

**NEW WORLD –
NEW TAX**

Anti-Avoidance Measures

- Beneficial Ownership Concept
 - exists in relation to Tax Code's exemptions for dividends and interest and definition of 'low-tax jurisdiction'
 - as of July 2012, information of founders and participants of commercial entities and their shareholding is 'tax secrecy' and 'information related to personal life'
 - mostly applicable in treaty contexts
 - Azerbaijan has effective double taxation avoidance treaties with 53 nations

Anti-Avoidance Measures

- Beneficial Ownership Concept
 - all developments are under project Supporting Implementation of Roadmap for Beneficial Ownership Disclosure for Extractive Industries in Azerbaijan
 - Law on Combating Legalization of Proceeds and Other Assets of Crime and Financing of Terrorism initially defined “beneficial owner” and “politically exposed persons”
 - definitions are based on FATF’s definitions intended for financial regulatory purposes (specifically anti-money laundering and prevention of terrorism financing) and have since been incorporated in the 2010 Law on Investment Funds and the 2015 Law on the Securities Market

Anti-Avoidance Measures

- Substance Concept
 - in Tax Code's definition of residents
 - refers to place of management of entities as a principal place of business where
 - (i) commercial decisions necessary to be carrying out management are taken, and
 - (ii) day-to-day practical management is carried out
 - notwithstanding location of entity's main supervising bodies

Anti-Avoidance Measures

- Mandatory Disclosure
 - none
 - voluntary tax disclosure effective 2017:
 - mitigation of tax burden (elimination of sanctions and penalty) upon voluntary declaration of tax obligation not revealed to tax authorities during on-site tax audit
 - disclosure obligates taxpayer to pay only main tax and exempts from payment of applicable sanctions/penalties

Anti-Avoidance Measures

- Transfer Pricing
 - as of 2017, transfer pricing concept replaces in cross-border context market price/value
 - applies between resident and non-residents related to it based on any of following methods:
 - resale price method
 - cost plus method
 - transactional net margin method
 - transactional profit split method

Anti-Avoidance Measures

- Transfer Pricing
 - Support to Ministry of Taxes of Republic of Azerbaijan in Transfer Pricing and Developing Anti-Tax Avoidance Measures – EU Supported Project
 - 24-month project aiming at achieving introduction and implementation of efficient Transfer Pricing Legislation and Transfer Pricing Auditing by Ministry of Taxes
 - will support Ministry in aligning Transfer Pricing legislation with European standards and establish resources for best practice auditing processes
 - kicked off in April 2018

Anti-Avoidance Measures

- Double Tax Treaty Practices
 - most (if not all) treaties have anti-avoidance provisions
 - agreements on Mutual Administrative Assistance in Tax Matters with mostly neighboring (ex-Soviet states) and Argentina

Anti-Avoidance Measures

- Double Tax Treaty Practices
 - CbC reporting
 - jurisdictions must have in place both international agreement that permits automatic exchange of taxpayer information and competent authority agreement that sets out the terms of the exchange
 - Azerbaijan has neither ‘legal framework in place’ nor ‘update on status pending’
 - practice may be different

Exchange of Information

- How Actively Tax Authorities Engage Instruments Provided by Exchange of Information
 - CRS to be introduced pursuant to Presidential Instructive Order No 2257, dated 4 August 2016, approving guidelines for reforms of taxation during 2016
 - Azerbaijan is signatory of Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information (CRS MCAA) and first exchange of information by Azerbaijan pursuant to it was due by September 2018
 - may require feedback from the other country, e.g., Switzerland will exchange in fall 2021 as of 2020

Exchange of Information

- Has Automatic Exchange of Information Actually Started
 - no
- First Results, *etc.*
 - not applicable

Relations between Taxpayers and Tax Authorities: Making Taxpayers and Tax Authorities BFF

- APA
 - WiP

Relations between Taxpayers and Tax Authorities: Making Taxpayers and Tax Authorities BFF

- APA
 - as of 2013, Tax Code incorporates definitions of tax risks and their minimization
 - taxpayers can enter into tax partnership agreements (“agreements of intent”) with tax authority for minimization of tax risks
 - such agreements provide for basis for taxpayer and authority to agree in advance on tax treatment of transaction (activity by taxpayer) to determine taxpayer’s tax obligations
 - form of agreement and a procedure to enter into it are approved by Cabinet of Ministers
 - form of taxpayer’s application to enter into agreement is approved by Ministry of Taxes

Relations between Taxpayers and Tax Authorities: Making Taxpayers and Tax Authorities BFF

- Tax Rulings Practice
 - same as above
- Transparency Issues
 - ?

Digital Economy: Are Tax Regulations up-to-Date

- E-Commerce
 - specific context is in relation to VAT:
 - place of supply is determined with reference to place where purchaser of works and services is located, established, or registered (or where related to PE, at place of PE)
 - banks act as agents for purchasers (who are not tax-registered, *i.e.*, consumers) apply and withhold VAT by reverse-charge
 - input VAT is not offset

Digital Economy: Are Tax Regulations up-to-Date

- Cryptocurrency
 - nothing to report on taxation legislative developments
 - <http://www.azcoin.az/>

Questions & Comments?

Thank you!