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Taxes and other Payments of Agricultural Entities

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Taxes and Other Payments of Agricultural Entities

by M.Bobukeeva

1. General Provisions

A. Legal framework

- Constitution of the Kyrgyz Republic (Article 25);
- Tax Code of the Kyrgyz Republic;
- Law on Foreign Investments;
- Law on Taxes Imposed to Enterprises, Amalgamations and Organizations;
- Law on Simplified System of Taxation of Small Business Entities;
- Law on Free Economic Zones;
- Law on Deductions for Prevention and Liquidation of Emergency Situations in the Kyrgyz Republic

B. Types of Taxes and Collections

1. Taxes can be national (state) and local

2. National taxes include:

- a. Income tax
- b. Value-Added Tax
- c. Tax on Interests
- d. Excise
- e. Land Tax
- f. Use Tax on Auto Roads
- g. Deductions to the Fund of Prevention and Liquidation of Emergency Situations

3. Local taxes include:

- a. Health resort tax
- b. Tax on advertisement
- c. Fee from owners of dogs;
- d. Fee for the right to hold local auctions and lotteries, competitions and exhibitions for commercial purposes;
- e. Fee for parking
- f. Tax for the right to use local symbolism;
- g. Fees from deals at commodities and raw material exchanges;
- h. Fee collected for refuse disposal from the territory of settlement areas;
- i. Tax on growing flowers in greenhouses and selling them to the population;
- j. Hotel tax;
- k. Tax on the right to hunting and fishing;
- l. Tax collected from tourists leaving for countries outside the CIS;
- m. Tax on video-saloons and concerts
- n. Tax on paid services to the population and retail sales;
- o. Tax on premises or parts of premises used for production, trade and social purposes.

C. Introduction and Revocation of Taxes

1. The right to introduce or revoke taxes shall be exclusively exercised by Jojorku Kenesh of the Kyrgyz Republic.
2. Local self-governance bodies (local keneshes) shall introduce on its territory local taxes and fees and determine the rates thereon as stipulated by the Tax Code. Rates of local taxes can not exceed those stipulated in the Tax Code.
3. Local keneshes can determine privileges for some local taxes and fees.

D. Taxpayers

1. Legal entity
2. Physical entity – individual businessman;
3. Physical entity – individual person working with a patent;
4. Agricultural businessmen.

E. Taxes to be paid by legal entities:

1. Income Tax
2. Value-Added Tax
3. Excise (when producing products subject to excise, like fermented tobacco)
4. Land Tax
5. Local Taxes and Premiums
6. Use Tax on Auto Roads
7. Deductions to the Fund of Prevention and Liquidation of Emergency Situations

F. Taxes to be paid by physical entities are as follows:

- a. Income Tax
- b. Value-Added Tax
- c. Land Tax
- d. Local Taxes and Premiums

G. Taxes to be paid by physical entities working with a patent

- a. VAT
- b. Cost of patent
- c. Local taxes and fees

H. Agricultural producers

- a. Land Tax

II. Main Section

A. Income Tax

1. Income tax rate is 20% rate (Article 106, Tax Code).
2. Those exempted of income tax:
 - a) legal entities for whom land is the main mean of production and source of income (but liable to land tax only (Article 106, Tax Code).

- b) enterprises with foreign investments and income from joint activities with foreign investors involvement, given that shares presented at the amount not less than 30% of the collective investment fund, total amount aimed at joint business running, or in aggregation not less than 51% of shares shall not be liable to income during three years as of the moment the profit is gained (Article 20 of the Law of the Kyrgyz Republic “On Foreign Investments in the Kyrgyz Republic” of June 28, 1991)

3. Terms of income tax payment:

Monthly and not later than the 20th day of every month.

B. Value-Added Tax

1. Value-Added Tax Rates – 20 percent (Article 119, Tax Code)

2. Those VAT Exempted (Article 139, Tax Code):

- a. supply of land is a tax-free supply with the exception of cases when land leased for parking of vehicles/transport;
- b. supply of agricultural products by agricultural producers;
- c. supply of agricultural producers with their own produced but processed products;

3. Terms of Tax Payment

- a. Report on VAT shall be presented not later than 1 month after the period under report finishes.

(If an entity subject to taxation has been for the first time registered as a VAT payer, his/her tax period shall begin as of the date the registration certificate is issued).

C. Excise

- 1. Excise Rates shall be adopted annually by the Legislative Assembly of Jogorku Kenesh upon presentation of the Government by a special law and shall be approved by the Assembly of People’s Representatives of Jogorku Kenesh.
- 2. According to the Resolution of the Government of the Kyrgyz Republic of March 17, 2000, № 142 payers of excise for goods produced from give and take raw materials shall be the legal and physical entities producing goods subject to excise, i.e. entities rendering services in processing of give and take raw materials.

Example:

Fermentation plant processes raw tobacco owned by a peasant farm. Producing a bill for fermentation services, the plant will include an amount of excise for fermented tobacco into the cost of service and pay it to the budget. In this case, the peasant farm (giver of tobacco) will not be an excise payer in reference to budget. If an excise tax is transferred to the budget by the peasant farm, the latter shall perform its obligations towards the budget of the producer of goods subject to excise – fermentation plant.

3. Terms of payment

- a. Business entities producing goods subject to excise on the territory of the Kyrgyz Republic shall pay excise as on the 15th day after shipment of goods to consumers was made.
- b. Terms of excise payment shall not be liable to prolongation.

D. Income Tax for Physical Entities

1. Income Tax Rates

a. Physical entities shall be taxed at the rates as follows and depending upon the aggregated annual income gained in a calendar year:

- up to 50 times of minimal annual salary – 10% of income amount;
- above 50 times of minimal annual salary – an amount of tax from 50 times minimal salary plus 20% from the amount exceeding it.

2. Those Income Tax Exempted:

- a. members of peasant and private farms, their associations, unions and other agricultural amalgamations, for whom land is the main mean of production and main source of income (75% of gain), they shall be liable only to land tax;
- b. income in a way of property inherited;
- c. income of physical entities gained as result of selling livestock, poultry or other domestic animals in live weight or dead weight or processed way.
- d. Income from selling of honey produced in the hives owned by a tax payer or selling of fruits, vegetables or other orchard crops grown at a house holding land plot of a tax payer;
- e. Interests for deposits to financial and crediting institutions which operate in the system of credit unions and subject to licensing by the National Bank of the Kyrgyz Republic, dividends;
- f. Amount of surpluses fixed for job at high mountainous conditions;
- g. Dividends for saving shares gained by participants of credit unions;

3. Terms of Income Tax Payment

- a. Tax payers – residents and non-residents shall make a declaration, after the tax year finishes, of their aggregated annual income till March 1 to the tax bodies at the place of their living.

E. Land Tax

1. Payers of land tax are land users, where the right to use land is certified by a special document of a set format, such as "a state act, temporary certificate, legal certificate to use a land plot or a share.

2. Regarding lands being on lease, the land tax shall be paid by the lessor as provided for by Article 178 of Tax Code.

3. Land tax rates

a) the basic rates of the land tax and the payment procedure shall be set up by the Legislative Assembly of Jogorku Kenesh and approved by the Council of Peoples' Representatives of Jogorku Kenesh.

b) the Law On Standard Rates of the Unified Agricultural Tax on the Right to use agricultural lands, household plots, gardening plots of the dacha communities in 2002 stipulated the agricultural tax rates.

4. Land tax preferences:

- a) Local keneshes are authorised to allow full or partial exemption from land tax for a certain period if a part of land is in protected, sanitary, coastal and water-protected zones, depending on the extent to which economic activity as well as in case a land user incurs material losses, as a result of natural and other calamities;
- b) Citizens which live in high mountainous and remote areas shall exercises a privilege in land tax payment equal to 50% of the basic rate of the unified agricultural tax for the rayon.
- c) The following categories are exempt from payment of land tax for use of personal plots, gardening plots of dacha communities:

- 1). invalids and participants of the Civil and Great Patriotic Wars , military persons, having participated under international agreements in the wars in Afghanistan and other countries, persons having taken part in eliminating the damages caused by the Chernobyl disaster, invalids from childhood, invalids of Categories I and II and persons having been awarded honorary titles;

- 2). members of the of military persons' families and employees of law enforcement bodies who perished or disappeared while performing their duties (under-age children);

- 3). men and women of pension age;

- 4). families having 4 and more children under-age.

5. Exemptions from land tax

- 1). lands used as reservations, natural, national and dendrological parks, botanical and zoological gardens, reserves, nature preserves, objects of historical and cultural significance, non distributed areas of the reserve, areas occupied by the tracing boundary zone, populated lands of general use, areas occupied by protective plantations, of the water and forestry funds, except those provided for agricultural use or other entrepreneurial activity;

- 2). lands for cemeteries;

- 3). cattle tracks and cattle stopping places;

- 4). lands of enterprises, organizations and establishments, financed from the budget;

- 5). lands of organizations of invalids, participants of the war and persons of a similar status and charitable organizations and correctional laborinstitutions of the Ministry of Internal Affairs of the Kyrgyz Republic;

- 6). lands belonging to the Society of deaf and blind;

- 7). lands of enterprises, establishments, and individuals, received for agricultural purposes in a run down condition (requiring recultivation) for a period set by local keneshes.

6. If a person with tax exempt leased out his land he shall be subject to taxation on the area leased out

7. Terms of land tax payment

- a) Annually not later than March 1 of the current.
- b) Tax computations on newly allocated land plots shall be submitted within a month period as of the moment the land was allocated.
- c) The annual amount of land tax shall be paid by a land user in the amount of 10 % before June 25, 35 % before September 25 and 55% before December 25 of the current year.
- d) Tax on right to use land of the populated settlement areas and non-agricultural use shall be paid not later than the 20th day of every month.
- e) Tax on right to use household land plots shall be paid before September 1 of the current year.

F. Local Taxes and Collections

(See also the Methodological Guideline “Local taxes and collections as a constituent part of taxation system in the Kyrgyz Republic”, approved by order of the State Tax Inspectorate of KR as of August 30, 1998, № 92)

1. Types of local taxes

- p. Tax for the right to use local symbolism;
- q. Fees from deals at commodities and raw material exchanges;
- r. Tax on the right to hunting and fishing;
- s. Tax on owners of vehicles/transport facilities;
- t. Tax on paid services to the population and retail sales.

2. The aforementioned taxes shall be established and exempted by local keneshes, the procedure of computation and terms of payment shall be determined by the local state administrations.

3. Tax rates:

- a. for the right to use local symbolism can not exceed 0,1 percent of the sold goods value;
- b. from deals at commodities and raw material exchanges can not exceed 0,1 percent of the deal value;
- c. tax on the right to hunting and fishing can not exceed 30 percent of the minimum monthly wage;
- d. tax on paid services to the population and retail sales depends on from the cost of services provided to the population and from the retail sales turnover and can not exceed 4 percent.

4. Terms of payment of local taxes shall be determined by local keneshes subject to the type and amount of payment and shall be before the 20th day of the month following the reporting one

G. Deductions to the Fund of Prevention and Liquidation of Emergency Situations (FPLES)

- 1. All enterprises and business organizations except agricultural commercial producers shall be liable for deductions to FPLES at 1,5% of the sold products.

2. Individual businessmen and physical persons running their patent-based business shall not be liable for taxation except road tax and deductions to the Fund of Prevention and Liquidation of Emergency Situations.

H. Unified Tax for Small-Business Entities

(See Law on Simplified System of Taxation of Small-Business Entities dated of December, 7, 2001 № 102)

1. A businessman having selected the simplified system of taxation is obliged to be registered with the tax authorities as a taxpayer at a place he carries out his economic activities.
2. Persons liable for land taxation shall not be liable for payment for the unified tax.
3. Rates of the unified tax:
 - a. entities engaged with agricultural processing, production and public catering – 5%;
 - b. entities engaged with trade and transport services – 6%;
 - c. entities rendering other services and engaged in other spheres not aforementioned – 10%.
4. The simplified system of taxation provides the businessmen with the right to pay the unified tax instead of:
 - a. for legal persons:
 - tax on profit;
 - Deductions to the Fund of Prevention and Liquidation of Emergency Situations
 - Road tax
 - Tax on paid services and retail sales;
 - b. for physical persons:
 - income tax (except income tax for people working on hire);
 - Tax on paid services and retail sales;
5. Tax shall be paid monthly before the 20th day of the month following that under report.

III. Deductions to the Social Fund

A. General provisions

1. Laws of the Kyrgyz Republic regulating the procedure of social insurance are as follows:
 - a. Law of the Kyrgyz Republic “On State Social Insurance”
 - b. Law of the Kyrgyz Republic “On Tariffs of Insurance Premiums under the State Social Insurance”
2. The State social insurance is compulsory.
3. A payer is obliged within 30 days as of the moment of its establishment to get registered with the social insurance bodies at a place of location (legal address) or place of residence.
4. Payers of insurance premiums shall be:

- legal entities, their affiliates and representatives;
- international organizations carrying out their activities on the territory of the Kyrgyz Republic;
- peasant (private) farms;
- persons engaged in individual business (labor) activities without establishment of a legal entity;
- physical persons including foreigners and persons without citizenship.

5. According to the Law of the Kyrgyz Republic “On Tariffs of Insurance Contributions under the State Social Insurance for 2002) amounts of insurance contributions are re-allocated as follows:

- Pension fund – 88 %
- Social Insurance Fund – 3%
- Employment Promotion Fund – 3%
- Compulsory Medical Insurance Fund – 6%

6. For the peasant (private) farms not establishing a legal entity, but hiring the workers with no share in the land fund of the farm, insurance premiums are calculated as follows:

- a. Pension fund – 17%;
- b. Social Insurance Fund – 1%

7. If a peasant (private) farms leases land from the Agricultural Land Re-Allocation Fund without establishing a legal entity, the insurance premiums shall be fixed equal to the basic rate of land tax for 2002 (basic rates of land tax vary in every region of the Republic and the lessor shall contribute monthly 18% of all payments calculated in favor of workers.
8. When a peasant (private) farm lends the land out without establishing a legal entity, the insurance contribution shall be fixed equal to the basic rate of land tax for 2002 and shall be paid by the lessor of land.
9. In case of calamities and other emergency situations, the Social Fund of the Kyrgyz Republic in a commission way with the involvement of representatives of local state administrations and self-governance bodies can exempt peasant (private) farms without establishing a legal entity payment of insurance premiums.

B. Terms of Payment of Insurance Premium

1. According to the Law of the Kyrgyz Republic “On State Social Insurance” all payers shall monthly pay insurance premiums (including those for workers) at the time when in the banks resources for remuneration of labor are received for the past month, but not later than 15 day of the month following that for which insurance premiums were calculated.
2. Peasant (private) farms without setting up a legal entity shall pay insurance premiums before 25 July and 25 December of the current year by equal installments or before 25 July of the current year in a lump sum equal to the basic rates of land tax.
3. Peasant (private) farms without setting up a legal entity shall submit the pay sheet for the resources to the Social Fund by results of 9 months before 15 October of the next year.
4. Peasant and private farms shall pay insurance premiums on the basis of the size of a land plot and rate of land tax no matter who is a member of the peasant or private farm. Contributed insurance premiums shall be distributed among the able-bodied members of the farm.

Procedure of payment of insurance premiums by persons working on a patent-basis

1. Insurance policy shall be issued to physical entities carrying out business activities on a patent basis.
2. To get an insurance policy, one should apply to the rayon (city) branch of the Social Fund at a place of residence (for non residents – at a place of carrying out business activities) or to the authorized representative of the Social Fund.
3. One should produce passport and pant to get an insurance policy.
4. Insurance policies shall be issued to physical persons by rayon (city) branches of the Social Fund for the period not less than a month and up to a calendar year.

Responsibility for non-payment of insurance premiums

1. Payers of premiums (citizens and officials), having violated the law, shall be called to account as provided for by Articles 81-84 of the Code of the Kyrgyz Republic for Administrative Responsibility.
2. According to Article 8.26 of the Law of the Kyrgyz Republic “On State Social Insurance” failure in timely and full payment of premiums and other payments to the budget of state social insurance shall give rise to penalty in case of:
 - a. understatement (concealment) of labor enumeration (income) – at the amount of understated (concealed) payments, and at twofold amount at the repeated violation during the year;
 - b. non submission (or delay) at the stated time of pay sheets – at the amount of 25% of the payments aggregated for the previous period under report with further re-calculation;
 - c. refuse or violation of terms of registration as a payer of insurance premiums – at the amount of 10% of insurance premiums due;
 - d. arrears in insurance premiums – fine shall be imposed at 0,1% per day of delay. The total amount of fine imposed for untimely payment can not exceed 100% of the principal amount of arrears;

IV. Authorities and Responsibilities of Tax Inspectors.

Responsibility of Taxpayer

A. Authorities of tax services

- a. Tax inspection is the only body authorized to carry out inspection of taxpayers once a year.
- b. Tax inspection of taxpayers shall be implemented on the basis of the written order of the State Tax Inspectorate Director with the identification of the name of the enterprise, the issues to be checked and the dates of inspection, but not more than once a year by one of the agencies: rayon, city, oblast or Republican State Tax Inspectorate and the term of inspection must not exceed 30 days. If necessary, the term of inspection can be extended for another 10 days on the written permission of the State Tax Inspectorate. Any other check ups shall be prohibited.
- c. Results of every check up shall be legalized by the act or certificate issued by the authorized officials of the Tax Service and signed by all the participants of the check up. One copy is for the official person of the inspected entity. In case the entity under inspection refuses to get familiarized and sign the document, relevant note shall be made in the act.
- d. Legal and physical entities carrying out patent-based economic activities shall not be liable to tax inspections.
- e. Tax inspections shall be made in the routine manner when an enterprise is being liquidated.

B. Responsibilities of Tax Services

1. According to Article 70 of Tax Code, tax inspectors shall bear

- administrative;
- disciplinary;
- property;
- criminal responsibilities

in cases if they:

1. demand from any taxpayer an amount in excess of the authorized assessment of the tax;
2. withhold for their own or another use not provided for in the tax law any portion of the amount of tax collected;
3. file an incorrect report, whether orally or in writing, of the amounts of tax collected or received;
4. misuse the position of a tax officer to obtain money or any other advantage from the taxpayer of any other person;
5. accept from a taxpayer or other person money or any other advantage to facilitate the reduction of an actual or potential tax arrears;
6. not being authorized to do so, collect or attempt to collect taxes;
7. do not observe commercial secret and privacy of deposits.

8. Responsibilities of taxpayers

- a. Responsibility for accurate calculation and timely payment of taxes into budget shall rest with the taxpayers. For example:
 - a person who fails to file a declaration by the due date thereof is liable for a penalty of 5% of the tax unpaid for each month that the failure occurred, but not more than 10% of the unpaid amount in total for physical persons and not more than 25% for legal persons.
 - If a taxpayer fails to pay an assessed tax by the date specified in the notice, the taxpayer is liable for a penalty of 5% of the unpaid tax for each month when failure in payment occurred.
- b. The aggregated amount of fine for the aforementioned violations cannot exceed 10% of the unpaid tax in total for physical persons and 25% for legal persons.
- c. If a person is engaged in business activities without being registered with the Tax Service as a business entity, he is liable for a penalty of twofold amount of taxes for which he is liable during the entire period of such activities.
- d. If a taxpayer interferes with the investigation of his tax liability, a fine is imposed on that person equal to 5% of the unpaid amount for each month or fraction of a month for which the failure occurred.
- e. In addition, as stipulated in Articles 346-352 of Code on Administrative Responsibilities and Articles 211-214 of Criminal Code) a citizen, individual businessman, or officials shall bear administrative and criminal responsibility for avoidance of payment of taxes.