TAX

Chapter 14. GENERAL PROVISIONS

Article 77. Payers

1. Payers of the corporate income tax shall include resident legal entities of the Republic of Kazakhstan, with the exception of the National Bank of the Republic of Kazakhstan and government institutions, as well as nonresident legal entities doing business in the Republic of Kazakhstan through a permanent establishment or earning income from sources in the Republic of Kazakhstan (referred to hereinafter in this part as taxpayers).

2. Legal entities that apply a special tax regime shall pay the corporate income tax in accordance with Articles 368–377 and 385–397 of this Code.

Article 78. Objects of taxation

Objects of taxation with respect to the corporate income tax shall be:

1) taxable income;

2) income taxed at the source of payment;

3) net income of a nonresident legal entity doing business in the Republic of Kazakhstan through a permanent establishment.

Chapter 15. TAXABLE INCOME

Article 79. Taxable income

Taxable income shall be defined as the difference between gross annual income and deductions provided for under Articles 80–103 and 105–114 of this Code, taking into account adjustments made in accordance with Article 122 of this Code. Gross annual income shall be adjusted in accordance with Article 91 of this Code.

§ 1. Gross annual income

Article 80. Gross annual income

1. The gross annual income of a resident legal entity shall consist of income receivable (or received) by it in the Republic of Kazakhstan and outside its borders during the tax period.

The gross annual income of a nonresident legal entity doing business in the Republic of Kazakhstan through a permanent establishment shall be determined in accordance with Article 184 of this Code.

2. Gross annual income shall include all types of income earned by a taxpayer, including:

1) income from the realization of goods (work, services);

2) income from capital gains on the realization of buildings, structural installations, and structures, as well as assets not subject to depreciation;

3) income from the write-off of liabilities;

4) doubtful debt income;

5) income from the leasing of property;

6) income from a reduction in the size of provisions created by banks and institutions performing certain types of banking operations, which are permitted to create provisions under the legislation of the Republic of Kazakhstan;

7) income from the concession of a debt claim;

8) income received for agreeing to limit or halt entrepreneurial activity;

9) income arising from the excess of the value of retired fixed assets over the tax book value of the subgroup;

10) income arising from the excess of contributions to a fund to clean up after mineral extraction operations over actual expenditures on the clean-up of mineral extraction operations;

11) income received from the distribution of income from common share ownership;

12) fines, penalties, and other types of sanctions charged to or acknowledged by a debtor, other than fines refunded by the budget that were improperly collected previously, if these amounts were not previously treated as deductions;

13) compensation received for deductions taken previously;

14) property received, work performed, and services provided free of charge;

15) dividends;

16) interest income;

~~17) a positive exchange rate difference;~~

17) the amount of a positive exchange rate difference in excess of the amount of a negative exchange rate difference;

18) winnings;

19) royalties;

20) the amount by which income earned exceeds expenditures effected in the operation of facilities in the social sphere.

Article 81. Income from the realization of goods (work, services)

1. Income from the realization of goods (work, services) shall be the value of goods realized, work performed, and services provided, with the exception of the value-added tax and excise tax, except as otherwise provided by the legislation of the Republic of Kazakhstan on matters pertaining to government monitoring of the application of transfer prices.

2. Income from the realization of goods (work, services) shall be subject to adjustment in the event of:

1) the complete or partial return of the goods;

2) a change in the terms of the transaction;

3) a change in the price and compensation ~~agreed upon~~ for the goods (work, services) realized;

4) a difference in the value of the goods (work, services) realized when they are paid for in tenge.

An income adjustment shall be performed based on the results of the tax period in which the changes occurred.

Article 82. Income from capital gains on the realization of buildings, structural installations, and structures, as well as assets not subject to depreciation

1. Income from capital gains shall be generated in the realization of buildings, structural installations, and structures, as well as assets not subject to depreciation, with the exception of assets purchased for state needs in accordance with legislation of the Republic of Kazakhstan. Assets not subject to depreciation shall include:

1) parcels of land;

2) unfinished construction projects;

3) uninstalled equipment;

4) fixed capital and intangible assets not used by a taxpayer in the production of goods, performance of work, or delivery of services;

5) securities;

6) share interest in a legal entity of any organizational-legal form and in consortiums;

7) fixed capital the value of which was previously taken in its entirety as a deduction in accordance with the tax legislation of the Republic of Kazakhstan in effect prior to January 1, 2000;

8) ~~fixed capital~~  fixed assets put into operation as part of an investment project, the value of which was taken as a deduction in accordance with Articles 138–140 of this Code.

2. A capital gain shall be defined as the difference between the realization value of said assets and their book value, with the exception of those cases referred to in items 3 and 4 of this article.

The book value shall be the value of assets recorded in the accounting balance sheet as of the first day of the month in which their realization took place.

3. When buildings, structural installations, and structures used in entrepreneurial activity are realized, a capital gain (loss) shall be defined as the difference between the realization value and the residual value identified in the tax records.

4. When securities are realized, a capital gain shall be:

for securities, with the exception of debt securities – the positive difference between the realization value and the purchase value;

for debt securities – the positive difference, not including coupon income, between the realization value and the purchase value, including depreciation of the discount and/or premium as of the date of realization.

Article 83. Income from the write-off of liabilities

1. Income from the write-off of liabilities shall include:

1) liabilities of a taxpayer written off by a creditor;

2) liabilities written off in connection with expiration of the statute of limitations established by legislative acts of the Republic of Kazakhstan, with the exception of liabilities recognized as liabilities in default in accordance with this Code;

3) liabilities written off on the basis of a court ruling.

2. Income earned as a result of the write-off of liabilities shall be equal to the amount of accounts payable written off.

Article 84. Doubtful debt income

Liabilities that have been incurred on goods (work, services) acquired, and also on income and other payments owed to employees, defined in accordance with item 2 of Article 149 of this Code, which have not been met within three years of the moment they were incurred, shall be recognized as doubtful and shall be included in a taxpayer’s gross annual income, with the exception of the value-added tax, which is to be reinstated in mutual settlements with the budget at the rate in effect when the debt was incurred.

Article 85. Income from a reduction in the size of provisions created by banks

Income from a reduction in the size of provisions created shall be recognized as the amount of provisions that were previously treated as deductions, when a debtor fulfills a requirement of a bank or institution performing certain types of banking operations. In this case, the provisions shall be included as income in an amount proportional to the debtor’s fulfillment of the requirement. Provisions that were previously treated as deductions shall also be recognized as income when there is a reduction in the requirements imposed on a debtor on the basis of an agreement providing compensation for termination of a contract, a novation agreement, concession of a right of claim through the conclusion of a cession agreement and/or on other grounds provided for by the legislation of the Republic of Kazakhstan. In addition, reductions in provisions previously treated as deductions when there is a reclassification of requirements shall be recognized as income.

Article 86. Income from the concession of a debt claim

Income from the concession of a debt claim shall be income earned by a taxpayer, which is defined as the positive difference between the amount payable by a debtor on the principal of a claim, including amounts paid by the debtor in excess of the principal, and the acquisition value of the debt paid by the taxpayer.

Article 87. Income earned when the value of retired fixed assets exceeds the value balance of a subgroup

If the value of retired fixed assets in a subgroup exceeds the tax book value of the subgroup at the beginning of a tax period, taking into account the value of fixed assets received in the tax period, the difference shall be included in gross annual income. The tax book value of the given subgroup at the end of the tax period will then be equal to zero.

Article 88. Income earned when contributions to a fund to clean up after mineral extraction operations exceed actual expenditures on the clean-up of mineral extraction operations

1. In the event that actual expenditures on the clean-up of mineral extraction operations are less than the contributions made to said fund, the difference shall be included in the gross annual income of the user of mineral resources.

2. In the event that a user of mineral resources does not perform work to clean up after mineral extraction operations during the period specified in the mineral extraction clean-up program approved by the relevant authorized government agency, contributions to the fund to clean up after mineral extraction operations (the reserve funds) which were treated as deductions shall be included in the gross annual income of the tax period in which they were supposed to be performed.

Article 89. Compensation received for deductions taken previously

1. Income received in the form of compensation for deductions taken previously shall include:

1) claims classified as defaults which were previously treated as deductions and for which reimbursement was received in subsequent tax periods;

2) funds received from the state budget to cover costs (expenditures);

3) other compensation received as reimbursement of expenditures (losses), which were previously treated as deductions.

Compensation that is received shall be treated as income earned in the tax period in which the reimbursement was provided.

2. The amount of insurance premiums to be refunded (returned) by an insurance organization to an insured party upon expiration or early termination of a non-savings insurance agreement, which were previously treated as deductions by the insured person, shall be included in gross annual income of the reporting tax period in which they were ~~treated as deductions~~ returned (were subject to return) to the insured party, and the ~~insurer~~ insurance organization shall be required to notify the tax authorities with which it is registered that the income has been earned, following the procedure and form established by the authorized government agency.

Article 90. Property received free of charge

1. Any property, as well as work and services, received by a taxpayer free of charge shall be treated as income, except as otherwise provided under this article.

2. The following shall not be treated as income:

1) property received as an investment in authorized capital;

2) subsidies received from the state budget.

Article 91. Adjustment of gross annual income

1. The following shall be excluded from taxpayers’ gross annual income: