Constitutional statute of the Republic of Kazakhstan *On amendments and supplementations to some constitutional statutes of the Republic of Kazakhstan* dated 30 December 2019

TWO MAIN AREAS OF THE STATUTE

I. INVESTMENT TAX RESIDENCY

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

Signed by the Head of state: 30.12.2019
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I. INVESTMENT TAX RESIDENCY

(international practice)

80 SIMILAR PROGRAMS IN THE WORLD

RESIDENCE PERMIT IN

EXCHANGE FOR INVESTMENT

USA, CANADA, SPAIN, LATVIA, GREECE

INVESTMENT VISA
+
TAX RESIDENCY

ITALY, SWITZERLAND, CYPRUS, UNITED KINGDOM

- **ISSUANCE OF 2000 TO 3000 TEMPORARY OR PERMANENT RESIDENCE PERMITS PER YEAR**
- **INVESTMENTS IN TOTAL RANGE FROM $ 500 MILLION TO 1 BILLION USD PER YEAR**

I. INVESTMENT TAX RESIDENCY

INVESTMENT RESIDENT– A FOREIGN NATIONAL OR A PERSON WITHOUT CITIZENSHIP WHO HAS MADE INVESTMENTS IN ACCORDANCE WITH THE AIFC INVESTMENT TAX RESIDENCY PROGRAM, AND WHO MEETS THE FOLLOWING CONDITIONS:

- **NOT A RESIDENT OF THE REPUBLIC OF KAZAKHSTAN FOR THE PURPOSES OF THE CODE OF THE RK "ON TAXES AND OTHER OBLIGATORY PAYMENTS TO THE BUDGET" (THE TAX CODE) IN THE LAST TWENTY YEARS PRECEDING THE INITIAL REQUEST FOR PARTICIPATION IN THE OF AIFC INVESTMENT TAX RESIDENCY PROGRAM.**
- **NOT A PERSON WHOSE CITIZENSHIP OF THE RK HAS BEEN TERMINATED IN THE COURSE OF THE LAST TWENTY YEARS PRIOR TO APPLYING FOR PARTICIPATION IN THE AIFC'S INVESTMENT TAX RESIDENCY PROGRAMME.**

AIFC INVESTMENT TAX RESIDENCY PROGRAM–

THE AIFC ACT AIMED TO ATTRACT INVESTMENTS, SETTING THE AMOUNT AND INSTRUMENTS OF INVESTMENT. AT LEAST $60,000 USD. USA [UNDER DISCUSSION], IN SECURITIES ON THE AIX, AIFC INVESTMENT FUNDS, SHARE CAPITAL OF AN AIFC COMPANY. ADOPTED IN AGREEMENT WITH THE NSC, MIA, MNE, MF, MFA (ARTICLE 5-1 OF THE CONSTITUTIONAL STATUTE ON THE ASTANA INTERNATIONAL FINANCIAL CENTRE DATED 7 DECEMBER 2015).

AIFC INVESTMENT RESIDENTS AND THEIR FAMILY MEMBERS RECEIVE AN ENTRY VISA VALID FOR UP TO 5 YEARS. ISSUANCE, CANCELLATION, RESTORATION, REDUCTION OF THE VISA VALIDITY PERIOD FOR AIFC INVESTMENT RESIDENTS IS CARRIED OUT BASED ON THE APPEAL OF THE AIFC AUTHORITY IN ACCORDANCE WITH THE LEGISLATION OF THE REPUBLIC OF KAZAKHSTAN (ARTICLE 7 OF THE CONSTITUTIONAL STATUTE ON THE ASTANA INTERNATIONAL FINANCIAL CENTRE DATED 7 DECEMBER 2015).

. **INVESTMENT RESIDENTS OF THE CENTER ARE EXEMPT FROM PAYING PERSONAL INCOME TAX (THE "PIT") ON INCOME FROM SOURCES OUTSIDE THE REPUBLIC OF KAZAKHSTAN,** IF THEY ARE RECOGNIZED AS A RESIDENT OF THE RK FOR THE PURPOSES OF THE TAX CODE. FOR THE PURPOSES OF EXEMPTION FROM PIT, THE AIFC INVESTMENT RESIDENT SHALL PAY A MANDATORY PAYMENT TO THE BUDGET FOR THE ISSUANCE OF THE DOCUMENT CONFIRMING THE RESIDENCY OF KAZAKHSTAN FOR THE PURPOSES OF THE TAX CODE, IN THE MANNER AND AMOUNT ESTABLISHED BY THE TAX CODE. THE AMOUNT OF PAYMENT TO THE NATIONAL BUDGET (7000 MCI~$45,000 USD, PRESENT IN THE RK 90 DAYS INSTEAD OF 183 DAYS). (CONSIDERED BY AMENDMENTS ON THE TAX CODE)

EFFECTIVE AFTER THE DATE OF COMMENCEMENT OF THE RELEVANT AMENDMENTS TO THE CODE OF THE REPUBLIC OF KAZAKHSTAN "ON TAXES AND OTHER MANDATORY PAYMENTS TO THE BUDGET" (THE TAX CODE).

Procedure under Investment Tax Residency Programme

1. Becoming an Investment resident of the AIFC

Investor

STEP 1 — Investor applies for participation to the Program administration Office

STEP 2 — Investor passes a preliminary check in the Program administration Office

STEP 3 — Investor makes investments

Investment resident of the AIFC

2. Issuance of multiple entry visa of the RK

Investment resident of the AIFC

STEP 1 — The Program administration Office sends an application to the MIA

STEP 2 — The MIA reviews the application and makes a decision

STEP 3 — The NSC approves the decision of the MIA

MIA: Issuance of an entry visa for up to 5 years

3. Recognition as a Resident for the purposes of the tax code of the RK

Investment resident of the AIFC

STEP 1 — An investment resident of the AIFC fulfills the conditions of obtaining residency for the purposes of the Tax code

STEP 2 — An investment resident of the AIFC applies for confirmation of tax residency

STEP 3 — The SRC reviews for compliance with the conditions and confirms the application

STEP 4 — The SRC issues a certificate of tax residency

Resident for the purposes of the tax code of the RK

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD SEQUENCE:

I. ANNUAL FUNDING OF THE AIFC FROM THE REPUBLICAN BUDGET IN ACCORDANCE WITH THE TAX CODE
ONLY TARGETED CONTRIBUTIONS ARE NOT SUBJECT TO VAT*(but not targeted transfers)*

II. TAXPAYER PAYS VAT TO THE BUDGET FOR NON-RESIDENTS. AFTER THE SPECIFIED TIME, TAXPAYER HAS A RIGHT TO REQUEST A REFUND.

III. THE TAX CODE DEFINES THE LIST OF TURNOVER FOR THE PROVISION OF FINANCIAL SERVICES THAT ARE EXEMPT FROM VAT

NEW SEQUENCE:

I. VAT EXEMPTION FOR TARGETED TRANSFERS FROM THE NATIONAL BUDGET FOR AIFC BODIES

II. VAT EXEMPTION FOR NON-RESIDENTS ON SERVICES / WORKS PROVIDED TO AIFC BODIES OR ORGANIZATIONS OF AIFC BODIES

III. EXEMPTION FROM VAT FOR AIFC PARTICIPANTS ON FINANCIAL SERVICES THAT ARE SUBJECT TO CORPORATE INCOME TAX EXEMPTIONS

Sections 8-1,8-2,8-3 article 6 of the Constitutional Statute On the Astana International Financial Centre dated 7 December 2015

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

Article 6. Tax regime in the AIFC

3. Until 1 January 2066, AIFC Participants are exempt from corporate income tax on income received from providing the following financial services in the AIFC: ….

5) any other financial services prescribed by AIFC Acts.

NEW EDITION:

Article 6. Tax regime in the AIFC

3. Until 1 January 2066, AIFC Participants are exempt from corporate income tax on income received from providing the following financial services in the AIFC: …

5) any other financial services prescribed by a joint act of the AIFC, MNE, and MF

Constitutional statute retained the tax exemption (exemption from CIT until January 1, 2066) for AIFC Participants who received licenses to perform financial services before the introduction of the joint act of the AIFC, MNE, and MF

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

ARTICLE 5. Monetary obligations of AIFC Participants and currency regulation

4. The currency regulation requirements provided by the Law of the Republic of Kazakhstan On Currency Regulation and Currency Control do not apply to foreign exchange transactions conducted by AIFC Participants in the AIFC

ADJUSTED MECHANISMS OF CURRENCY MONITORING WILL BE COMMENCED FROM 1 JULY 2019, WHEREAS THE EXISTING PROVISION OF CONSTITUTIONAL STATUTE REFERS TO "CURRENCY REGULATION REGIMES" IN ACCORDANCE WITH THE PREVIOUSLY EXISTING LAW " ON CURRENCY REGULATION AND CURRENCY CONTROL»

NEW EDITION:

ARTICLE 5. Monetary obligations of AIFC Participants and currency regulation

4. Registration requirements of currency agreements on the basis of and (or) pursuant to which capital movement operations are conducted, an account number being assigned to a foreign bank account, as well as notification requirements on currency transactions provided by the Law of the Republic of Kazakhstan On Currency Regulation and Currency Control, do not apply to currency transactions conducted by the AIFC participants in the AIFC.

The requirements for the list of information and the procedure for their submission by banks and organisations conducting certain types of banking operations on the territory of the Republic of Kazakhstan and conducting currency transactions on behalf of the AIFC Participants, are determined by the AIFC Acts with the agreement of the National Bank of the Republic of Kazakhstan.

(similar to section 6 of article 14, sections 3,5 of article 15, section 4 of article 16 of the Law of the Republic of Kazakhstan On Currency Regulation and Currency Control Commenced from July 1, 2019

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

ARTICLE 4. ACTING LAW OF THE AIFC

3. THE AIFC BODIES MAY ADOPT ACTS THAT REGULATE THE RELATIONSHIPS BETWEEN AIFC PARTICIPANTS AND (OR) AIFC BODIES, AND (OR) THEIR EMPLOYEES:

1) CIVIL RELATIONSHIPS;
2) CIVIL PROCEDURAL RELATIONSHIPS;
3) FINANCIAL RELATIONSHIPS;
4) ADMINISTRATIVE PROCEDURES.

NEW EDITION:

ARTICLE 4. ACTING LAW OF THE AIFC

3. THE AIFC BODIES MAY ADOPT ACTS THAT REGULATE THE RELATIONSHIPS BETWEEN AIFC PARTICIPANTS AND (OR) AIFC BODIES, AND (OR) THEIR EMPLOYEES:

1) CIVIL RELATIONSHIPS;
2) CIVIL PROCEDURAL RELATIONSHIPS;
3) FINANCIAL RELATIONSHIPS;
4) ADMINISTRATIVE PROCEDURES;
5) PROCEDURES FOR PROCUREMENT OF GOODS, WORKS AND SERVICES BY THE AIFC BODIES.

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

Article 8. Employment of foreign labour

1. AIFC Participants and AIFC Bodies may employ foreign nationals and stateless persons for the conduct of activities in the AIFC without obtaining work permits for them.

3. AIFC Authority must keep records of foreign labour attracted by the AIFC Participants and AIFC Bodies. AIFC Authority must provide information on employed foreign nationals and stateless persons to the authorised state body on migration matters. The content of the information, how frequently it is to be provided, and how it is to be provided, are to be determined jointly by AIFC Authority and the authorised body on migration matters.

NEW EDITION:

Article 8. Employment of foreign labour

1. AIFC Participants and AIFC Bodies may employ foreign nationals and stateless persons for the conduct of activities in the AIFC without obtaining work permits for them.

3. AIFC Authority must keep records of foreign labour attracted by the AIFC Participants and AIFC Bodies. AIFC Authority must provide information on employed foreign nationals and stateless persons to the authorised state body on migration matters. The content of the information, how frequently it is to be provided, and how it is to be provided, are to be determined jointly by AIFC Authority and the authorised body on migration matters.

AIFC Participants and AIFC Bodies submit information about foreign nationals and stateless persons brought to the AIFC Authority in accordance with the AIFC Acts.

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

Article 11. AIFC Authority

1. **The AIFC Authority is a company limited by shares established by the National Bank of the Republic of Kazakhstan. The AIFC Authority supports the activities of the other AIFC Bodies and their organisations as well as the AIFC Participants and their Employees, and represents their interests to the extent of its competence.**

NEW EDITION:

Article 11. AIFC Authority

1. The AIFC Authority is a non-profit organisation established by the National Bank of the Republic of Kazakhstan. The AIFC Authority supports the activities of the other AIFC Bodies and their organisations as well as the AIFC Participants and their Employees, and represents their interests to the extent of its competence.

II. CLARIFYING PROVISIONS RELATED TO THE ACTIVITIES OF THE AIFC

OLD EDITION:

Article 13. AIFC Court

8. Decisions of the AIFC Court are to be enforced in the Republic of Kazakhstan in the same way, and on the same terms, as decisions of the courts of the Republic of Kazakhstan. Decisions of the AIFC Court are required to be translated into Kazakh or Russian in accordance with the procedure established by the AIFC Acts.

NEW EDITION:

Article 13. AIFC Court

8. Decisions of the AIFC Court are to be enforced in the Republic of Kazakhstan in the same way, and on the same terms, as judicial acts of the courts of the Republic of Kazakhstan. Decisions of the AIFC Court are required to be translated into Kazakh or Russian in accordance with the procedure established by the AIFC Acts.