

Preparing to export

Start-up considerations

The three main ways to enter the Kazakh market are by either setting up a joint venture (JV) with a local partner/company, exporting via an agent or distributor or by establishing and setting up a new company.

The investment laws in Kazakhstan are applicable to both local and foreign companies, and in the priority sectors, they provide some financial incentives for investment. Although the government officially promotes foreign investment in Kazakhstan, there are mixed views within the country as to the benefits. The government does not always make market access easy for foreign companies, which is evident in the overly-bureaucratic administration of business.

Companies should be cautious about making a commitment to invest, as it is said that the real negotiations begin when the contract is signed. It is essential to seek financial and legal advice from a company with local experience, and employ a reputable local accountant. For legal advice please visit: www.mwp.kz

It is important to be pro-active in building relationships with central and local government officials which can only work to strengthen your business in Kazakhstan. It is recommended that companies recruit local staff who have previous experience of working with other Western companies, or who have been educated in the West. Having a competent Kazakh partner can help alleviate many of the day-to-day problems that may be faced when first entering the market. For example, unannounced visits from local tax officials are common with Kazakhstan's adversarial tax system, therefore it is essential to keep an accurate and detailed paper-trail.

Be aware of petty corruption within the police and customs, which if handled incorrectly can have the potential to cause companies major problems.

Administrative bodies are politically influenced and there are regional variants in the application of regulations. (*Source – UKTI*)

Establishing a company

All legal entities, branches and representative offices in Kazakhstan are subject to state registration. You can register online via the Electronic Government – visit: www.egov.kz/wps/portal/Content?contentPath=/egovcontent/for_businessmen/passport/pass042_mu&lang=en

Business enterprises in Kazakhstan can be operated as either limited liability partnerships which are separate legal entities and subject to taxation, joint stock

companies (JSC) where shareholders have no liability and about USD \$500,000 in capital is needed, a representative office which can only conduct activities such as marketing and advertising or a branch which can carry out commercial activity, but is not a separate legal entity.

Representative offices and branches must also be registered with the relevant regional department of the Ministry of Justice.

A newly registered representative office or branch must comply with certain formalities, including:

- registration for value added tax (VAT)
- obtaining a seal (official stamp of the entity)
- opening a bank account

(Source – UKTI)

Market entry

Like many administrative business processes in Kazakhstan, procedures for registration of an office are bureaucratic. Companies need to be patient, and local legal, accountancy and financial advice is essential in guiding you through the process.

The following documents will be required, as a minimum, when registering a legal entity:

- an application form to the Ministry of Justice
- a copy of the board minutes authorising the establishment of an office (with translation)
- the founding documents of the company (with notarised translation)
- registration certificate of the foreign company (with translation)
- Power of Attorney to the appointed director (with notarised translation)
- documents of Kazakh partner, if appropriate

A number of Kazakh private companies have become agents/distributors or authorised dealers for foreign companies. If one of these companies is an option, it is important not to rush into a long-term agreement however, without first having developed a good

working relationship with your potential representative, due to the fact that many local companies have limited experience of undertaking the role of an agent/distributor.

(Source – UKTI)

Registration of foreign citizens

When entering Kazakhstan, a foreign citizen gets migration card with entry marks from Border Control Department.

Upon arrival in Kazakhstan, the foreign citizen should register with the Local Migration Police Department within 5 days.

Passports of citizens from 48 developed and politically stable countries (see: www.invest.gov.kz for the list of countries) are registered automatically via one of the following:

- Visas for business/tourist/private/diplomatic/service registered in consular offices of Kazakhstan abroad,
- OR immediately registered on the state border in Border Control Departments.

In either of the two aforementioned cases, the foreign citizen does not need register with Migration Police.

Passports of foreign citizens are registered free of charge and executed for up to 3 months.

In case of delay and/or avoidance of registration, an administrative responsibility of a fine and/or exclusion from Kazakhstan is enforced, with the possibility of prohibition to enter Kazakhstan for 5 years after such exclusion.

(Source – KAZNEX INVEST)

Work permits and employment of foreign workers

You need a permit to work in Kazakhstan. The permit must be obtained by the Kazakh employer. The head of a company established by investment or by a representative office does not need a work permit, but all other ex-patriate staff are required to have one.

There is a drive to increase local employment in Kazakhstan, and the number of work permits available to foreigners is based on a calculation of the percentage of the working population and culminated into an annual quota. Applications for permits for individual ex-patriates are assessed against the availability of equally-qualified Kazakh candidates, which unfortunately can often be biased, with level of experience of candidates given little consideration.

(Source – UKTI)

For more information on public employment law in Kazakhstan, please visit: www.adilet.zan.kz/eng/docs/Z010000149

(Source – KAZNEX INVEST)

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