

## Information on Major Changes Envisioned in the New Draft Tax Code

The new draft Tax Code envisions resolution of the following shortcomings in the current taxation system:

- Inadequate methodological development of the elements of tax composition, lack of uniform interpretation of taxation terminology;
- Instability of tax regime;
- Blurred profit taxation base, partial inclusion of objective expenditures into taxable base;
- Existence of numerous tax benefits, majority of which were not used in practice due to undeveloped mechanisms for granting them;
- Legal ambiguity of the rights and responsibilities of taxpayer in relation to rights and responsibilities of tax authorities;
- Unjustifiably strict mechanism of punitive sanctions.

As opposed to the current Tax Code, draft Tax Code includes the principles of tax legislation and taxation system in conformity with international standards and facilitating the enhancement of incentive mechanism of taxation namely:

### Primary Action of Tax Code

Drafted Tax Code will become the primary document (i.e. without reference to additional by-laws) encompassing entire range of tax affairs (financial and procedural) and determining the whole system of taxes and dues.

### Legal in ambiguity and systemic taxation

This principle has been implemented by unification of emerged norms and definitions of tax law, bringing them into compliance with other realms of law (civil, finance, administrative, and criminal legislation). For this purpose, the glossary of major definitions and terms used in the Code has been included in the new edition of Tax Code. The new edition indicates that all ambiguities, uncertainties, and unclear definitions must be interpreted in favor of the taxpayer until statutory amendments are introduced.

Realization of systemic principle is envisioned by unification of the regulations for estimation and procedures for payment of all taxes and dues.

### Stability of tax policy

In order to ensure predictability and certainty of tax legislation, a new procedure is being introduced, which stipulates that any changes to the tax legislation must be publicized no later than 1 December of current year and will enter into force starting 1 January of the year after the year of publication. Implementation of this norm will enable to introduce moratorium on changes to tax legislation during the year, which ensures the stability of tax system and enable entrepreneurs to make long-term business projections.

However, the aforementioned principle does not exclude the flexibility of tax policy – rates of

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<sup>1</sup> The views expressed in this paper are the views of the author and do not necessarily reflect the views or policies of the Asian Development Bank (ADB) or its Board of Directors or the governments they represent. ADB makes no representation concerning and does not guarantee the source originality, accuracy, completeness, or reliability of any statement, information, data, finding, advice, opinion, or views presented.

taxes and dues may be set annually at the discretion of the President (except for profit tax, individual income tax, and value added tax set by Parliament) and may be changed given the changes in economic situation in the country. Draft Tax Code also defines that tax or due shall be considered introduced only after taxpayers are identified and elements required for payment of taxes and dues are identified, namely:

- Object of taxation;
- Taxable base;
- Procedure for estimation;
- Tax period;
- Tax reporting and payment procedure.

Ensuring equal terms and conditions for all types of businesses and all taxpayers.

Proposed Tax Code envisions uniform approach to all types of activities and all taxpayers (uniform taxation regime, rates applicable, etc. for all investors including foreign investors). This approach enables to remove the previous problems – separate bookkeeping for income and expenditures, etc.

Streamlining tax benefits by systematization, abolition and review of some tax benefits is one of the focal areas in improvement of the taxation system. For instance, the following were abolished:

- Ineffective and irrelevant benefits applicable for small group of taxpayers or absolutely irrelevant benefits;
- Mutually related benefits leading to expansion of the area of their application due to parallel action;
- Benefits creating unequal conditions of taxation, which violates the principle of equal business competition.

It is notable that abolition of aforementioned benefits does not lead to worsening of conditions for investment into active businesses, as they will enjoy the current benefits until expiration.

Reduction in the number of taxes and streamlining taxation procedures

New draft Code envisions reduction in the number of taxes and fees and introduction of the exhaustive list of taxes and dues (this norm stipulates that the only taxes and dues listed in the Tax Code will be collected in the territory of Uzbekistan).

Major changes in estimation and payment of taxes and dues include improvement of the mechanism for estimation and procedure for payment of taxes and dues as well as specification and streamlining of all elements of taxation (for more details – see Table attached).

Principle of taxpayer liability

Along with current general principles of tax legislation, principle of tax presumption will be introduced in the draft Tax Code stipulating that all irreconcilable differences and ambiguities shall be interpreted for the benefit of taxpayer, which is a very important aspect for protection of taxpayer's rights.

Improvement of tax administration

“Tax Oversight” section with special focus on tax inspections has significant place in the draft Tax Code. It stipulates, inter alia, that tax inspections are conducted solely by the state tax service. It also stipulates that inspections shall be conducted only in conformity with

Coordination Plan endorsed by an authorized body, and the period of inspection has been limited to 30 calendar days.

Furthermore, draft Tax Code also stipulates the frequency of inspections, which is crucial for businesses. It envisions, inter alia, that planned tax inspections of microfirms, small businesses, and private farms can be conducted no more than once in four years, and of other business entities - no more than once in three years.

“Liability for tax offenses” section has undergone major transformation in comparison with current Tax Code. For instance, while current Tax Code provides for punitive sanctions against companies regardless of the offenses identified (leading to underpayment of taxes and contributions to the budget and non-budget funds), draft Tax Code transfers significant part of responsibility from the company to the officials.

In order to streamline the application of financial sanctions, it is envisioned that financial sanctions against taxpayers and tax agents will be ordered by court except for cases when taxpayer or tax agent acknowledges the blame in the committed offense and voluntarily covers the damage in full including fines and by deadlines. Before this procedure was applied only for individuals. Furthermore, amount of fine accrued for overdue payment to budget and non-budget funds is reduced from 0.07 to 0.05 percent for each overdue day.

Transparency and public monitoring of the changes in tax legislation

Statutory acts regulating taxation issues must be published in official publications. Statutory acts not published officially for public information will not have any legal effect as those entered into force and cannot be used as grounds to regulate tax affairs, taking any sanctions against the entities of tax affairs for failure to conform to their provisions.

**List of Double Tax Avoidance Agreements (Treaties)**

<b>Name of Country</b>	<b>Signed</b>	<b>In force</b>
1. Austria	14/06/2000	01/08/2001
2. Azerbaijan	27/05/1996	02/11/1996
3. Belarus	22/12/1994	11/01/1997
4. Belgium	14/11/1996	08/07/1999
5. Bulgaria	24/10/2003	21/10/2004
6. Vietnam	28/03/1996	16/08/1996
7. Germany	07/09/1999	12/12/2001
8. Greece	01/04/1997	15/01/1999
9. Georgia	28/05/1996	20/10/1997
10. Egypt *	21/09/1999	-
11. Israel	15/09/1998	09/03/1999
12. India	29/07/1993	25/01/1994
13. Indonesia	27/08/1996	11/11/1998
14. Iran	26/04/2002	18/01/2005
15. Italy	21/11/2000	26/05/2004
16. Kazakhstan	12/06/1996	21/04/1997
17. Canada	17/06/1999	14/09/2000
18. China	03/07/1996	03/07/1996
19. Republic of Korea	02/02/1998	25/12/1998
20. Kuwait	19/01/2004	03/05/2006
21. Kyrgyzstan	24/12/1996	17/03/2000
22. Latvia	03/07/1998	23/10/1998
23. Lithuania	18/02/2002	11/11/2002
24. Luxembourg	02/07/1997	02/09/2000
25. Malaysia	06/10/1997	10/08/1999
26. Moldova	30/03/1995	28/11/1995
27. Netherlands	18/11/2001	27/05/2002
28. Pakistan	22/05/1995	12/09/1996
29. Poland	11/01/1995	29/04/1995
30. Portugal *	14/09/2001	-
31. Russian Federation	02/03/1994	27/07/1995
32. Romania	06/06/1996	17/10/1997
33. Slovakia	06/03/2003	20/10/2003
34. United Kingdom and North Ireland	15/10/1993	10/06/1995
35. Thailand	23/04/1999	21/07/1999
36. Turkmenistan	16/01/1996	27/11/1996
37. Turkey	8/05/1996	30/09/1997
38. Ukraine	10/11/1994	13/07/1995
39. Finland	09/04/1998	07/02/1999
40. France	22/04/1996	01/10/2003
41. Czech Republic	02/03/2000	15/01/2001
42. Switzerland	03/04/2002	15/08/2003
43. Japan	18/01/1986	27/11/1986

\* not yet in force

**List of the intergovernmental agreements on principle of the charging  
the indirect taxes at export and import goods (work, services)**

<b>Name of Country</b>	<b>Signed</b>	<b>In force</b>
1. Azerbaijan	26/02/1998	28/04/1998
2. Kazakhstan *	18/09/1997	-
3. Kyrgyzstan	20/09/1997	22/04/1998
4. Moldova	17/12/1998	14/07/1999
5. Russian Federation	04/05/2001	01/03/2003

\* not yet in force