

A short review of some of the most important recent amendments and additions to Kazakhstan legislation.

Dear friends,

On 24 December 2012 the President signed the Law on Changes and Amendments to Certain Legislative Acts on the Registration of Legal Entities, their Branch and Representative Offices (the "Law")¹ to simplify the company registration process in Kazakhstan. The Law came into force on 9 January 2013.

Changes to the Law on the Registration of Legal Entities, Branch and Representative Offices

New Terminology

The Law replaces the concept of "the uniform state register of legal entities" with the concept of "National register of business identification numbers".² The concept of "statement of registration (re-registration)" replaces the concept of "registration (re-registration) certificate".³

Registration Process

The Law paves the way for registration of a legal entity based on an on-line application. The procedure for on-line applications is yet to be defined by the Ministry of Justice.⁴

Documents Necessary for Registration of Legal Entities

The Law removes the requirement to submit charters (statutes) of private legal entities (including LLCs), their branch and representative offices for the purpose of registration (or re-registration, for example following a change of participants or a change of name) with the justice authorities. However, this requirement will remain for the purpose of registering joint stock companies, their branch and representative offices.⁵

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¹ Law No. 60-V of the Republic of Kazakhstan on Changes and Amendments to Certain Legislative Acts of the Republic of Kazakhstan on the Registration of Legal Entities, their Branch and Representative Offices, dated 24 December 2012.

² Article 5 of Law No. 2198 of the Republic of Kazakhstan on the Registration of Legal Entities, Branch and Representative Offices, dated 17 April 1995 (the "Law on State Registration").

³ Article 12 of the Law on State Registration.

⁴ Article 6 of the Law on State Registration.

⁵ Article 6 of the Law on State Registration.

In addition, the Law on Registration of Legal Entities, their Branch and Representative Offices (the “Law on Registration”) has been amended so that it is no longer necessary to provide a tax clearance certificate in relation to tax liabilities of the parent company applying to register a new legal entity.⁶ However, the requirement to submit a statement on tax, customs duties and fees liabilities for the purpose of liquidating an entity will remain.⁷

Thus, to register a private company, other than a joint stock company, a founder should file an application for registration, a resolution of the authorized body of the founder and a receipt for payment of the registration fee in the amount of 6.5 times the MIF or roughly USD 75. Where the founder is a foreign legal entity or natural person, one of the following documents should also be filed:⁸

- (in the case of a company or other legal entity) a legalized extract from the trade register or other legalized document proving due registration of the foreign legal entity, translated into Kazakh and Russian with subsequent notarization;
- (in the case of an individual) a copy of passport or other document proving his/her identity, translated into Kazakh and Russian with subsequent notarization.

For the purpose of registering a medium-size or large company, an application for registration should be signed and filed with the registering body by the founder or one of them. A third party may be authorized to sign and file such an application in cases where a sole founder is a nonresident individual or a foreign legal entity, the Kazakh government, a state body or the National Bank.⁹ [It is not clear how this exception to the rule that applicants must apply in person will be applied in practice].

The procedure for registration (or re-registration) of a joint stock company has remained largely unchanged, save that the Law now requires three counterparts of the foundation documents to be submitted (in the case of a re-registration also accompanied by the unamended version).

All amendments to a JSC’s foundation documents still require notification within one month of the approval.

“Non-private” companies (e.g. state organizations) are treated in the same way as joint stock companies for most purposes under the Law.

Timing for Registration

The Law establishes the following timing for registration of private legal entities, other than joint stock companies, their branch and representative offices:¹⁰

- the registration process – 1 business day following the date of filing the application with all necessary documents (prior to the Law, the registration of legal entities took 1 business day, whereas the registration of branch and representative offices – 3 business days);
- issuance of a statement of registration – the business day following the date of filing the application with all necessary documents (prior to the Law, the deadline was from 5 to 11 days depending on whether a company adopted the model charter or a bespoke one);
- issuance of a statement of re-registration – the business day following the date of filing the application with all necessary documents (prior to the Law, the deadline was from 5 to 11 days depending on whether a company adopted the model charter or a bespoke one);
- return of the application for registration (re-registration) – the business day following the date of filing the application with all necessary documents (prior to the Law, the deadline was from 5 to 11 days depending on whether a company adopted the model charter or a bespoke one).

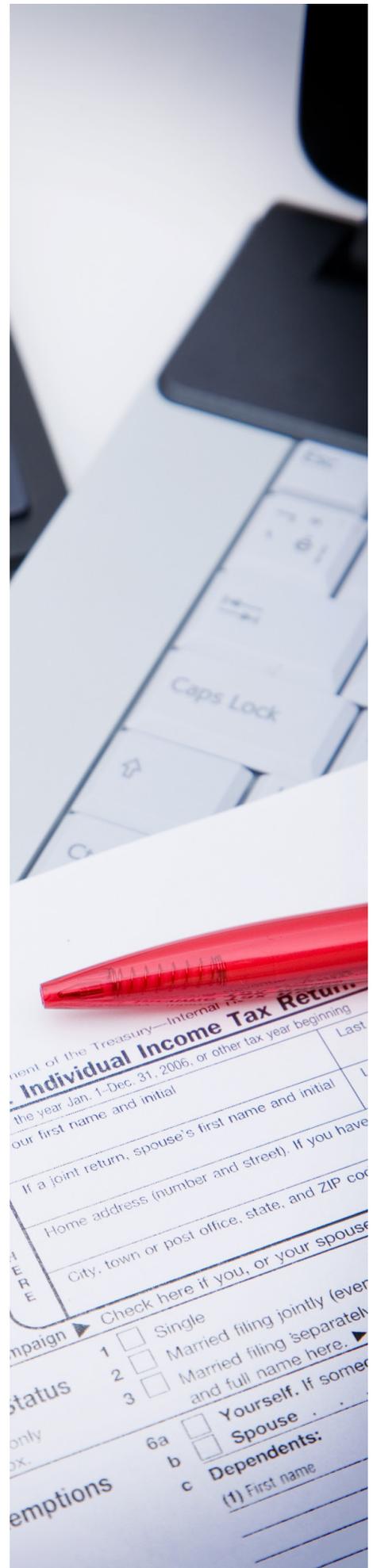
⁶ Article 6 of the Law on State Registration.

⁷ Article 16 (4) of the Law on State Registration.

⁸ Article 6 and 6-1 of the Law on State Registration.

⁹ Article 6 of the Law on State Registration.

¹⁰ Article 9 of the Law on State Registration.



For “non-private” legal entities and joint stock companies having adopted a bespoke charter, their branch and representative offices, the Law establishes the following timing:

- registration of joint stock companies to act based on a bespoke charter, their branch and representative offices – 10 business days following the date of filing the application with all necessary documents (prior to the Law, the timing was 7 business days);
- registration of “non-private” legal entities, their branch and representative offices – 10 business days following the date of filing the application with all necessary documents (prior to the Law, the timing was the same);
- issuance of a statement of registration (re-registration) of joint stock companies having adopted a bespoke charter, their branch and representative offices, return of the charter (statute) – 14 business days following filing the application with all necessary documents (prior to the Law, the timing was 11 business days);
- issuance of a statement of registration (re-registration) of “non-private” legal entities, their branch and representative offices, and the return of the charter (statutes) – 14 business days following filing the application with all necessary documents (prior to the Law, the timing was the same).

State Refusal to Register

The Law on Registration no longer considers an outstanding tax liability of the founder (or one of them) as a basis for refusal to register a company, its branch or representative office.

Under the Law, bases for refusal to register stipulated by the updated Law on Registration¹¹ with respect to medium-size and large businesses do not apply to small business entities subject to registration via the “e-gov.” web portal.

Changes to the Tax Code

Statement of Registration

The Law removes the requirement to pay a fee for a duplicate of a statement proving due registration and re-registration. Prior to the Law, the fee was 0.25 time the MIF or roughly USD 3.¹²

¹¹ Article 11 of the Law on State Registration.
¹² Article 456 of the Tax Code.

For general information on doing business in Kazakhstan, please refer to the **Investment Guide** available in pdf, or download the iPad application on www.kpmg.kz



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