

GUIDANCE NOTES ON KAZAKHSTAN REGISTRATION, LICENSING REQUIREMENTS AND TAXATION FOR THE KAZAKHSTAN NON-RESIDENTS

Under the contract you will be obliged to comply with all applicable law, including Kazakhstan law.

DISCLAIMER

It will be your obligation to ensure that you comply with all applicable law. You will have to seek your own advice on this matter. Any assistance or advice given herein or at any other time by the COMPANY or any of its officers or employees is not intended to be relied upon and is given on the understanding that you will verify the correctness of any such advice or form of assistance with your own advisers. On this basis we would like to draw your attention to the following:

LICENSING

You should check whether you need a licence to carry out the activity envisaged in this tender. If you do, it is advisable to start the process of obtaining a licence as soon as possible as the procedure can take very long.

REGISTRATION AND TAXATION

If you intend to carry out more than a minimal amount of activities (in terms of time, manpower, equipment) in Kazakhstan, there may be an obligation under Kazakhstan law to register with the Ministry of Justice of the Republic of Kazakhstan (either as a subsidiary or a branch) and with the Kazakhstan tax authorities. Our advising you that you must obey the laws of Kazakhstan is a requirement on us under the terms of our investment agreement.

If you are unsure as to whether your activities in Kazakhstan lead to a registration requirement, we refer you to your outside counsel and/or to the Kazakhstan fiscal and juridical authorities. If it is necessary to register an entity, you will have an obligation to carry out accounting, reporting and payment of taxes independently as any other taxpayer in Kazakhstan. For the specific requirements and obligations we refer you to your advisers.

Please be advised that par.9 art. 220 of the RoK Tax Code states that a non-resident (foreign company) engaged in entrepreneurial activity in the Republic of Kazakhstan resulting in formation of a permanent establishment (hereinafter – PE) must be registered as a taxpayer with a tax authority in accordance with the procedure established by Article 76 of this Code. At that, article 220 of the RoK Tax Code, unless otherwise is established by the international treaty, states criteria on formation of PE by a non-resident, that are listed in Attachment 1.

Registration with the Ministry of Justice of the Republic of Kazakhstan and the Kazakhstan local tax authorities can take from 3 days up to several months, therefore it is again advisable that this process is started as soon as possible.

There are three main types of Kazakhstan taxes which may arise in connection with supply of services, works, goods by company which is not registered in Kazakhstan for taxation purposes:

1. Value Added Tax (Kazakhstan VAT)

In case of registration with Kazakhstan tax authorities, the Contractor shall charge and pay Kazakhstan VAT in accordance with rates stipulated in Kazakhstan tax legislation independently.

The following shall be payers of Value Added Tax:

- individual entrepreneurs;
- resident legal persons;
- non-residents carrying out activity in the Republic of Kazakhstan through an affiliate, representation (registered in the RoK).

KPO model contracts shall stipulate that all taxes, emerging in connection with fulfilment of contract conditions and raised by the law of any country, shall be included into the contract value, except of Kazakhstan VAT. Such contract provision is obligatory to be stipulated in all contracts concluded by KPO.

However, Kazakhstan VAT does not affect on Contract value since the rates and prices under Contract to be concluded between the Company and Contractor are exclusive of Kazakhstan VAT.

2. Withholding Tax (WHT)

If you are not required to be registered with the tax authorities, Withholding Tax from non-registered non-resident will be applicable to payments of your invoices if provided for in Kazakhstan tax legislation. The rate of Withholding Tax is dependent on type of work/services provided by your company. If you are required to register in Kazakhstan, no Withholding Tax is applicable once you are registered in Kazakhstan and taxes, stipulated by the Republic of Kazakhstan tax legislation will be applicable and paid by yourself. This information is provided to act as a general guide to potential vendors in preparing their offer. However, it should additionally be noted that time to time changes and amendments made in the RoK tax legislation by the Kazakhstan tax authorities. You are strongly recommended to make your own inquiries as to the rate of taxes that will apply to your company's activities should they be awarded any business from this invitation.

KPO will deduct Withholding Tax, if provided for in the Republic of Kazakhstan tax legislation, with its applicable rates from payment of the Contractor's invoices if Contractor does not submit the Certificate of Contractor's registration within the Ministry of Justice of the Republic of Kazakhstan to KPO:

The applicable rate of Withholding Tax according to art. 644, 646 depends on the type of work/services provided by your company:

- 1) Income defined by Article 644 of the Current Tax Code (income from provision of management, financial, consulting, engineering, marketing, audit, and legal services (excluding services relating to representation and defense of rights and legitimate interests in courts, commercial courts or arbitration courts, and notary services) outside the RoK, etc.) is taxable at 20%, except for income specified in below subparagraphs
- 2) Income of a person registered in a country with privileged taxation – 20%
- 3) Insurance premiums under risks insurance agreements – 15%
- 4) Insurance premiums under risks reinsurance agreements – 5%
- 5) Income from rendering of services on international carriage – 5%
- 6) Income from value gain, dividends, interest, royalty – 15%

Tenderer to refer to the Attachment 2 “Withholding Tax Guidelines” provided herein.

3. Individual Income Tax (IIT)

In accordance with Kazakhstan tax legislation the following income of individuals from the tax agent, which is taxable at source of payment, shall be determined as income of natural persons from the tax agent, which is subject to Individual Income Tax:

- 1) income of individuals under agreements of the civil-legal nature concluded with the tax agent in accordance with the legislation of the Republic of Kazakhstan;
- 2) payments to individuals, including payments in form of material benefit, received from a person, who is not an employer (payment or reimbursement of cost of goods, performed work, rendered services, received by an individual).

Therefore, all the expenses incurred by KPO in part of trips, meals, accommodation arrangements and other costs for individual persons – Contractor's personnel (are the third party's income and subject to taxation at the following rates:

- Residents (the Republic of Kazakhstan citizens) – 10%
- Non-residents (foreigners) – 20%

NO CONTRACTUAL RELATIONSHIP

Please note that although we believe that it shall be advisable to commence the licensing and registration processes before a contract award, the giving of such advice, and/or any involvement on our or your part in obtaining a licence for yourselves to carry out the types of activities envisaged in this tender or your registering with any authorities, shall not in any way be interpreted as forming a contract between yourselves and the COMPANY or as an indication of a future award of contract, or as an offer or an invitation to treat from the COMPANY; it shall be interpreted as a preparation on your part for conducting business in the Republic of

Kazakhstan, such preparation being general in nature and not specifically linked to this tender, the COMPANY, or the project that the COMPANY is engaged in.

ATTACHMENTS:

- 1) **Attachment 1.** Criteria on formation of a permanent establishment as per Article 191 of the Republic of Kazakhstan Tax Code, subject to obligatory registration in the Republic of Kazakhstan;
- 2) **Attachment 2.** Withholding Tax Guidelines;

ATTACHMENT 1.

CRITERIA ON FORMATION OF A PERMANENT ESTABLISHMENT AS PER ARTICLE 191 OF THE REPUBLIC OF KAZAKHSTAN TAX CODE, SUBJECT TO OBLIGATORY REGISTRATION IN THE RoK (unless otherwise is established by the international treaty)

№ №	Article of the RoK TC	Period (term) of operation on the RoK territory	Types of activity
1	paragra ph 1 article 220	irrespective of the period of activity	<p>A permanent establishment of a non-resident in the Republic of Kazakhstan shall mean one the following places of activities in the Republic of Kazakhstan through which it carries out its entrepreneurial activity in the Republic of Kazakhstan <u>irrespective of the period of such activity*</u>:</p> <ol style="list-style-type: none"> 1) any place of performance of production, processing, assembling, pre-packing, packing and/or delivery of goods; 2) any place of management; 3) any place of the geological survey of natural resources, exploration, preparation works for for mining operations and/or performance of works, provision of services for control and/or supervision for exploratory and/or mining operations; 4) any place of pipe-line connected operations (including supervision or observation); 5) any place of performance of operations connected with installation, setup and operation of gambling machines (including game-devices), computer networks and communication channels, amusements, and operations connected with the transport or other infrastructure; 6) place of sale of goods in the territory of the Republic of Kazakhstan, unless otherwise is provided for by paragraph 5 of this Article; 7) any place of performance of building operations and/or construction and installation works, and also provision of services connected with supervision for performance of those operations; 8) location of the branch or representative office, other than representative offices engaged in the operations specified in paragraph 6 of this Article; 9) location of the person engaged in agency operations in the Republic of Kazakhstan on behalf of the non-resident in accordance with the Insurance Operations Law of the Republic of Kazakhstan; 10) location of the resident party to an agreement of joint activity concluded with a non-resident in accordance with the legislation of a foreign country or the Republic of Kazakhstan provided that such joint activity is performed in the Republic of Kazakhstan. <p><i>Addition: Each Convention between the Government of the Republic of Kazakhstan and the Government of the Contracting State stipulates a list of activity that leading to formation of a permanent establishment in the Contracting State. At that, the RoK Tax Code stipulates such list.</i></p>
2	Paragra ph 2 Article 220	<u>exceeds 183 calendar days</u>	<p>A permanent establishment shall mean the place of provision of services and/or performance of works on the territory of the Republic of Kazakhstan through employees or other personnel engaged by the non-resident for such purposes, if the period of such activity in the territory of the Republic of Kazakhstan <u>exceeds one hundred and eighty three calendar days within any continuous 12-month period from the date of commencement of the entrepreneurial activity under one project or related projects**</u>.</p> <p>For the purpose of this Section <i>related projects</i> shall mean the projects, contracts (agreements) under which they are interconnected or interdependent.</p> <p><i>Interconnected contracts (agreements)</i> shall mean contracts (agreements) meeting all the following conditions:</p> <ol style="list-style-type: none"> 1) a non-resident and its related party provide (perform) identical or homogeneous services (works) to the same tax agent or its related party; 2) the period of time between the date of completion of provision of the services (performance of the works) under one contract (agreement) and the date of conclusion of other contract (agreement) does not exceed twelve successive months. <p><i>The interdependent contracts (agreements)</i> are the contracts (agreements) concluded by a non-resident or its related party with a tax agent or its related party, the default on obligations under any of them by non-resident or its related party affect the performance of the obligations by such non-resident or its related party under other contract (agreement).</p> <p><i>Addition: Each Convention between the Government of the Republic of Kazakhstan and the</i></p>

			<p><i>Government of the Contracting State stipulates a period of activity in the territory of the Contracting State, that leads to formation of a permanent establishment, and as a rule the period is more than 12 months. At that, the RoK Tax Code stipulates a definite period of activity in the territory of a country that leads to formation of a permanent establishment.</i></p>
3	Paragraph 3 Article 220	<u>irrespective of the period of activity</u>	<p>In the event that a non-resident carries out entrepreneurial activity in the Republic of Kazakhstan through its dependent agent (an individual or legal entity), such non-resident will be considered as a non-resident having a permanent establishment in connection with any activity the dependent agent carries out for the non-resident.</p> <p><i>a dependent agent shall mean a person meeting all the following conditions:</i></p> <ol style="list-style-type: none"> 1) the person is authorized to represent the non-resident in the Republic of Kazakhstan, act and/or take certain legal acts on behalf and at the expense of the non-resident on the basis of contractual relations; 2) the person shall carry out the activity specified in subparagraph 1) of this paragraph beyond the activities of a customs representative, professional securities market participant or other broker activity (except for the insurance broker activity); 3) the activity of the person is not limited to the activities specified in paragraph 6 of this Article. <p><i>Addition: Each Convention between the Government of the Republic of Kazakhstan and the Government of the Contracting State stipulates a definition of "dependent agent". At that, the RoK Tax Code stipulates such definition.</i></p>
4	Paragraph 5 Article 220	<u>more than 10 calendar days</u>	<p>A non-resident forms a permanent establishment in the Republic of Kazakhstan in the event of selling of goods at exhibitions and fairs, being carried out in Republic of Kazakhstan <u>if such sale continues more than ten calendar days.</u></p> <p><i>Addition: Each Convention between the Government of the Republic of Kazakhstan and the Government of the Contracting State stipulates a period of activity in the territory of the Contracting State, that leads to formation of a permanent establishment, and as a rule the period is more than 12 months. At that, the RoK Tax Code stipulates a definite period of activity in the territory of a country that leads to formation of a permanent establishment.</i></p>
5	Paragraph 8 Article 220	<u>irrespective of the period of activity</u>	<p>In the event that a non-resident carries out activity in the Republic of Kazakhstan <u>based on joint operating agreement:</u></p> <ol style="list-style-type: none"> 1) activity of each participant of such agreement forms a permanent establishment in compliance with provisions, stipulated by this Article; 2) tax liability shall be fulfilled by each party of such agreement by itself in compliance with provisions, stipulated by this Article;

* A non-resident forms a PE in the RoK from the first day of activity, types of which are stipulated in paragraph 1 article 220 of the RoK TC;

**** The date of commencement of the non-resident's activity in the Republic of Kazakhstan as per paragraph 10 article 220 of the RoK TC shall mean the date of conclusion of a contract for performance of works or provision of services in the Republic of Kazakhstan;**

Note:

Please take into account that the RoK Tax Code provides other particularities in respect of formation of a permanent establishment by a non-resident in the RoK. For more detailed information you should refer to articles 220 and 76 of the RoK TC and consult your advisors.

Please pay your attention that a non-resident shall be subject to the RoK state registration in other cases as well, for example operating in the RoK when it is subject to licensing.

In the absence of registration of Your permanent establishment with the RoK state authorities, KPO will withhold WHT in compliance with the RoK legislation(par.2 article 653 of the RoK TC).

ATTACHMENT 2.

Withholding Tax Guidelines

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2 Definitions and the Republic of Kazakhstan tax legislation overview

1.1 Definitions

"The RoK Tax Code" means Code of the Republic of Kazakhstan dated 25 December 2017 No. 120-VI "Concerning taxes and other obligatory payments to budget".

"Withholding tax" means tax withheld by a tax agent in compliance with provisions of Chapter 33 of the Republic of Kazakhstan Code dated 25 December 2017 2008 No. 120-VI "Concerning taxes and other obligatory payments to the budget" (Tax Code) effective since 1 January 2018.

"Tax agent" means individual entrepreneur, private notary, legal entity, including a non-resident legal entity which is entrusted with the duty of assessment, withholding and transfer of taxes withheld at source of payment in accordance with the RoK Tax Code.

"Non-resident" means foreign legal entity carrying out entrepreneurial activity in Kazakhstan through a permanent establishment or receiving income from Kazakhstan sources without creation of a permanent establishment.

"Permanent establishment" means a permanent place of business of a non-resident in the Republic of Kazakhstan, through which a non-resident carries out business operations, including activities through an authorised person, (according to the Current Tax Code).

“*Consultancy services*” mean services on providing explanations, recommendations, advice and other forms of consultations, including the determination and/or evaluation of problems and/or possibilities of a person, for the purpose of solving managerial, economic, financial, investment issues, including issues of strategic planning, organization and running of business, personnel management.

“*Engineering services*” — engineering-consultancy services, work of research, planning and designing work, work of calculation-analytical nature, preparation of technical feasibility studies of projects, elaboration of advice in the sphere of organising production facilities and management, marketing of goods.

“*Marketing services*” — services associated with the research, analysis, planning and prediction in the sphere of production and handling of goods, work, services for the purposes of identifying steps to create better economic conditions for the production and handling of the goods, work, services, including description of goods, work, services, elaboration of price policies and advertising strategies.

“*Convention*” means Convention between the Government of the Republic of Kazakhstan and Governments of other countries for the avoidance of double taxation.

“*KPO*” - Karachaganak Petroleum Operating B.V. Kazakhstan Branch

1.2 The Republic of Kazakhstan tax legislation overview

Procedure of calculation and deduction of Withholding Tax is regulated by the RoK Tax Code (Chapter 72 of the RoK Tax Code).

According to the given procedure (art 645), Income of a non-resident legal entity, carrying out activity without formation of a permanent establishment, defined by Article 644 of the RoK Tax Code shall be subject to Withholding Tax at source of payment without making deductions.

At that, KPO, as a tax agent, is obliged and responsible for calculation, deduction and payment into the budget of Withholding Tax without making deductions and regardless of the form and place of effecting of the payment of income.

A list of non-resident legal entity’s income from sources in the Republic of Kazakhstan and rates for WHT applicable to such income is provided in **Appendix 1**.

1.2.1 Supply and transportation of goods to the RoK territory

A. Supply of goods

Payment of income to non-resident Contractor, connected with sales of goods on the Republic of Kazakhstan territory, except of supply of goods to the Republic of Kazakhstan within the foreign trade operation which doesn’t stipulate rendering of services, performance of work on the Republic of Kazakhstan territory, shall be subject to **20% WHT**.

Thus, delivered to the RoK territory goods, **passed customs clearance within the foreign trade operation with payment of import customs fees, duties and taxes, as well within the Eurasian Economic Union shall not be subject to WHT**.

B. Supply of goods, including design and engineering services

According to Art. 644.1.3 and 646.1.1 of the RoK Tax Code income of a non-resident from rendering of engineering services shall be subject to 20% WHT, irrespective of the place of service rendering.

Thus, if supply of goods include rendering of design and engineering services, then accordingly such services shall be subject to **20% WHT**.

At that, in the contract it is necessary to separate value of services from value of goods. If the contract stipulates rendering of such services, and if their value is not separated from value of goods, then the total contract value shall be subject to **20% WHT**.

C. Transportation services for carriage of goods

If the Contractor renders transportation services for carriage of goods to KPO warehouse, payable income shall be subject to **5% WHT** as income from international carriage, in condition if for such services separate invoices with supporting documents and attached invoices of a freight forwarder, not including costs for loading and discharge of goods, insurance of goods, logistic and other services, are issued.

For taxation purposes carriage performed between points situated in various countries, where the Republic of Kazakhstan is one of them, shall be recognized as international carriage. At that, carriage is considered as international, if the carriage follows single international carriage documents, by carriage of:

- 1) by international motor traffic – consignment note;
- 2) by railway transport – a waybill of the standard form;
- 3) by air transport – air waybill;
- 4) by sea transport – bill of lading or sea waybill.

Payments to non-residents, registered in countries with privileged taxation included into the list approved by the Order of the Minister of Finance of the Republic of Kazakhstan, for services on international carriage of goods, shall be subject to **20% WHT**.

In case if the contract for supply of goods within the foreign trade operation provides that the value should include cost for transportation services for carriage of goods, without specific stipulation in the contract of amounts connected with acquired goods and/or such expenses, the value of the acquired goods shall be determined on the basis of the transaction price specified in the contract, taking into account such expenses, and therefore shall not be subject to WHT (subpar.1 par.9 Art. 645 of the RoK Tax Code).

1.2.2 Software supply and technical support

A. Software supply

Payments for the use or right to use software, as well as database (web-resources) are recognised as Royalty and subject to WHT from income of non-resident in the Republic of Kazakhstan under the **rate of 15%**, if such payments are effected in respect of non-resident legal-entity operating without formation of a permanent establishment in the RoK. Therefore, payments under contracts for supply of software and license, as well as for provision of database access (subscription to web-resources), relate to royalty

As a rule, software includes licence, software itself, software and (or) data storage device as well as documentation. Such supplies shall be subject to customs clearance. Royalty is taxable irrespective of customs clearance or its absence.

The RoK Tax Codes provides the following definition of Royalty

“Royalty - payment for the use or right to use copy rights including software, drawings or models except for the full or partial realization of property (exclusive) rights for intellectual property object; the use or right to use patents, trade marks or other similar types of rights; use or right to use industrial equipment including sea craft to be leased in accordance with the bareboat-charter or demise-charter, and air craft to be leased in accordance with the demise-charter as well as merchant or research equipment; use of the «know-how»; use or right to use films, video films, sound records or other recording facilities”.

Similar definitions are used in most Conventions on avoidance of double taxation ratified in the RoK (hereinafter – Convention).

Royalty shall be taxable at the rate of 15%, except of royalty payable to non-residents, registered in country with privileged taxation, included unto the list approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated 8 February 2018 No.142. Royalty payable to such non-residents is subject to taxation under the rate of 20% (par.2, art.646 of the RoK TC).

In compliance with the Republic of Kazakhstan tax legislation and the Convention concluded between the Republic of Kazakhstan and the country of residence of the Contractor, KPO as a tax agent have the right to apply independently a decreased tax rate to income of the Contractor in form of Royalty, by fulfilment of conditions mentioned in **Appendix 2**.

B. Software technical support

Payments to non-residents operating without formation of a permanent establishment in the RoK, for software maintenance and other related services usually recognised as of consultancy services* (technical support in form of consultations by phone, e-mail, fax, internet, etc.), and are subject to WHT under the **rate of 20%** from non-resident income in the RoK, irrespective of the place of rendered services.

* According to Art.1.54 of the RoK Law on Computerisation “technical support “- provision of consulting, information technology and other services aimed at support of software working efficiency.

1.2.3 Performance of work and rendering of services inside and outside the Republic of Kazakhstan.

Payments to non-residents operating without formation of a permanent establishment in the RoK for performance of work and rendering of services shall be subject to WHT under the **rate of 20%**, from income of the RoK non-resident, if such payments are income from the RoK sources

Article 644 of the RoK Tax Code stipulates a list of income recognised as income of non-residents from sources in the RoK, taking into account a territorial principle that mean a source of income on the RoK territory except of income which is subject to taxation in the RoK irrespective of the place of actual work performance, service rendering. A list of income from sources in the RoK from service rendering and work performance, includes but not limited by the following:

1) income from performance of work, rendering of services on the **territory of the RoK**;

In case of rendering of services both inside and outside the RoK (mixed services) within a single contract and single operation the total income amount under such contract shall be subject to WHT under the rate of 20%.

Besides, please be aware that withholding tax shall be also applicable to non-resident Contractor’s reimbursable costs for accommodation and subsistence, transportation of its personnel inside and outside the Republic of Kazakhstan (mobilisation and demobilisation costs) connected with performance of work, rendering of services in the Republic of Kazakhstan territory.

2) income from provision of management, financial, consulting, engineering, marketing, audit, and legal services (excluding services relating to representation and defense of rights and legitimate interests in courts, commercial courts or arbitration courts, and notary services) **irrespective of the place of rendering**;

3) income of a person registered in a state with privileged taxation included into the list approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated 8 February 2018 No.142 irrespective of the place of service rendering, work performance. A List of the Countries with privileged taxation is specified in **Appendix 3**.

2. Application of Convention provisions

Each Convention between the Government of the Republic of Kazakhstan and the Government of the Contracting State stipulates taxation procedure both for non-registered non-resident and registered in the Contracting State of the non-resident. Moreover, period of service rendering in the territory of the Republic of Kazakhstan shall not exceed one hundred and eighty three calendar days within any continuous 12-month period from the date of commencement of the entrepreneurial activity under one project or related projects.

If the Republic of Kazakhstan concluded a Convention with a country of residence of a foreign legal entity, under which non-resident income is subject to taxation only in the country of its residence, application of the Convention is possible. For this purpose, Kazakhstan tax legislation provides a special administrative procedure stipulating payment of WHT to nominal bank deposit (till 31 December 2022) or to the budget as well as submission by the non-resident of an application to the Republic of Kazakhstan tax authorities (in this case, to West Kazakhstan oblast State Revenue Department) for Withholding Tax refund upon completion of work in the Republic Kazakhstan (actual contract execution), or upon completion of each stage of work performance, rendering of services for long-term contracts (more than 1 year) (Art 672 of the RoK Tax Code).

The application for Withholding Tax refund shall be submitted by the non-resident to Kazakhstan tax authorities till expiry of the statute of limitation (5 years till 2020, 3 yers starting from 01.01.2020, as per article 48 of the RoK Tax Code) from the date of last transfer of Withholding Tax to the budget, allocation of Withholding Tax amounts on the nominal bank account, supported by a list of documents required by the RoK tax legislation.

The list of Conventions on avoidance of double taxation between the Republic of Kazakhstan and other states is given in **Appendix 4**.

3. Application of a Certificate on amounts of income received from sources in the Republic of Kazakhstan and withheld (paid taxes)

If WHT is withheld from payments to the Contractor, and not subject to refund as per the international treaty, then the Contractor in order to get offset of taxes, paid in the Republic of Kazakhstan, in the country of residence, or deduction of income from sources in the Republic of Kazakhstan, have the right to receive a certificate on amounts of received income from sources in the Republic of Kazakhstan and withheld (paid) taxes at Kazakhstan tax authority.

A tax agent can also receive the certificate at tax authority on assessed and (or) paid by such tax agent income to a non-resident and withheld (paid) taxes from such income.

Under the stipulations that the domestic tax legislation of the Contractor's country of residence makes provisions for the offsetting of taxes paid in Kazakhstan, the Contractor can offset amounts of taxes withheld (paid) in the Republic of Kazakhstan from the total or partial amount of Contractor's Corporate Income Tax in its country of registration by application of Withheld Tax Certificate.

Procedure on receipt of the Certificate by the Contractor is described in **Appendix 5**.

Please be aware that, the RoK tax authorities do not issue the certificate on amounts of received income from sources in the Republic of Kazakhstan and withheld (paid) taxes to non-registered non-residents if activity of the non-resident Contractor leads to formation of a permanent establishment in the RoK.

4. Appendices

- 4.1 *Appendix 1* Income of a non-resident legal entity from sources in the RoK
- 4.2 *Appendix 2* Procedure on application of the Convention in respect to decreased tax rate for income of a non-resident legal entity in form of Royalty
- 4.3 *Appendix 3* List of the Countries with privileged taxation (approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated 8 February 2018 № 142)
- 4.4 *Appendix 4* Conventions on avoidance of double taxation, concluded between the Republic of Kazakhstan and other states
- 4.5 *Appendix 5* Application of Certificate on amounts of income received from sources in the Republic of Kazakhstan and withheld (paid) taxes

Appendix 1

Income of a non-resident legal entity from sources in the RoK

Income of a non-resident				Tax rate	
No	Income type	Place of rendering of services	Justification, article 644 of the RoK TC	WHT rate %	Justification, article 646 of the RoK TC
1	Income from selling goods in the territory of the Republic of Kazakhstan, except of supply of goods to the Republic of Kazakhstan territory within the foreign trade operation which doesn't include rendering of services, performance of work in the territory of the Republic of Kazakhstan	RoK	subpar.1) par.1 art.644	20%	subpar.1) par.1 art.646
2		RoK	subpar.2) par.1 art.644	20%	subpar.1) par.1 art.646
3	Income from provision of management, financial, consulting , engineering, marketing, audit, and legal (excluding services relating to representation and defense of rights and legitimate interests in courts, commercial courts or arbitration courts, and notary services) services outside the Republic of Kazakhstan	Irrespective of the place of rendering	subpar.3) par1 art.644	20%	subpar.1) par.1 art.646
4	Income of a person registered in a state with privileged taxation included into the list approved by the Order of the Minister of Finance of the Republic of Kazakhstan gained from performance of works, provision of services irrespective of the place of their factual performance , provision, and other income provided for by this Article.	Irrespective of the place of rendering	subpar.4) par.1 art.644	20%	par.2) art.646
5	Penalty (fine, late fees) and other types of sanctions except for the fines returned from the budget which have been unreasonably withheld earlier .	Irrespective of the place of origin	subpar.9) par.1 art.644	20%	subpar.1) par.1 art.646
6	Income from capital gain, dividends, interest, royalty .	RoK	subpar.6), 10), 11),12) 13) par.1 art.644	15%	subpar.5) par.1 art.646
7	Income from leasing assets situated in the Republic of Kazakhstan, which is or will be in the Republic of Kazakhstan, except for financial leasing	RoK	subpar.14) par.1 art.644	20%	subpar.1) par.1 art.646
8	Income from rendering services on international carriage. For the purposes of this Section any conveyance of passengers, baggage, goods, including mail, by marine, river ships or aircraft, motor transport vehicle or railway transport as performed between points situated in various countries, where the Republic of Kazakhstan is one of them, shall be recognized as international carriage.	between points situated in various countries, where the Republic of Kazakhstan is one of them	subpar.17) par.1 art.644	5%	subpar.4) par.1 art.646
9	Income in the form of insurance premiums payable under insurance agreements against risks arising in the Republic of Kazakhstan	RoK	subpar.16) par.1 art.644	15%	subpar.3) par.3 art.646
10	Income in the form of insurance premiums payable under reinsurance agreements against risks arising in the Republic of Kazakhstan	RoK	subpar.16) par.1 art.644	5%	subpar.3) par.1 art.646
11	Other income, specified in paragraph 1 of article 192 of the Tax Code		par.1 art.644	20%	subpar.1) par.1 art.646

Note:

For more detailed information you should refer to articles 644-646 of the RoK TC and consult your advisors.

Appendix 2

Procedure on application of the Convention in respect to decreased tax rate for income of a non-resident legal entity in form of Royalty.

KPO as a tax agent has the right by oneself to apply the decreased tax rate (from 15% up to 10%-12% depending on provisions of the Convention) to non-resident income in form of Royalty if such non-resident is established in the country the RoK concluded the Convention and provided that all the following conditions are met:

1) Non-resident Contractor is the ultimate (actual) recipient (beneficiary) of income;

The ultimate (actual) recipient (beneficiary) of income shall mean a person who holds the right of ownership, use, or disposal of the income and is not an intermediary with respect to such income, or agent, or nominal holder.

In each calendar year KPO before effecting any payment the contractor shall get a guarantee from the Contractor that it is the ultimate (actual) recipient (beneficiary) of income received from KPO.

For that the Contractor shall provide KPO with copies of patent, confirming the copyright for software intellectual property as the ultimate beneficiary of income.

2) Non-resident Contractor provides the original of a document confirming residence (certificate of residence), (Article 675 of the RoK TC) for the appropriate tax year, in a proper way certified by an apostille or legalised in compliance with the RoK legislation, before payment of income to such Contractor.

A Certificate of residence shall be duly completed and provided to KPO Accounts Payable department together with the first invoice for the relative year.

Document, confirming residence of a foreign person (Certificate of residence) is an official document, approving that a foreign person-income recipient is a resident of a country, with which Republic of Kazakhstan concluded Convention:

- 1) during period indicated in this document
- 2) during calendar year in which such document was issued (placed on the internet-resource of the competent authority of the foreign country), if period is not indicated in such document.

Such document is certified by a competent authority of a foreign state, which resident a foreign person-income recipient is.

At that, signature and stamp of an authority, which certified residence of a non-resident, as well as signature and stamp of foreign notary in case of notarisation of document's copy, are subject to diplomatic or consular legalization under the procedure, stated by the Republic of Kazakhstan legislation, or apostillisation in accordance with international treaty, where one of the parties is the Republic of Kazakhstan.

For countries with which The Hague Convention is signed cancelling requirement on legalization of foreign official documents (Hague city 5 October 1961), a simplified procedure of document processing is applicable, namely, put of apostille. Apostille certifies genuineness of signature of a person, who signed the document, and also genuineness of a seal and stamp, by which this document is sealed. Apostille (square stamp of not less 9x9 cm size with agreed notes) is put on the document itself or on a separate sheet, fastened with the document.

Provisions of the international treaty shall not be applied in case of formation of a permanent establishment of a non-resident in the RoK.

Sample of apostille

Apostille shall be of square form with a side not less than 9 sm.

APOSTILLE (Convention de la Haye du 5 octobre 1961)	
1. Country: _____	
This public document	
2. has been signed by _____	
3. acting in the capacity of _____	
4. bears the seal/stamp of _____	
CERTIFIED	
5. at _____	6. the _____
7. by _____	
8. No. _____	
9. Seal/Stamp _____	10. Signature _____

Appendix 3**List of the Countries with privileged taxation (approved by the Order of the Minister of Finance of the Republic of Kazakhstan dated 8 February 2018 № 142)**

1. Principality of Andorra
2. Antigua and Barbuda
3. The Commonwealth of the Bahamas
4. Barbados
5. Kingdom of Bahrain
6. Belize
7. Sultanate of Brunei Darussalam
8. Republic of Vanuatu
9. Co-operative Republic of Guyana
10. Republic of Guatemala
11. Grenada
12. Republic of Djibouti
13. Dominican Republic
14. Commonwealth of Dominica
15. Spain (only as regards the territory of the Canary Islands)
16. People's Republic of China (only as regards the territories of the special administrative regions Aomin (Macau) and Syangang (Hong Kong))
17. Republic of Columbia
18. Federal Islamic Republic of Comoros Islands
19. Republic of Costa Rica
20. Malaysia (only as regards the territory of the Labuan enclave)
21. Republic of Liberia
22. Republic of Lebanon
23. Principality of Liechtenstein
24. Republic of Mauritius
25. Islamic Republic of Mauritania
26. Portuguese Republic (only as regards the territory of the Madeira Islands)
27. Republic of Maldives
28. Republic of the Marshall Islands
29. Principality of Monaco
30. Malta
31. Mariana Islands
32. Kingdom of Morocco (only as regards the territory of the city Tanger)
33. Republic of the Union of Myanmar
34. Republic of Nauru
35. The Netherlands (only as regards the territory of Aruba Island and dependent territories of the Antilles)
36. Federal Republic of Nigeria
37. New Zealand (only as regards the territory of the islands of Cook and Niue)
38. Republic of Palau
39. Republic of Panama
40. Independent State of Samoa
41. Republic of San Marino
42. Republic of Seychelles
43. State of St. Vincent and the Grenadines
44. Federation of St. Kitts and Nevis

45. St. Lucia
46. United Kingdom of Great Britain and Northern Ireland (only as regards the following territories):
 - 1) Anguilla Island;
 - 2) Bermudas;
 - 3) British Virgin Islands;
 - 4) Gibraltar;
 - 5) Cayman Islands;
 - 6) Montserrat Island;
 - 7) Turks and Caicos Islands;
 - 8) Island of Man;
 - 9) Channel Isls (isls of Guernsey, Jersey, Sark, Alderney);
 - 10) South Georgia Island;
 - 11) South Sandwich Island;
 - 12) Chagos Island;
47. the United States of America (only as regards the following territories)
 - 1) American Virgin Islands;
 - 2) Guam Island;
 - 3) Commonwealth of Puerto Rico;
 - 4) State of Wyoming;
 - 5) State of Delaware;
48. Republic of Surinam
49. United Republic of Tanzania
50. Kingdom of Tonga
51. Republic of Trinidad and Tobago
52. Sovereign Democratic Republic of Fiji
53. Republic of the Philippines
54. Republic of France (only as regards the following territories):
 - 1) Kerguelen Island
 - 2) French Polynesia
 - 3) French Guiana
55. Republic of Montenegro
56. Democratic Republic of Sri Lanka
57. Jamaica

Appendix 4**Conventions on avoidance of double taxation between the Republic of Kazakhstan and other states
(as of 01.01.2018)**

№	Effective			
	Country	Carrying into effect	Application	
			Taxes at source	Other taxes
1	2	3	4	5
1	Great Britain	21.08.1996	since 01.01.93	since 01.01.93
2	Italy	26.02.1997	since 01.01.94	since 01.01.94
3	Canada	30.03.1998	since 01.01.96	since 01.01.96
4	USA	30.12.1996	since 01.02.97	since 01.01.96
5	the Netherlands	27.04.1997	since 01.01.96	since 01.01.96
6	Germany	21.12.1998	since 01.01.96	since 01.01.96
7	Pakistan	29.01.1997	since 01.01.96	since 01.01.96
8	Poland	13.05.1995	since 01.07.95	since 01.01.96
9	Turkey	18.11.1996	since 01.01.97	since 01.01.97
10	Hungary	03.03.1996	since 01.01.97	since 01.01.97
11	Ukrain	07.04.1997	since 07.06.97	since 01.01.97
12	India	28.08.1997	since 01.01.98	since 01.01.98
13	Lithuania	11.12.1997	since 01.01.98	since 01.01.98
14	Azerbaijan	07.05.1997	since 01.01.98	since 01.01.98
15	Belorussia	13.12.1997	since 01.01.98	since 01.01.98
16	Russia	29.07.1997	since 01.01.98	since 01.01.98
17	Uzbekistan	07.04.1997	since 07.07.97	since 01.01.98
18	Sweden	02.10.1998	since 01.01.99	since 01.01.99
19	Bulgaria	24.07.1998	since 01.01.99	since 01.01.99
20	Kyrgyzstan	31.03.1998	since 01.01.99	since 01.01.99
21	Iran	03.04.1999	since 01.01.00	since 01.01.00
22	Korea	09.04.1999	since 01.01.00	since 01.01.00
23	Czech Republic	29.10.1999	since 01.01.00	since 01.01.00
24	Mongolia	02.12.1999	since 01.01.00	since 01.01.99
25	Belgium	13.04.2000	since 01.01.00	since 01.01.00
26	Turkmenistan	10.03.2000	since 01.01.01	since 01.01.01
27	Romania	21.04.2000	since 01.01.01	since 01.01.01
28	France	01.07.2000	since 01.01.96	since 01.01.96

29	Georgia	05.07.2000	since 01.01.01	since 01.01.01
30	Estonia	19.07.2000	since 01.01.01	since 01.01.01
31	Tajikistan	07.11.2000	since 01.01.01	since 01.01.01
32	Switzerland	24.11.2000	since 01.01.00	since 01.01.00
33	Moldova	25.02.2002	since 01.01.03	since 01.01.03
34	Latvia	02.12.2002	since 01.01.03	since 01.01.03
35	China	09.08.2003	since 01.01.04	since 01.01.04
36	Norway	24.01.2006	since 01.03.06	since 01.01.07
37	Austria	01.03.2006	since 01.01.07	since 01.01.07
38	Singapore	14.08.2007	since 01.01.08	since 01.01.08
39	Slovakia	28.07.2008	since 01.01.09	since 01.01.09
40	Japan	30.12.2009	since 01.01.10	since 01.01.10
41	Malaysia	27.05.2010	since 01.01.11	since 01.01.11
42	Armenia	27.05.2010	since 01.01.11	since 01.01.11
43	Republic of Finland	27.05.2010	since 01.01.11	since 01.01.11
44	Kingdom of Spain	18.08.2011	since 18.08.11	since 18.08.11
45	Luxemburg	11.12.2013		
46	UAE	27.11.2013		
47	Qatar	05.04.2015		
48	Macedonia	27.04.2015		
49	Vietnam	18.06.2015		
50	Saudi Arabia	01.09.2016		
51	Republic of Slovenia	30.12.2016		
52	Republic of Serbia	24.11.2016		
53	Ireland	29.12.2017		

Appendix 5**Application of Certificate on amounts of income received from sources in the Republic of Kazakhstan and withheld (paid) taxes**

For the purposes of obtaining offsets of taxes paid in the Republic of Kazakhstan or the deduction of income from sources in the Republic of Kazakhstan in the country of residence, the non-resident shall have the right in accordance with Article 676 of the RoK Tax Code to receive from the RoK tax authority a certificate on amounts of income received from sources in the Republic of Kazakhstan and amounts of withheld (paid) taxes, if such tax is payable to the Republic of Kazakhstan budget, including as per the international treaty, and not subject to refund as per Articles 672, 673, and 674 of the RoK Tax Code.

In order to obtain the certificate the non-resident, operating in the RoK without formation of a permanent establishment shall be obliged to submit a tax application to the tax authority as specified hereunder.

A tax agent can also receive the certificate at tax authority on assessed and (or) paid by such tax agent income to a non-resident and withheld (paid) taxes from such income.

The certificate shall be issued after submission by tax agent (KPO) an appropriate tax reporting form reflecting the non-resident's amounts of accrued income and tax subject to payment.

Pursuant to Article 648 of the RoK Tax Code at the place of its location the tax agent shall submit the tax reporting form to the tax authority for the first, second, and third quarters – not later than the 15th day of the second month following the reporting quarter, for the fourth quarter – not later than the 31st March of the year following the reporting tax period, in which liability for calculation and withholding of income tax at source of payment.

Tax Application data should be in compliance with data, indicated in tax reporting forms of the tax agent.

Therefore, Contractor before completing the tax application should address to KPO Tax department specialists in order to get information on accrued income and paid taxes to the RoK budget, mentioned in the appropriate periods of the tax reporting.

Where finding discrepancy of data in a non-resident's tax application and data presented in the forms of tax reporting of the tax agent, and also in the case of non-payment of tax or the tax agent has tax arrears in respect of payment of tax from the income of non-residents on the date of filing a tax application, the tax authority shall forward to the non-resident (tax agent) a denial of issuing a certificate.

In the event of failure of the non-resident (tax agent) to file a tax application, the tax authority shall not issue a certificate on amounts of income received from sources in the Republic of Kazakhstan and amounts of taxes withheld (paid).

Address of the tax authority at place of location of the tax agent:

Burlin region State Revenue Administration

090300, Aksai, Burlin region

West-Kazakhstan oblast

The Republic of Kazakhstan

Reception phone number +7 71133 31026

For information you may address to:

- Burlin region State Revenue Administration - phone number of the head's reception +7 71133 31026;
- West Kazakhstan oblast State Revenue Department – phone number of International Taxation Department +7 7112 511559.

The Application Form (the first seven pages to fill in) is attached herein.



Package.rar

Please note, that the Application Form should be filled in Kazakh or Russian.

As well, you may find the Application Form on web-site of the Tax Committee of the Ministry of Finance of the RoK www.kgd.gov.kz.