

LAW OF THE REPUBLIC OF TAJIKISTAN
ON CHANGES AND AMENDMENTS TO THE TAX CODE OF THE REPUBLIC OF TAJIKISTAN

Article 1. To introduce into the Tax Code of the Republic of Tajikistan (Akhbori Majlisi Oli of the Republic of Tajikistan, dd. 2004, no.12, part 1, article 689, dd. 2005, no.12, article 629) the following changes and amendments:

1. To supplement Article 2 with part 12 as follows:

«12. Compulsory normative-legal acts on taxes, adopted by the authorized State body in accordance with the present Code must be sent to the Ministry of Justice of the Republic of Tajikistan for verification of their conformity with the legislation and the State registration. They come into force after the verification, registration and official publication as per item 3 of the present article».

2. Part 1 of Article 37:

- item 1 to be worded as follows:

«1. to demand from the tax bodies the information related to all issues on taxation and other obligatory payments to the budget, including the information on normative-legal acts regulating taxation, the information on the forthcoming inspection of their activity (except for field audits) and to receive a written explanation to the questions on observing the tax laws;»;

- item 3: to insert the words «to demand and» before the word «to obtain»;

- item 4: to replace the words «according to the results of the tax control» with the words «in the course of performing the tax control and in accordance with its results»;

- to supplement with items 14, 15 and 16 as follows:

«14) to demand from the tax inspectors the order for tax audit, to show their service ID cards;

15) in accordance with the current legislation, to demand from the tax body to cover the damage caused by illegal decisions and actions (omissions) of its officials;

16) to invite experts and representatives of associations and other public organizations to attend during tax audits, the power of authorities of the invited individuals must be certified in accordance with item 3 of Article 39 of the present Code.».

3. Article 44:

- part 3: after the words «with similar taxpayers» to supplement with the words «, time-study survey»;

- to supplement with part 7 as follows:

«7. A time-study survey within the tax audit envisaged in Chapter 4 of the present Code is taken if in the course of the tax audit the data indicated in the accounting documents or in the tax reporting arouse doubts as to their credibility.

The procedure for carrying out a time-study survey must be defined in normative-legal acts on taxes, adopted and officially published by the authorized State body.

A time-study survey can also be carried out to gather statistics, including the statistic data on the turnover of similar taxpayers. Based on these data, a suggestion to correct the tax rates and other taxation items, established by the present Code and other acts of tax legislation of the Republic of Tajikistan, will be submitted to the Government of the Republic of Tajikistan.

When a time-study survey aimed at gathering statistics is ordered and carried out beyond the timeframes for carrying out a tax inspection set by the present Code, the rules for carrying out tax audits envisaged in Articles 50.1, 50.2, 51 and 52 of the present Code must be observed.

The results of the time-study survey carried out to collect statistics cannot have direct and immediate effect on the tax obligations of that tax payer who underwent the survey and cannot serve the grounds for any sanctions towards this taxpayer.

The statistic data on the turnover of similar taxpayers collected during a time-study survey aimed at gathering statistics can be used to assess tax obligations for similar taxpayers when carrying out tax audits.

When carrying out a time-study survey, season variation of the taxpayer's activity must be taken into consideration.»;

- item 7 to be considered item 8.

4. Article 48:

- to eliminated item 3 of part 3;

- to supplement item 3 of part 4 with new sentence as follows:

«At that the inspector is entitled to check with third parties the correctness of the registration in tax accounting of particular transactions indicated in the order for counter audit».

- to eliminate item 3 of part 5;
 - item 4 of part 5 to be considered item 3;
 - to supplement part 5 after item 3 with a new item as follows:
«Tax official, who is carrying out a field audit, does not have the right to demand from the taxpayer any information not related to the subject of the audit that is envisaged in the field audit order».
 - to eliminate part 6;
 - part 8: to replace the words «except in those cases established by legislative acts of the Republic of Tajikistan» with the words «except the case, when an individual entrepreneur operates without hiring workers and his participation in the audit is obligatory».
 - parts 7, 8 and 9 to be considered parts 6, 7 and 8 respectively;
5. Article 49:

- supplement with part 1 as follows:

«1. The frequency for audits of each particular object (taxpayer) is defined based on analysis of statistics, tax declaration and execution of its obligations, the results of the previous audit and other norms that can serve the basis for assessing how an economic entity (taxpayer) observes the law. The frequency of tax audits of all specific economic entities (taxpayers) is defined in the audits plan adopted by First Director of the local tax body or the authorized deputy of his and is approved in writing by First Director of the authorized State body or the authorized deputy of his. The procedure for defining the frequency of the audits and that for developing the plan for carrying out tax audits is established by the authorized State body».

- part 1 to be considered part 2 and to be worded as follows:
«2. Comprehensive and target audits of the taxpayers, except for the taxpayers having supplied goods and services for more than 15 mln TJS last fiscal year (minus the value added tax and retail tax) must be carried out not more often than once in two years.

Comprehensive and target audits of the taxpayers registered with the Large Taxpayers Inspectorate are carried out not more often than once a year.

At that, a target audit of a specific taxpayer can apply to only one type of the taxes the taxpayer is subject to in accordance with the present Code.

In case a comprehensive audit has been carried out during the period for which an audit has been planned, then a target audit shall not be applied to the period covered by the comprehensive audit.

A comprehensive tax audit is obligatory when liquidating an individual entrepreneur subject to VAT or reorganizing or liquidating of a legal entity. Such an inspection must cover only the period not covered by an earlier comprehensive audit in accordance with the present Code.»;

- to supplement with parts 3 and 4 as follows:

«3. The first comprehensive and target audits of the activity of a newly established business entity (taxpayer) subject to paying taxes according to the simplified system as well as these of an individual entrepreneur operating on the basis of the Individual Entrepreneur Registration Certificate whose gross revenue for the beginning of the fiscal year meets the requirements of Articles 302 and 303 of the present Code, can be implemented only after 30 complete calendar months after the date of its State registration.

If the business entity (taxpayer) is reorganized or liquidated before the defined period expires, its activity shall be subject to a comprehensive tax audit on the basis of:

- 1) the taxpayer's request;
- 2) the notification or the decision by the appropriate body to reorganize or liquidate the business entity (taxpayer);
- 3) the information from the body that registers the reorganization or liquidation of the legal entity .

A newly established business entity (taxpayer) is not relieved from the tax obligations established by the present Code, which it is to carry out during the period it is relieved from tax audits.

4. Field audits in one given territory are carried out on the basis of:

- 1) The decision of First Director of the territorial tax authority or the authorized deputy of his – not more often than once a year;
 - 2) The decision of First Director of the authorized State body or the authorized deputy of his – when there is a necessity to make field audits more often than once a year»;
- in part 2 the words «Tax audits,» to be replaced with the words «All types of tax audits»;

part 3:

- the words «in part 1» to be replaced with the words «in parts 2,3, and 4»;
- item 1 – to eliminate the words «in connection with reorganization or liquidation of a legal entity and termination of operation of an individual entrepreneur, and also»;
- to supplement item 5 with new sentences as follows:

«The body, reviewing a taxpayer's appeal regarding the notification of the tax audit report, shall send to the taxpayer, who submitted the appeal, a written justification of the necessity to carry out supplemental tax audit. If a written consent for carrying out a supplemental tax audit related to the taxpayer's appeal is not received from the taxpayer within the period of 10 business days since the above written justification has been sent to him, the body addressed with the appeal shall not carry out the supplemental audit, and the notification of the tax audit report shall be left unchanged. At that, the taxpayer can submit a similar appeal of the above notification of a tax audit report to a higher tax body, authorized State body or the court.

The higher tax body or the authorized State body shall carry out the supplemental tax audit related to administration of the taxpayer's appeal following the procedure of sending a written justification of the necessity to carry out a supplemental tax audit, and shall act depending on the taxpayer's consent or rejection of the supplemental tax audit.»;

- the first item of part 7 to be worded as follows:

«Tax authorities are prohibited to carry out repeated documentary audits for the inspected fiscal period, with the exceptions when such audits (under the limitation period, established by Article 86 of the present Code) are carried out on the basis of:

- 1) a written request of the taxpayer;
- 2) The reasons, envisaged in part 6 of Article 48;
- 3) The decision of First Director of the authorized State body or the authorized deputy of his based on the justified explanation of the Director of the territorial tax authority;
- 4) The decision of First Director of the authorized State body or the authorized deputy of his in order to control the work of the territorial tax authority that carried out the documentary tax audit. Such an audit must apply only to the latest fiscal period inspected;
- 5) item 5 of part 3 of the current article.

In the course of repeated audits carried out on the basis of a written request and a complain by the taxpayer, only the issues the solution of which caused the disagreement of the taxpayer are to be considered.»;

- part 2, 3 and 4 to be considered parts 5, 6 and 7 respectively.

2. Article 50:

- To word the title of the article as follows:

«Duration and Deadlines for the Performance of Tax Audits»;

- part 2 to be expressed as follows:

«2. When carrying out a tax audit of the taxpayers who delivered goods, works and services for more than 15 mln TJS last fiscal year (minus the value added tax and the retail tax), the duration of the tax audit can be set up to 60 business days.

The duration of the tax audit of the taxpayers, subject to paying taxes according to the simplified system as per the present Code as well as the audit of an individual entrepreneur whose gross revenue for the beginning of the fiscal year meets the requirements of Articles 302 and 303 of the present Code, must not exceed 10 business days since the first day the tax audit.

The audit of individual entrepreneurs, who are not, as per the present Code, subject to the value added tax, must not exceed 5 business days since the first day the tax audit».

- to supplement part 3 with a new sentence as follows:

«At that, when the tax audit is suspended, the tax authority does not have the right to perform any actions related to the audit in this object and regarding this issue, during the suspended period»;

- to express part 4 as follows:

«4. Each field audit applied to a specific taxpayer must not last longer than 4 working hours and the total duration of each field audit based on a given order must not exceed one business day.»;

- to supplement with part 5 as follows:

«5. A tax inspection can be carried out only during the established working hours and on the established business days. If the working hours of the tax authority and the taxpayer do not match, the

inspection, based on the decision of First Director of the tax authority or the authorized deputy of his, can be carried out during the taxpayer's working hours»;

- to supplement with part 6 as follows:

«6. The tax body does not have the right to carry out tax audits (except for field and counter audits) of the business entities with seasonal activity in the following cases:

1) if a business entity produces agricultural goods and it is the sowing time – from March 20 to May 20 of a calendar year;

2) if a business entity produces agricultural goods and it is the harvesting time – from July 20 to November 20 of a calendar year;

3) if a business entity processes agricultural goods (perishable yield) – from June 20 to October 20 of a calendar year.».

7. To supplement the Code with articles 50.1 and 50.2 as follows:

«Article 50.1. Notification of the Forthcoming Tax Audit

1. In order to carry out a tax audit, except for field audits, the inspecting tax authority must notify the taxpayer of the forthcoming tax audit in writing not later than 3 business days before the audit starts. The notification of the forthcoming audit must indicate:

1) the date and the registration no. of the notification;

2) the family name, the first name and the patronymic name or the full title of the taxpayer;

3) the taxpayer's identification no.;

4) the justification for the tax audit;

5) the type of the audit;

6) the date, starting time and the supposed duration of the audit.

2. The taxpayer shall be notified of the forthcoming counter tax audit in writing not later than 24 hours before the counter audit starts.

The counter audit notification must indicate the information envisaged in part 1 of the current article as well as specific transactions subject to investigation of their credibility with tax records.

3. Receiving a notification of the forthcoming tax audit, the taxpayer must provide that the audit starts as per the date and the time envisaged by the notification.

4. In case the taxpayer due to reasonable excuse cannot provide the audit to start on the day and time envisaged by the notification, he must notify the inspecting authority in writing before the beginning of the tax audit and suggest new date and time for the audit that would suit both parties and be not later than 5 business days after the day when as per the notification of the tax authorities the tax audit should have started.

The reasonable excuses preventing the taxpayer from providing the audit to start on the day and time envisaged by the notification can be considered an illness or a business trip of the responsible officer who is to provide the beginning of the audit.

Article 50.2. The Level of Tax Audit

If a tax audit in accordance with the procedure established by the present Code has been performed by the authorized State body or by one of the territorial tax authorities, then other territorial tax authorities are prohibited to carry out the same type of audit of the same taxpayer on the same issue, that has already been audited, during the period established by Article 49 of the present Code».

8. Article 51:

- part 2 - to eliminate the number «7)», and to add the conjunction «and» before the number «4)»;

-to supplement part 3 with a sentence as follows:

«The order for a counter audit must also indicate:

1) the full title and the Taxpayer Identification No. – for legal entities, or the family name, the first name, the patronymic name and the Taxpayer Identification No. – for natural persons subject to main documentary tax audit;

2) specific transactions related to the main documentary tax audit subject to investigation of their credibility with tax records.»;

- to express part 4 as follows:

«4. The order, except the one for a field audit, must be signed by First Director of the tax authority or his authorized deputy.

The order for a field audit to be carried out once a year in a given territory must be signed by First Director of the territorial tax authority or his authorized deputy. When there is a necessity to perform field audits in the same territory more than once a year, the decision must be taken by First Director of the

authorized State body or the authorized deputy of his, either independently or based on a written justification of First Director of the territorial tax authority or the authorized deputy of his.

To carry out such a decision of First Director of the authorized State body or the authorized deputy of his, First Director of the territorial tax authority or the authorized deputy of his signs the orders for performing field audits.

Each decision of First Director of the authorized State body or the authorized deputy of his can serve the justification for signing the orders for carrying out field audits on the same territory with duration not exceeding 15 business days.

If there is a necessity to carry out field audits going beyond every 15 business days following, First Director of the authorized State body or the authorized deputy of his either independently or based on a written justification of First Director of the territorial tax authority or the authorized deputy of his takes a new decision to perform (continue) the field audits on the same territory.

The order for a tax audit signed by First Director of the territorial tax authority or the authorized deputy of his in order to carry out the decision of the authorized State body apart from the information envisaged by the current article must also indicate the no. and date of the decision by the authorized State body, which served the reason for the order.

The order must be certified with the coat-of-arms seal and registered with the tax authority in accordance with the procedure established by the authorized State body.».

9. Article 52:

- to supplement part 2 with the words «according to the procedure established by the legislation of the Republic of Tajikistan»;

- to supplement with part 5 as follows:

«5. When tax audits are ordered in pursuance of the decision of the authorized State body, the tax official who carries out the audit must hand to the taxpayer a copy of the decision by the authorized State body, which served the grounds for the territorial tax authority to take the decision on carrying out of the tax audit.»;

- part 5 to be considered part 6.

10. Article 53:

- to supplement part 3 with a new sentence as follows:

«The protocol must be made in two originals, one of which must be handed to the taxpayer. Receiving the protocol, the taxpayer shall only mark its receipt on the other original and put his signature, the marked and signed original is left with the inspector. The taxpayer's signature shall not mean acceptance of or disagreement with the conclusion of the tax inspector and it shall not restrict the taxpayer's right to appeal the decisions and actions (omission) of the given official.»;

- to supplement part 5 with items 7, 8 and 9 as follows:

«7) They do not follow the requirements of Article 50.1 or Article 50.2 of the present Code;

8) Each of them has not produced to the taxpayer (tax agent) work identification documents. In this case the taxpayer has the right to prevent the official that has not produced work identification documents from entering the territory or premises in order to carry out the audit;

9) They do not comply with the established by the present Code frequency and duration of the tax audits»;

11. Article 55:

- to supplement item 9 of part 1 after the words «a detailed description» with the word «discovered».

- the first item of part 6 to be worded as follows:

«6. One original of the tax audit report must be handed to the taxpayer (tax agent). Receiving the tax audit report, the taxpayer (tax agent) must mark its receipt on the other original and put his signature. At that, the taxpayer's signature shall not mean acceptance of or disagreement with the conclusion of the tax inspector and it shall not restrict the taxpayer's right to appeal the decisions and actions (omission) of the given official».

12. Article 56:

- part 1 – to replace the words «indicating the amount of taxes, penalties, and interest assessed» with the words «the results of the tax audit (hereafter the notification)»;

- parts 2 and 3 – to eliminate the words «of the amount of taxes, penalties, and interest assessed»;

- items 4 and 5 of part 3 to word as follows:

«4) detailed description of the infringement of the tax legislation, and the sanction applied, including the assessed amount of taxes, including the penalties, and interest, with the reference to the corresponding provisions of the legislation of the Republic of Tajikistan;

5) the requirement to observe the tax obligations and deadlines for their fulfillment, including those demanding to eliminate the infringements discovered;».

14. Article 77:

- item 1 of part 1 – to replace the words «including information about other person» with the words «including the information on their incomes and costs for a specific period (under the limitation of action period established by Article 86 of the present Code), including the information on the incomes received from the person clearly indicated in the notification and on the costs borne in connection with the relations with the person clearly indicated in the notification.»;

- part 2 to express as follows:

«2. To pursue the legitimate objective connected with carrying out the tax control, an authorized tax authority official has the right to access (enter) the territory or the premises or the objects subject to taxes or related to thereof, as prescribed in Article 53 of the present Code, when having the order and to enter housing as per the prosecutor's sanction».

- item 2 of part 3 – to supplement the words «, the copies of which shall be signed by the tax inspector, carrying out the audit, and the taxpayer, the copies are left with the taxpayer».

15. To word Article 87 as follows:

«Article 87. Forms and Deadlines for Payment of Taxes, Penalties and Interest

1. If otherwise is not stipulated by the present article, taxes, penalties, interest and other obligatory payments adopted on the basis of the present Code are paid by a money transfer within the time-limits established by the present Code and other normative acts related to taxes.

2. The land tax from natural persons and the tax for immovable property from natural persons can be collected in cash by the authorized tax inspector, who does not have the right to carry out following tax audit of these taxpayers regarding these taxes. At that, the tax inspector specially authorized for collecting the above taxes and the tax official who is carrying out the tax audit cannot come to the taxpayer together on the same day.

3. When collecting the land tax from natural persons and the tax for immovable property from natural persons in cash, the obligatory accounting document on payment of the tax must be filled in 2 identical originals, the form of which is established by the authorized State body as per the agreement with the Ministry of Finance of the Republic of Tajikistan. This document must be signed by the tax inspector specially authorized for collecting these taxes and the taxpayer. One original of the document filled when collecting the taxes stated in part 2 of the current article must be handed to the taxpayer».

16. To eliminate from part 2 of Article 100 the words «the civil procedural, economic procedural».

17. To supplement Article 104 with item 4 as follows:

«4) If a tax infringement is discovered in the course of the first comprehension or target tax audit of a newly established business entity (taxpayer) subject to paying the tax according to the simplified system, carried out after 30 complete calendar months after its State registration».

18. Part 3 of Article 105 – to replace the number «4» for the number «3».

19. To supplement Article 106 with part 3 as follows:

«3. If a tax infringement is discovered with a newly established business entity subject to paying tax according to the simplified system, in the course of the first comprehension or target tax audit carried out after 30 complete calendar months since the date of its state registration, an administrative warning must be applied to such a taxpayer. At that, the taxpayer within 5 business days since the receipt of the decision of the administrative warning is obliged to present to the tax authority the tax report corrected in accordance with the tax infringements discovered. The taxpayer is obliged to eliminate the tax infringement within 30 calendar days, including payment of the non-paid taxes and the interest thereof;»

20. Part 3 of Article 114 to word as follows:

«3. Tax inspectors are prohibited:

1) to do any other paid job along with the basic position (except for the academic, creative and teaching activity), to run a business;

2) to interfere with the taxpayer's activity on the issues not related to the subject of the audit or control;

3) to collect from the taxpayer the taxes, penalties, interest and other obligatory payments in cash, except for the cases established by Article 87 of the present Code;

4) to use the existing infringement as the grounds for intervening into or limiting any other legitimate activity of the taxpayer;

5) to demand the documents, explanations and materials not related to the subject of the tax audit;

6) to use and spread the information on the taxpayer, obtained during the tax audit, for the purposes not envisaged by the present Code, as well as to perform other actions contradicting the legal acts of the Republic of Tajikistan».

21. Part 1 of Article 118:

- to finish item 2 after the word «document» and to put a full stop (dot) after this word. To supplement the item with the sentence «At that, the document on the withdrawn documents must be made and signed by the inspector and the taxpayer (tax agent), one copy is left with the taxpayer (tax agent)»;

- to finish item 3 after the word «legislation» and to put a full stop (dot) after this word. To supplement the item with the words «At that, the taxpayer or the tax agent must come to the tax authority not later than within 5 business days since the date of receipt of the notification in accordance with the procedure established by the present Code»;

- to eliminate from item 7 the words «and legislation on commercial activity»;

- item 10 – to eliminate the words «and to issue the relevant decisions»;

- item 12 – after the words «for official purposes» to add the words «and for assessment of tax obligations».

- item 17 – before the word «to request» to add the words «in accordance with item 4) of Article 76 of the present Code»;

- item 21) to word as follows:

«21) to issue the appropriate decisions on the basis of the protocols on the infringements of the tax legislation by the officials at enterprises or by natural persons»;

- item 24 to word as follows:

«24) in accordance with the present Code to develop normative legal acts, that shall be approved by First Director of the authorized State body or the authorized deputy of his and shall be published according to the procedure established by the legislation of the Republic of Tajikistan»;

- to supplement item 27) with the words «implementation of which cannot be obligatory for the third party ».

22. Article 119:

- to supplement item 22 of part 1 after the words «discovered in the course of a tax audit» with the words «including the one carried out with participation of a representative of the tax police department»;

– to supplement part 1 with items 24 and 25 as follows:

«24) to explain the rights and obligations of taxpayers as well as their own rights and obligations, connected with carrying out tax audits and their results, before a tax audit starts;

25) to provide the taxpayers with the access to the information on their taxation, including the placement of the normative legal acts regulating tax issues on conspicuous areas of tax authorities' buildings (on information boards), in accordance with the order envisaged by the Law of the Republic of Tajikistan *On Information*.»

- item 24 to be considered item 26;

- to supplement part 2 after the number «23» with the numbers «24,25»;

23. Item 5 of part 1 of Article 128 to word as follows:

«5) When there is evidence indicating the features of the crime connected with tax legislation infringement on the part of a specific taxpayer, to solicit in writing First Director of the authorized State authority or the authorized deputy of his for participation in the forthcoming tax audit of this specific taxpayer in accordance with the requirements of the present Code».

24. To eliminate from Article 342 parts 2, 3 and 5.

- part 4 to be considered part 2 respectively.

Article 2. The present Law shall come into force after its official publication.

The President
of the Republic of Tajikistan
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No.193

E. Rakhmonov