

**Guidance on the Rules on the Substantial Presence of  
the Astana International Financial Centre Participants  
Applying Tax Exemptions for the Payment of  
Corporate Income Tax, Value Added Tax**

**Approval Date: 10 September 2023**

**Commencement Date: 26 October 2023**

**Astana, Kazakhstan**

Annex

to the Order of the Chief Executive Officer of the Astana Financial Services Authority  
On Approval of the Guidance on the Rules on the Substantial Presence of the Astana  
International Financial Centre Participants Applying Tax Exemptions for the Payment of  
Corporate Income Tax, Value Added Tax

**Guidance on the Rules on the Substantial Presence of the Astana International Financial  
Centre Participants Applying Tax Exemptions for the Payment of Corporate Income Tax,  
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## **1. INTRODUCTION**

- 1) This Guidance on the Rules on the Substantial Presence of the Astana International Financial Centre Participants Applying Tax Exemptions for the Payment of Corporate Income Tax, Value Added Tax (hereinafter, the Guidance) is developed in accordance with Chapter 4 of the Rules on the Substantial Presence of the Astana International Financial Centre Participants Applying Tax Exemptions for the Payment of Corporate Income Tax, Value Added Tax, dated 17 October 2021 (hereinafter, the Rules).
- 2) The purpose of the Guidance is to provide a procedure for applying the Rules and to explain them to the Centre Participants. The provisions outlined in the Guidance must be followed by the Centre Participants in order to fulfill the conditions of substantial presence as defined by the Rules when carrying out activities on the territory of the Centre.
- 3) During tax audits, state revenue authorities may refer to the Guidance to determine whether the conditions of substantial presence outlined in the Rules have been met.

## 2. GENERAL PROVISIONS

- 1) Paragraph 6 of the Rules establishes the conditions that must be simultaneously fulfilled for a Centre Participant to be recognized as substantially present within the Centre's territory (hereinafter, the Conditions).

If all the Conditions specified in paragraph 6 are met, the Participant may apply for exemptions from Corporate Income Tax (CIT) and Value Added Tax (VAT) when providing specified financial services, as outlined in paragraph 3 of Article 6 of the Constitutional Law of the Republic of Kazakhstan "On the Astana International Financial Centre" (hereinafter, the Constitutional Law) and paragraph 5 of Chapter 3 of the List of Financial Services provided by participants of the Astana International Financial Centre<sup>1</sup> (hereinafter, the List of Financial Services).

- 2) The time period for a Centre Participant to be recognized as substantially present is a calendar year. The Participant will be considered substantially present only within the tax period in which they fulfill the conditions.
- 3) Centre Participants are required to follow the Guidance to independently determine whether the conditions stipulated by the Rules have been met when conducting activities within the Centre's territory.
- 4) Tax audits by state revenue authorities are conducted in accordance with the tax legislation of the Republic of Kazakhstan.
- 5) An economic study of the project, including expense justifications and employee numbers, must be submitted to the state revenue authority at the place of registration by March 31 of the year following the reporting period. This submission should follow the provided form in Annex 1 and consider the deadlines for extending tax return submissions.
- 6) Centre Participants should make their best efforts to submit the economic study according to the procedure and deadlines outlined in paragraph 5 above.
- 7) Failure to submit the economic study as per the procedure and deadlines mentioned in paragraph 5 above may result in administrative liability in accordance with the laws of the Republic of Kazakhstan.
- 8) With respect to paragraph 13 of the Rules Centre participants are prohibited from outsourcing or subcontracting services and works directly related to the Core Income Generating Activities (hereinafter, CIGA) outside of the Republic of Kazakhstan.

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<sup>1</sup> Joint Order of the AIFC, the Ministry of National Economy of the Republic of Kazakhstan and the Ministry of Finance of the Republic of Kazakhstan "On Approval of the List of Financial Services Income from which is Exempt from the Payment of Corporate Income Tax and Value Added Tax, provided by Participants of the Astana International Financial Centre".

### **3. CONDITIONS OF THE SUBSTANTIAL PRESENCE**

#### **1) CIGA**

Regarding sub-paragraph 1 of paragraph 6 of the Rules, the CIGA consists of services and inherent activities outlined in paragraph 3 of Article 6 of the Constitutional Law and/or paragraph 5 of Chapter 3 of the List of Financial Services.

CIGA are essential and valuable activities that generate income and business value for Centre Participants, as explained in paragraph 10 of the Rules. Depending on the licence type, business model, and other conditions, each Centre Participant may engage in a unique set of CIGA. The Participant may perform the full list of CIGA specified in their licence.

A Centre Participant will be recognised as conducting activities in or from the territory of the Centre, if its qualified employees and administrative and managerial personnel work on the Centre's territory.

#### **2) *Fulfillment of the condition on adequate operating expenses***

Regarding sub-paragraph 2 of paragraph 6 of the Rules, the amount of operating expenses incurred refers to expenses recorded in the Centre Participant's accounting records in accordance with International Financial Reporting Standards. These expenses should be classified as operating expenses according to the accounting policy for the profit and loss statement.

Operating expenses imply sufficiency and compliance with the required amount for the implementation of the CIGA, as well as the link between these expenses and the CIGA, which Centre participant has undertaken to generate income from the services or work provided as specified in paragraph 3 of Article 6 of the Constitutional Law and (or) paragraph 5 of Chapter 3 of the List of Financial Services.

Therefore, the link between operating expenses and CIGA indicates that these expenses were incurred to carry out the CIGA and ultimately generate income from the licensed activities.

To independently verify the fulfillment of the condition of adequate operating expenses, the Centre Participant should have documented evidence of the following:

- I. The fact of the execution of CIGA;
- II. The sources of operating expenses recognized in the accounting records, including but not limited to:
  - a. Salaries of employees and individuals directly involved in performing the CIGA necessary for providing the licensed services.
  - b. Expenses related to assets and liabilities of the Centre Participant directly used to carry out the CIGA and necessary for the provision of the licensed services.

#### **3) *Fulfillment of the condition on an adequate number of qualified employees***

Regarding sub-paragraph 3 of paragraph 6 of the Rules, it implies that the AFSA requirements regarding the number of qualified employees, their professional qualifications, work experience, certifications, and other criteria established during the licence acquisition must be met during the period.

#### **4. PROCEDURE FOR APPLYING THE GUIDANCE**

For matters not addressed in the Guidance and if questions arise regarding the application of the Guidance that are not regulated by the Guidance, the Centre Bodies have the authority to:

- 1) Amend and supplement the Guidance in consultation with the state authority responsible for tax collection and other mandatory payments to the budget, as long as it is not contradictory to the Constitutional Law and also notify it about the amendments made to the AIFC Acts regarding this Guidance.
- 2) Provide explanations and comments on the application of the Guidance within their jurisdiction.

**Form of economic study of the project,  
justification of expenses and number of employees**

**Section A. General information about the taxpayer**

1. BIN: \_\_\_\_\_
2. Tax period for which the Form is submitted: \_\_\_\_\_
3. Name of the taxpayer: \_\_\_\_\_
4. Name of the licence issued by the Astana Financial Services Authority:  
\_\_\_\_\_
5. Licence number, date of issue: \_\_\_\_\_
6. Types of core income generating activities (according to paragraph 5 of Chapter 3 of the List of Financial Services)

**Section B. Information about income**

Income	Total income (excluding VAT, in KZT)
Income from licensed activities on the territory of the Centre	
Other income	
<b>TOTAL</b>	

**Section C. Information about expenses**

Description of expenses	Total expenses (excluding VAT, in KZT)
Total amount of operating expenses	
<i>including:</i> - expenses associated with the maintenance and upkeep of the office on the territory of the Centre, in which workplaces are located	
- expenses for qualified personnel (payroll)	
- depreciation charges calculated on assets used for the CIGA;	
- other expenses for goods, works, services used when carrying out the CIGA	
- other expenses	
<b>TOTAL</b>	

**Section D. Information about qualified personnel**

Expenses for employees	Headcount	Total expenses, in KZT
Payroll for qualified employees		
Payroll for other employees (according to the Civil Law contract)		
<b>TOTAL</b>		

Head of " \_ (insert name of the legal entity\_)"

Full name

Seal

Submission date: \_\_\_\_\_

**ORDER**

**of the Chief Executive Office of Astana Financial Services Authority ("AFSA")**

**On approval of the Guidance on the Rules on the Substantial Presence of the Astana International Financial Centre Participants Applying Tax Exemptions for the Payment of Corporate Income Tax, Value Added Tax**

In accordance with paragraphs 3 and 8-2 of Article 6 of the Constitutional Statute of the Republic of Kazakhstan On the Astana International Financial Centre dated 7 December 2015, paragraph 6 of the List of financial services provided by participants of the Astana International Financial Centre, the income from which is exempt from payment of corporate income tax, value-added tax approved by the Joint Order of the Governor of the Astana International Financial Centre dated May 26, 2020 No.126, the Minister of Finance of the Republic of Kazakhstan dated May 29, 2020 No.547 and the Minister of National Economy of the Republic of Kazakhstan dated June 12, 2020 No.118, as well as for the purpose of determining the procedure for applying the Rules on the Substantial Presence of the Astana International Financial Centre Participants Applying Tax Exemptions for the Payment of Corporate Income Tax, Value Added Tax, approved by the Order of the Chief Executive Officer of the AFSA dated 23 November 2021 No. AFSA-P-OA-2021-0009 and agreed by the Ministry of Finance of the Republic of Kazakhstan dated 26 November 2021, **I HEREBY ORDER:**

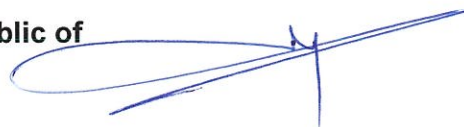
1. To approve the attached Guidance on the Rules on the Substantial Presence of the AIFC Participants Applying Tax Exemptions for the Payment of Corporate Income Tax, Value Added Tax.
2. To post the approved Guidance on the AFSA website.
3. To assign control over the execution of the Order to the AFSA Governmental Relations Division.
4. This Order comes into force from the date of its signing.

**Chief Executive Officer of  
Astana Financial Services Authority**  
«15» 09 2023r.



**N. Kushimov**

**Agreed:  
Chairman of  
the State Revenue Committee of  
the Ministry of Finance of the Republic of  
Kazakhstan**  
«24» 10 2023r.



**Zh. Duysembiev**