

Yelena Manayenko
Partner

Kristina Mychka
Associate

Dinmukhamet Nurakhmet
Associate

AEQUITAS Law Firm

TAXES FOR SUBSOIL USERS: KEY AMENDMENTS TO THE TAX CODE OF THE REPUBLIC OF KAZAKHSTAN

On July 18, 2025 the President of the Republic of Kazakhstan signed the new Code of the Republic of Kazakhstan "On Taxes and Other Mandatory Payments to the Budget" (hereinafter the "**Tax Code**"), marking an ambitious reform in the sphere of taxation.

The Tax Code became effective from January 1, 2026, introducing new approaches to CIT, VAT, and the procedure for calculating advance payments. A number of provisions are to be introduced gradually in 2026–2027, reflecting the intent of the legislator to ensure a smooth transition to new provisions.

The Tax Code signifies a transition to a more predictable and balanced model of taxation. A significant reduction of the scope of tax accounting and the number of applicable taxes creates prerequisites to reduce administrative burden on business and optimize interaction with the government. Simultaneously it establishes a transition to the service – oriented model of the work of tax authorities focusing on advisory support and partnership with taxpayers rather than punitive measures.

The Code pays a specific attention to the taxation of subsoil users, and new updated mechanisms of determination of income and deductions have been established for this category of taxpayers and terms of application of benefits have been clarified, as well as requirements to the accounting of expenses related to geological exploration and mitigation of consequences of development of deposits have been clarified.

Further, there are considered key changes to the Tax Code relating to the activities of subsoil users.

1. The structure of the document

It should be noted first that the structure of the Tax Code to the extent of regulation of taxation of subsoil users underwent significant changes. Specifically, Article 10 included a special conceptual framework. It is worth noting that it introduces terms previously not found in other legislative acts, e.g. "contractual activity" and "non-contractual activity".

Apart from the updated conceptual framework, the Tax Code included new special chapters, specifically:

- Chapter 83 "Specifics of taxation of subsoil users in complex projects";
- Chapter 84 "Taxation of entities executing agreements for processing solid minerals";
- Chapter 90 "Solid minerals royalty, except commonly occurring minerals".

Given that earlier issues of taxation of complex projects were regulated within the framework of the general chapter on subsoil users, the provisions of Chapters 84 and 90 are principally new and reflect further detailization of tax regulation in this industry.

2. Agreements for processing solid minerals (hereinafter “SM”)

For the purpose of stimulating the establishment of new production facilities, the Tax Code stipulates a system of benefits under an agreement for processing solid minerals to be executed between the state represented by the Ministry of Industry and Construction of the Republic of Kazakhstan and subsoil users. Specifically, it is established:

- To exempt from payment of CIT and land tax for a period of 10 years, as well as property tax for a period of 8 years¹;
- To exempt from payment of VAT on import and customs duty on the equipment included in the approved list¹.

Additionally, a subsoil user, executing an agreement for processing solid minerals, shall keep separate tax records of objects of taxation and objects associated therewith for the purpose of accurate assessment of tax obligations².

3. Mineral Extraction Tax (hereinafter – “MET”)

To the extent of MET, the Tax Code fixed a number of changes, having both incentive and fiscal nature. For projects where production started after January 1, 2023, exemption from payment of MET is retained for a period of up to 5 years.

As for processing of technogenic mineral formations (hereinafter “TMF”) the reducing coefficient 0.1 is established for MET rates, to resolve the issue of accumulation of wastes and to stimulate involvement of recoverable resources in the economic turnover³.

Earlier, minerals extracted from TMF were subject to MET current rates; it made difficult to develop the processing industry. Therefore, this preference serves to support the development of the processing industry and enhance improvement of the environment. It should be noted that now instead of extracted minerals the object of taxation is sold minerals extracted from TMF.

For depleted mining projects a temporary exemption from payment of MET is established for a period of up to 5 years or until reaching the 15% rate of profitability⁴. The application of this benefit is determined by fulfilment of counter obligations by a subsoil user, including:

- Change of a work program (mining program) including determination of a period of transition to commercial production;
- Investment of at least 3,000,000 MCIs⁵ (as of January 1 of the respective fiscal year);
- Retaining jobs of at least 50% of the workforce of the deposit;
- Payment of average monthly nominal wage not less than the industry-average indicator⁶.

The inclusion of recipients of benefit in the list should be approved by the State Commission for Economic Modernization and the Council for Investments (*Investment Headquarters*)⁷.

¹ Clause 1 of Article 745 of the Tax Code.

² Clause 5 of Article 744 of the Tax Code.

³ Article 783 of the Tax Code.

⁴ Article 782 of the Tax Code.

⁵ MCI – monthly calculation index. MCI from January 1, 2025 – 3 932 tenge pursuant to the Law of the Republic of Kazakhstan dated December 4, 2024 No. 141-VIII “On the Republic Budget for 2025–2027”.

⁶ Is determined based on the data of the National Bureau of Statistics of the Republic of Kazakhstan by location of the deposit and type of activity of a subsoil user.

⁷ Resolution of the Government of the Republic of Kazakhstan dated August 22, 2025 No. 664.

Further, the provision allowing subsoil users to apply a fixed tenge exchange rate in the assessment of the cost of mineral raw materials sold for foreign currency while calculating MET is excluded. Now the cost of sold minerals is subject to conversion into the national currency based on the official exchange rate on the date of title transfer⁸.

Specifically, it is worth to note changes for uranium producing companies. Due to significant growth of uranium world prices during recent 5 years, the Tax Code included a progressive tax scale for MET: the rate will depend on annual production and world prices.

If uranium prices exceed 70 dollars per pound, an extra interest is added to the basic rates⁹.

4. Royalty

According to the amendments to the Tax Code, from January 1, 2027, with respect to SM exploration and production projects, there is introduced a royalty regime replacing MET. This measure is aimed at the formation of a more understandable, stable and predictable system of taxation in the mining industry.

Royalty shall be applied exclusively to new projects provided that a license for exploration and production was issued after December 31, 2026, and the license area was not the subject-matter of subsoil use right until this date¹⁰, however with respect to operating projects MET will continue to apply.

Royalty payers shall be recognized subsoil users selling mineral raw materials and SM, including processed products, if they are extracted under the exploration and production license¹⁰.

The royalty regime shall not apply to the activity under prospecting licenses, as well as the activity carried out under the contracts for uranium production.

The amount of royalty rates depends on the level of processing. The ore rate is established in the amount of 13%, the concentrate rate - 10%, for metals - 7%. In general, the level of rates is consistent with the applicable tax burden when applying MET¹¹.

The royalty tax period is recognized a calendar quarter. The tax amount should be paid to the budget at the location of the taxpayer not later than the 25th day of the second month following the end of the tax period¹².

The main difference of the new regime is in the moment of appearance of tax obligation. In case with royalty, payment is made after the sale of minerals, while in case with MET, tax is paid after the extraction of minerals to the surface regardless of their sale. Such approach influences the structure of cash flows of the enterprises, reduces pressure on the working capital and makes tax burden more predictable for investors.

At the same time the introduction of the royalty regime leaves out a number of concerns of subsoil users. First of all, it applies exclusively to new projects to start after 2026, while MET continues to apply to the existing projects. Such double approach forms different tax environment for subsoil users, and it causes certain speculation on the comparability of conditions.

In addition, the royalty mechanism per se is not quite clear: how it will work in practice, how peculiarities of specific projects will be taken into account and how transparent the administration of new rates will be – it will be clear in the course of their practical application.

⁸ Clause 8 of Article 780 of the Tax Code.

⁹ Sub-clause 2) of Clause 1 of Article 781 of the Tax Code.

¹⁰ Article 791 of the Tax Code.

¹¹ Article 794 of the Tax Code.

¹² Article 795 of the Tax Code.

5. Investor Economic Incentives

The Tax Code stipulates an opportunity for additional reduction of taxable income by applying an increasing coefficient in the amount of 200% to the expenses of subsoil users related to research and development (hereinafter "R&D").

The benefit applies to R&D aimed at creating items of industrial property, including works secured by a title document, as well as acquisition of the exclusive rights to intellectual property items from the higher educational institutions, scientific organizations, autonomous educational organizations and startup companies under the license agreements or exclusive rights assignment agreements, if the purpose is commercialization of the results of scientific and scientific-technical activities.

The application of this provision is possible only if the respective works are carried out and their results are implemented or used in the territory of the Republic of Kazakhstan. The confirmation of R&D and implementation (use) of the results is an Act of Implementation executed in accordance with the established form and approved in the procedure determined by the authority in the sphere of science and specific industry¹³.

Kazakhstan is forming a complex investment ecosystem where tax, legal and administrative instruments function together, ensuring a favorable regime for investors. The new Tax Code became a key element of this transformation, combining transparency, stability and incentive mechanisms aimed at the development of mining and processing industries, growth of private investments and modernization of economy.

However, regardless of positive expectations, the new regulation has aspects causing concerns. The main factor for subsoil users remains the stability of tax regime: long-term projects need predictability and assurance that the rules of the game will not change within many years. Frequent adjustments to the tax policy may complicate planning and degrade the attractiveness of investments, therefore business will carefully monitor that the new Tax Code ensures stability and consistency of working conditions.

At the same time the Code per se has not been enacted, and only practice will show how it will influence the real activity of the companies. For now, there is nothing to do but wait to see whether the reform will confirm the declared focus on stability and predictability.

¹³ Article 269 of the Tax Code.