

*(Translated from Russian)*

The Permanent Mission of the Republic of Kazakhstan to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights, and with reference to the Joint Communication from the Special Procedures No. AL KAZ 4/2016 of December 20, 2016 has the honour to transmit information concerning the tax inspection of the non-governmental organization "Kadyr-Kassyet (NGO Dignity)".

The Permanent Mission avails itself of this opportunity to renew to the Office of the High Commissioner the assurances of its highest consideration.


Enclosure: as stated, 3 pages

Geneva, February 27, 2017

Office of the United Nations High Commissioner for Human Rights  
Geneva

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**Information concerning the tax inspection of the non-governmental organization Kadyr-Kassyet**

In accordance with the Code on Taxes and Other Mandatory Budget Payments (hereinafter the Tax Code), the tax authorities of the Republic of Kazakhstan, acting in their capacity as State revenue authorities, oversee the payment of taxes and other mandatory budget contributions within the scope of their competence, as well as performing other functions provided for in national legislation.

On 18 July 2016, the State Revenue Committee of the Ministry of Finance received a complaint from a person named Mr. [REDACTED] drawing attention to an article published on 11 July 2016 on the website www.nur.kz entitled "How much foreign foundations spend on training activists in Kazakhstan" (enclosed).

In his complaint, Mr. [REDACTED] requested that the activities of certain non-governmental organizations (NGOs), including Kadyr-Kassyet, be examined to ensure their compliance with national legislation (Mr. [REDACTED] letter is enclosed).

The Committee registered the statement in accordance with the Communications from Individuals and Legal Entities Act and referred it for consideration to the Astana Department of State Revenue, where Kadyr-Kassyet is registered for the payment of taxes.

The Department carried out an analysis of the tax returns filed by Kadyr-Kassyet, which resulted in a decision to conduct an unscheduled, comprehensive tax inspection of the organization. An order approving the inspection was issued in August 2016.

*NB. Pursuant to article 627 (5) (1) of the Tax Code, "a comprehensive inspection is an inspection undertaken by the tax service with regard to a taxpayer or tax agent concerning matters relating to the fulfilment of the taxpayer's financial obligations in the form of tax payments or other mandatory budget payments, the completeness and timeliness of the taxpayer's calculations, deductions and payments for mandatory pension contributions or mandatory occupational pension contributions and the completeness and timeliness of the taxpayer's calculations and payments towards social services."*

The Bureau of the Committee for Legal Statistics and Special Records attached to the Astana Procurator General's Office registered the above-mentioned order of 15 August 2016 as No. 1796, in accordance with the rules on the registration of decisions relating to the approval of an inspection, notification of the suspension, renewal or extension of an inspection or of changes to the participants in an inspection, the submission of the documentation required and the results of the inspection, as approved by Order No. 13 of the Procurator General of 26 January 2016.

This order was issued to Kadyr-Kassyet on 1 September 2016.

In addition, the tax authorities asked Kadyr-Kassyet to provide materials needed for the inspection, in accordance with article 19 (1) (5) of the Tax Code and article 41 (4) of Act No. 142-II of 16 January 2001 on non-profit organizations.

*NB. Under article 19 (1) (5) of the Tax Code, "the tax authorities are entitled to require documentation from the taxpayer showing the accuracy of the calculations used, the timeliness of payments of tax and other mandatory budget contributions, the completeness and timeliness of the calculations, deductions and payments for mandatory pension contributions or mandatory occupational pension contributions, the completeness and timeliness of the calculations of the requisite contributions and payments towards social services, written explanations of the contents of the taxpayer's tax forms and the financial reporting of the taxpayer or tax agent."*

*In addition, under article 41 (4) of Act No. 142-II of 16 January 2001 on non-profit organizations, "the scale and nature of earnings of non-profit organizations, information about the size and composition of their property and their expenditure, the number and functions of their employees, the salaries of those employees and any unpaid work for non-profit organizations may not be the subject of professional confidentiality."*

Ms. A. Ibraeva, the director of Kadyr-Kassyet, did not provide all the required documentation and thereby, as stipulated in article 640 of the Tax Code, impeded the tax inspection. As a result, the inspection has not, to date, been completed.

National tax legislation clearly identifies the mechanism for filing a complaint about the results of an inspection and the actions, or failure to act, of the tax authorities. In the event of a disagreement with the results of a tax inspection, Ms. Ibraeva has the right, under chapter 93 of the Tax Code, to complain about the actions of tax officials, or their failure to act, to higher tax authorities or to a court.

It should also be noted that the State Revenue Committee conducted an inquiry into claims that a Committee employee had behaved unlawfully towards Ibraeva's underage daughter. As a result, the guilty employee of the Astana Department of State Revenue was subjected to strict disciplinary proceedings, of which Ms. Ibraeva provided written confirmation.

Provisions in place to ensure that human rights defenders are able to carry out lawful and safe activities without fear of prosecution include the following.

All Kazakh citizens, including persons engaged in human rights work, have equal rights.

Article 14 of the Constitution of Kazakhstan enshrines the equality of all citizens before the courts and the law. No one may be subjected to any kind of discrimination on the basis of origin, social status, profession, personal assets, sex, race, ethnicity, language, attitude to religion, beliefs, place of residence or any other circumstance. This applies equally to human rights defenders. The State guarantees the equality of human and civil rights and freedoms regardless of sex, race, ethnic background, language, origin, personal assets, profession, place of residence, attitude to religion, beliefs, membership of associations or any other circumstance.

Everyone is entitled to recognition as a natural person before the law and has the right to defend his or her rights and freedoms by all legal means.

Any violation of the equality of citizens and, in particular, any direct or indirect restriction of a citizen's human rights and freedoms on the basis of origin, social status, profession, personal assets, sex, race, ethnicity, language, attitude to religion, beliefs, place of residence, membership of associations or any other circumstance incurs criminal liability (art. 145 of the Criminal Code of the Republic of Kazakhstan).

Everyone is guaranteed legal protection from any unlawful decisions and actions taken by State bodies, organizations, officials or other persons that abuse or restrict the rights, freedoms and legitimate interests protected under the Constitution and national law.

Under article 19 of the Code of Criminal Procedure, a person is presumed innocent until proved guilty in a manner prescribed by the Code and in accordance with an enforceable sentence handed down by a court.

The Constitution also guarantees the rights and freedoms of public associations. State bodies are forbidden to interfere in the activities of such associations.

The rights and freedoms of citizens and associations engaged in human rights activities are thereby guaranteed under existing legislation.

Human rights defenders must, however, conduct their activities in compliance with the Constitution, national legislation and the provisions of international human rights agreements.