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# Investment Tax Credit

On 1 January 2021, a number of changes in the tax legislation came into force [1], which are aimed at improving the investment climate. One of the important changes is the introduction of provisions on an investment tax credit granted to taxpayers (hereinafter - the 'ITC').

The ITC represents a change in the due date for the payment of taxes for forthcoming periods, i.e. taxes that are payable in the future at a statutory time may be deferred in full (100 percent). Thus, the state provides a tax credit that can be paid in instalments after the due date established by the Tax Code. At the same time, while applying the ITC, the taxpayer retains the right to carry forward losses in accordance with the provisions of the Tax Code.

The Tax Code provides for the ITC for two taxes only: corporate income tax and (or) property tax. The ITC is provided for up to 3 years.

To obtain the ITC, a taxpayer shall file an application and enter into an agreement with the Ministry of Foreign Affairs of the Republic of Kazakhstan.

The Tax Code provides that the form of the agreement, as well as the procedure for signing thereof, shall be determined by the Ministry of Foreign Affairs of the Republic of Kazakhstan.

The agreement shall provide for: the procedure for reducing tax payments, the term of the agreement, restrictions related to the ITC granting, and the liability of the parties. For instance, if a taxpayer has purchased expensive production equipment, it can apply for an ITC. In this case, the ITC agreement may provide for a prohibition for the taxpayer to sell or transfer equipment to other persons. Violation of such restrictions stipulated by the agreement may result in the termination thereof, as well as payment of the taxes being the subject of the agreement and the corresponding amounts of interest in full [2].

Please note that the Tax Code does not give the right to use ITC to the taxpayers, who:

- ▶ enjoy a special tax regime;
- ▶ produce and (or) sell all types of alcohol, alcoholic beverages, tobacco products;
- ▶ pay taxes in accordance with sections 21 (FEZ, etc.) and 23 (Subsoil Users) of the Tax Code.

As stated above, the principal conditions for the ITC provision will be determined by the agreement between the taxpayer and the Ministry of Foreign Affairs of the Republic of Kazakhstan. To date, the form of the agreement and the procedure for signing thereof has not yet been provided by the Ministry of Foreign Affairs of the Republic of Kazakhstan.

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GRATA International is the largest independent Kazakhstani law firm that provides the wide range of legal services and has been operating on the market for over 30 years. Besides, it is one of the leading law firms in Central Asia and Caspian Region.

Throughout its existence the Firm successfully engages in tax practice. In this connection, in 2005, the Firm structure was completed with the specially formed Tax Law Department. Unlike many consulting firms, GRATA tax team is mainly consists of lawyers and auditors, who have experience with tax and customs authorities. The above enables us to provide our clients with both the right and practicable advice.

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- ▶ Tax Investment Preferences and Tax Planning
- ▶ Taxation of Banking and Financial Transactions
- ▶ Taxation of Subsoil Users
- ▶ Taxation of Non-Residents
- ▶ Taxation of Individuals
- ▶ Due Diligence of Tax Accounting (Tax Audit)
- ▶ Representation and Protection in Tax Disputes

*This review is for information purposes only and shall not be treated as a legal advice. GRATA International is not liable for any consequences arising from the use of the information given in this review without its consent.*

[1] The Law of the Republic of Kazakhstan dated 10 December 2020 No. 382-VI 'On the Introduction of Amendments to the Code of the Republic of Kazakhstan 'On Taxes and Other Obligatory Payments to the Budget' (Tax Code)' and the Law of the Republic of Kazakhstan 'On the Enactment of the Code of the Republic of Kazakhstan 'On Taxes and Other Obligatory Payments to the Budget' (Tax Code)'.

[2] Article 54.4 of the Tax Code.

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