

Rödl & Partner

GAINING INSIGHTS

What is important for foreign investors to consider when implementing industrial projects in Kazakhstan?



Content

Introduction	3
Framework conditions for investment in Kazakhstan	3
Migration rules	6
Tax policy in Kazakhstan	8
Construction, licensing and regulatory requirements	11
Conclusion	16
Contact	17

1. Introduction

Kazakhstan occupies an important place among Central Asian countries as a regional center for foreign investment, offering favorable conditions for doing business. German enterprises interested in implementing industrial projects must take into account a number of economic, tax and legal aspects, including investment preferences, tax incentives, migration rules and license requirements. This article discusses the key aspects that German enterprises need in order to do business successfully in Kazakhstan.

2. Framework conditions for investment in Kazakhstan

Kazakhstan provides a wide range of investment preferences and guarantees of stability of tax legislation. The main benefits include exemption from corporate income tax (CIT) and property tax for up to ten years, exemption from customs duties and value added tax (VAT) on imported equipment, and the provision of in-kind government subsidies in the form of land, infrastructure and real estate.

One of the most important institutions supporting foreign investors is the Astana International Financial Center (AIFC), which offers a special legal regime, tax benefits and simplified regulation of currency transactions. The AIFC uses the English system of law, which makes it more understandable and convenient for foreign investors.

2.1 Astana International Financial Center (AIFC)

The AIFC was established to attract foreign investors and develop Kazakhstan's financial sector. The center has a special tax and legal regime regulated by a separate law. The main advantages of AIFC include:

- Exemption from corporate income tax (CIT) and value added tax (VAT) for a range of financial services.
- Exemption from property tax and land tax for companies registered in AIFC.
- No requirements for registration of currency transactions, which greatly simplifies the movement of capital and allows international companies to conduct transactions without unnecessary bureaucratic barriers.
- Simplification of migration procedures for foreign workers and their family members, including the issuance of long-term visas for up to five years.
- The possibility of attracting foreign workers without the need to obtain a work permit.

As part of currency regulation in AIFC, participants are exempted from the need to register foreign exchange contracts and notify the authorities of currency transactions. There is also no obligation to obtain foreign bank account, which makes financial activities in AIFC particularly convenient for international companies.

2.2 Special economic and industrial zones

There are 14 special economic zones (SEZs) and in Kazakhstan 50 industrial zones, each of which offers special conditions for investors. They cover such areas as: preferences of special economic zones construction, transportation, waste processing, electronics, pharmaceuticals, chemicals, metallurgy and other industries.

The following benefits shall be granted to residents of a special economic zone:

- Exemption from profit tax for priority activities.
- Exemption from land and property tax.
- VAT exemption for goods, works and services sold in SEZ.
- A free customs clearance regime that allows goods to be imported without payment of duties and taxes.

Industrial zones, in turn, provide ready-made infrastructure for the location of production facilities, which significantly reduces the initial costs of enterprises.

2.3 Investment projects

The legislation of the Republic of Kazakhstan provides for three main types of investment projects: investment project, priority investment project and special investment project.

An investment project includes investments in the creation of new, expanded or modernized production of goods, works and services, including the production of goods, works and services created, expanded and (or) updated in the course of a public-private partnership project, including a concession project. Such a project may provide for VAT exemption on imports, exemption from customs duties and state natural grants. At the same time, investment preferences shall be granted in case of realization of an investment project by a legal entity in the spheres of activity included in the list of priority types of activity approved by the Government of the Republic of Kazakhstan.

The priority investment project includes:

- Creation of new productions of goods, works and services, providing for investments by a legal entity in the construction of new production facilities in the amount of at least two million times the monthly calculation index (approximately 14,750,000 euros);
- Expansion and (or) reconstruction of existing production facilities, providing for the implementation by a legal entity of investments in the amount of not less than five million tenge of the monthly calculation index (about 36,886,000 euros) to provide investment preferences for changes in fixed assets, including renewal (reconstruction, rebuilding, modernization) of existing production facilities for the production of products;
- Investment priority project on creation of new productions of goods, works and services or expansion and (or) renewal of existing productions of goods, works and services shall be carried out by a legal entity on certain priority types of activity, the list of which is approved by the Government of the Republic of Kazakhstan.

The priority investment project provides for:

- Reduction of corporate income tax (CIT) by 100%;
- Applying a 0 multiplier to property tax rates (instead of a full exemption, the tax rate is calculated (and filed with the taxing authorities; however, the tax rate is multiplied by 0% – resulting in a 100% exemption);
- Assessed property tax at 0% of the tax rate. Exemption from income tax and property tax is granted for a maximum of 10 years, exemption from property tax for a maximum of 8 years.

A priority investment project is implemented by a legal entity on certain priority types of activity (warehousing and auxiliary transport activity), the list of which is approved by the Government of the Republic of Kazakhstan.

As noted above, this type of activity requires prior clarification and confirmation from government agencies.

Special investment project – an investment project realized (implemented by) a legal entity of the Republic of Kazakhstan registered as:

- participant of the special economic zone,
- owner of the free warehouse in accordance with the customs legislation of the Republic of Kazakhstan,
- purchased from a participant of a special economic zone or sold by a legal entity of the Republic of Kazakhstan that has entered into an agreement on industrial assembly of motor vehicles.

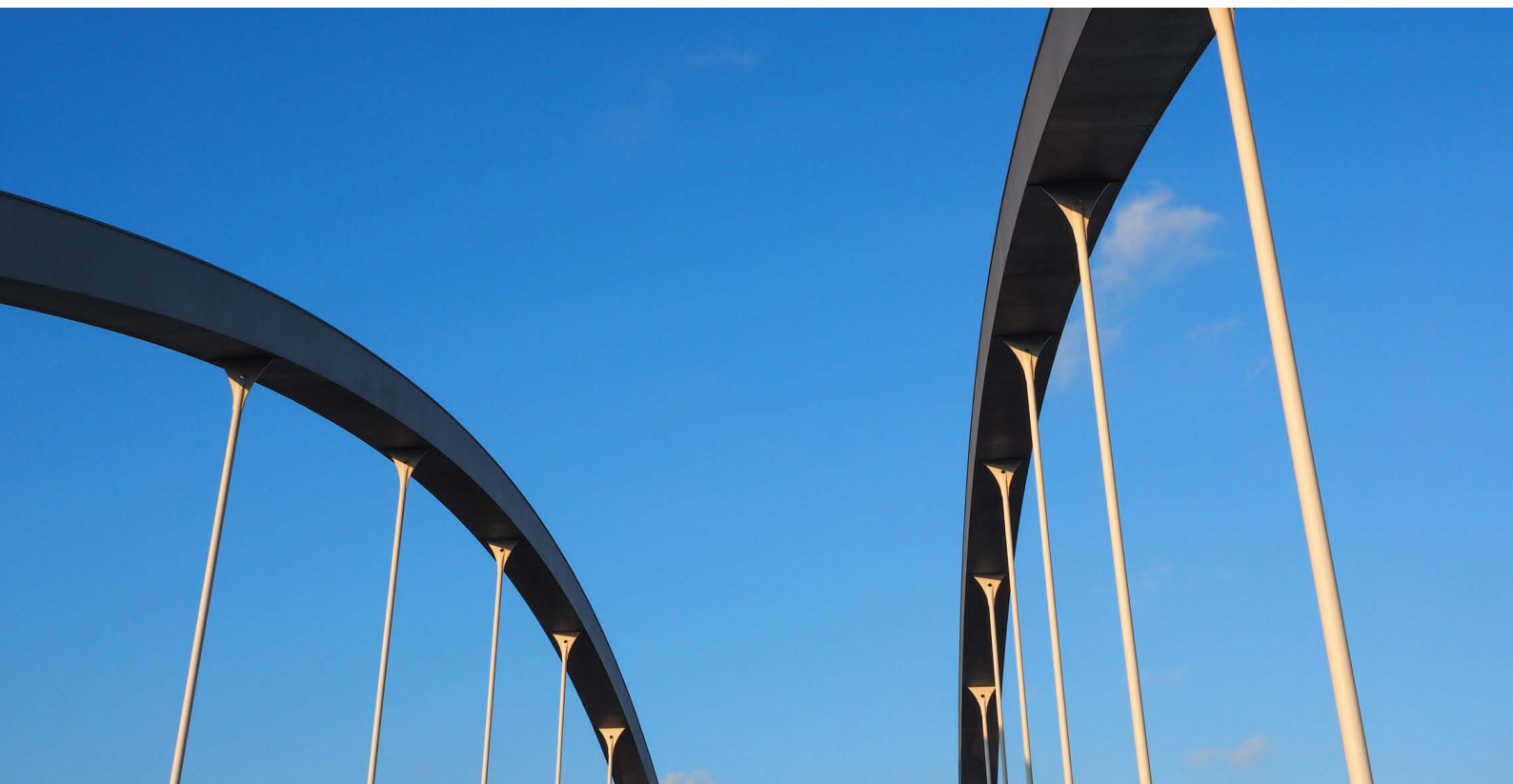
Under the special investment project is provided:

- Exemption from import duties,
- Taxes in accordance with the tax legislation of the Republic of Kazakhstan.

2.4 Investment agreement

Investment agreement – is an agreement on the implementation of an investment project concluded on the basis of the decision of the Government of the Republic of Kazakhstan between a person authorized by the Government of the Republic of Kazakhstan and a legal entity, including those registered in the jurisdiction of the Astana International Financial Center, providing for the implementation of investments in the amount not less than seven and a half million times the amount of the monthly calculation index established by the Entrepreneurship Code. According to Article 295-2.3 of the Entrepreneurship Code, the investment agreement defines the types of investment preferences, conditions and procedure for their granting.

Section 712-2 of the Tax Code expressly forth sets the times and the date of application of individual tax credits.



3. Migration rules

3.1 General provisions

In the conditions of active development of the investment climate in the Republic of Kazakhstan, an important role is played by competent planning and compliance with migration legislation when attracting foreign specialists for the implementation of investment projects. Over the past 20 years, legislation in this area has undergone significant changes, which makes the question relevant: what migration requirements and procedures should a foreign investor planning activities in Kazakhstan take into account?

3.2 Migration policy of the Republic of Kazakhstan

Kazakhstan's migration policy is designed to balance national interests, labor market needs and the country's obligations to international partners. In order to protect the domestic market and develop local human resources, the legislation provides for quota of foreign labor force (FLF), competitive selection among Kazakhstani specialists and strict requirements for justification of foreign workers. The most important steps for employment of foreign citizens are from the migration point of view are: obtainment of a work permit within the allocated quotas and obtainment of an appropriate work visa.

At the same time, foreign investors implementing significant and priority special mechanisms and preferential regimes are provided for projects, aimed at simplifying the procedure for attracting key foreign specialists.

The main normative documents regulating labor migration in Kazakhstan include:

- Labor Code of the Republic of Kazakhstan;
- Law on Migration of Population;
- Law „On Special Economic and Industrial Zones“;
- Constitutional Law “On the „Astana” International Financial Center”.

These laws provide foreign investors with simplified access to labor, including the ability to attract highly skilled professionals without the need for standard permits.

3.3 General provisions for granting preferences for investment projects

As stated earlier, in order to obtain a visa to hire foreign workers, the employer must have the appropriate permit, which is issued on the basis of quotas and conditions on local content (according to clause 1 of Article 36, and clause 1 of Article 37 of the Law „**On Migration of Population**“).

Quotas are set based on the needs of the labor market and are determined by the authorized body on migration issues annually.

3.4 Migration preferences for investment projects

Kazakhstan has created special conditions for investors implementing major projects in priority sectors of the economy. A simplified procedure for attracting foreign specialists is provided for such projects, in particular:

- No quota and need to obtain a work permit;
- Issuance of long-term multiple-entry visas of category „A5“ and „A6“ for certain categories of investors;
- Simplified residence permits for investors and their families;
- In addition, for investment for the priority projects, other criteria may be set for the calculation of local content of personnel.

Preferences for projects registered with AIFC:

- Employees of companies operating in AIFC are entitled to obtain visas at diplomatic missions of Kazakhstan or upon arrival at international airports of the Republic of Kazakhstan.
- This simplifies the process of entering the country, as it does not require prior obtaining of permits and quotas (according to Article 7 and Article 8 of the Constitutional Law „On the „Astana“ International Financial Center).

3.5 Transfer of employees to Kazakhstan (intra-corporate transfer)

Employment opportunities in the Republic of Kazakhstan without concluding an employment contract

In Kazakhstan, there are options for employing foreign workers without entering into a new employment agreement. One such option is intra-corporate transfer. This allows foreign companies from member countries of the World Trade Organization (WTO) to temporarily transfer their employees working as supervisors, managers or specialists to subsidiaries, branches or representative offices in Kazakhstan. Such a transfer does not require the conclusion of a new employment contract with the employee, but it is necessary to obtain the relevant work permit from local executive bodies.

The period of intra-corporate transfer to Kazakhstan is limited: the maximum period is up to 3 years with the possibility of extension for another 1 year. In order to obtain a work permit, foreign employees must meet a number of criteria, including relevant education and work experience in the position to which they are transferred.

When transferring foreign employees, it is important to comply with the requirements on the percentage of local employees in the company. An employer who attracts foreign employees as part of intra-corporate transfer shall ensure that the percentage ratio of foreign employees (managers and specialists) attracted as part of intra-corporate transfer does not exceed fifty percent to the number of Kazakhstani personnel of the relevant category. At the same time, when attracting a foreign employee to the positions of managers, the requirements for compliance with the ratio to the number of citizens of the Republic of Kazakhstan do not apply.

In addition, in order to perform labor activities in Kazakhstan, foreign employees must obtain a work visa, which is issued for the duration of the work permit. Visas and work permits are issued within established quotas, which are determined based on an analysis of labor market needs in Kazakhstan.

4. Tax policy in Kazakhstan

The Tax Code provides a list of non-resident income from sources in the Republic of Kazakhstan, such as:

- Income from sale of goods in the Republic of Kazakhstan
- Income from the sale of goods located in the territory of Republic of Kazakhstan outside of it as part of foreign trade activities;
- Income from work and services performed in the Republic of Kazakhstan;
- Income from rendering the following services outside the Republic of Kazakhstan:
 - managerial,
 - financial,
 - counseling,
 - engineering,
 - marketing,
 - auditors,
 - legal services (except for services on representation and protection of rights and legitimate interests in courts, arbitration or arbitration court, as well as notary services)

Income from sources in the Republic of Kazakhstan of a non-resident legal entity whose activities do not result in the creation of a permanent establishment in the Republic of Kazakhstan is subject to **corporate income tax at source without deductions**.

At the same time, the procedure for application of an international treaty for exemption from taxation of such income is regulated by Article 666 of the Tax Code of the Republic of Kazakhstan.

In accordance with the Tax Code of the Republic of Kazakhstan, a taxpayer's expenses are recognized for tax purposes only if they were incurred with the intention of making a profit. An exception is made for certain expenses that are not deductible under the Tax Code. In addition, all expenses may be deductible only if receipts confirming these expenses are available.

The Tax Code also stipulates that accounting statements must include, inter alia, the following documents:

- Accounting documents – for organizations and entrepreneurs obliged to keep accounting records;
- so-called primary accounting documents;
- tax forms and tax returns;
- other documents used to determine the tax base and calculate tax liability.

4.1 Tax permanent establishment: origination, risks and consequences

Basics of tax permanent establishment

In the international tax law, tax permanent establishment is defined as a fixed place of business through which part or all of a company's activities are carried on. In Kazakhstan, the conditions under which a permanent establishment arises are governed by Article 220 of the Tax Code. A permanent establishment may be recognized already if a company provides services in Kazakhstan for a long period of time or has a physical presence in the country.

The role of MLI in the context of employee secondment to Kazakhstan

The Multilateral Instrument (MLI), officially known as the „Multilateral Agreement on the Implementation of Measures under the OECD/G20 BEPS Initiative to Prevent Base Erosion and Profit Shifting“, plays a key role in international taxation. It has a significant impact on the tax liabilities of companies operating in several countries, including Kazakhstan.

Kazakhstan is a party to the MLI and has elected certain options and reservations under this treaty that affect the application of its the treaty double tax treaties, such as with India.

Impact of MLI on the rules on permanent establishment

One of the central changes introduced by MLI is the revision of the definition and conditions for the establishment of a permanent establishment. MLI introduced so-called anti-fragmentation rules that prevent a company from splitting its activities into several formally independent projects or contracts in order to avoid recognizing a tax permanent establishment.

In the context of Kazakhstan, this means that periods of staff presence on different but related projects may be aggregated to determine whether a permanent establishment has arisen. This rule is particularly relevant for companies that regularly second personnel to work on different projects in Kazakhstan, as the aggregate accounting of periods of stay may result in the threshold for recognizing permanent establishment being reached more quickly.

Application of the „Principal Purpose Test“ (PPT) rule

MLI also introduces a rule Principal Purpose Test („PPT“) aimed at preventing abuse of the double tax treaties. Under this rule, the tax benefits of a double tax treaty may be denied if one of the principal purposes of the transaction or structure is to benefit from the treaty without sufficient economic justification.

For companies sending employees to Kazakhstan, this means that any structure aimed solely at minimizing tax liabilities may not provide the expected tax protection. PPT requires careful scrutiny and justification of the economic activity and the purpose of the business activity to avoid unexpected tax consequences.

Significance for business practice

Companies operating in Kazakhstan and seeking to minimize the risk of the creation of a permanent establishment must consider MLI requirements in their tax planning. This requires working with tax advisors to ensure that all activities, contracts and employee secondments are compliant with MLI requirements.

The application of MLI means that companies must pay more attention to the structure of their international operations. It is important not only to consider local tax laws, but also to comply with the new international requirements imposed by MLI.

Intermediate conclusion

MLI has a significant impact on international taxation, particularly with respect to the recognition of permanent establishment and preventing abuse of the double tax treaties. It is critical for companies operating in Kazakhstan or sending employees there to understand the new rules and incorporate them into their business and tax strategy. Sound preparation and qualified tax advice are essential to comply with all legal requirements and mitigate tax risks.

Permanent Establishment in the Provision of Services (Service-PE)

A special type of permanent establishment is a Service (Permanent Establishment Service-PE), which arises if a company provides services in another country for a specified period. For example, under the double tax treaty between India and Kazakhstan, Service-PE arises if the company's services are performed in Kazakhstan for more than 90 days during a 12-month period.

In this context, the concept of „interrelated projects“ plays a key role, which means that the timelines of different but related projects can add up. This can lead to a permanent establishment even if none of the individual projects exceeds the 90-day threshold. This approach creates significant risks for companies operating in Kazakhstan, as they may unexpectedly become subject to tax liabilities.

Case studies

In practice, a permanent establishment may arise if several projects run consecutively or have a meaningful relationship. For example, if a company performs similar services for the same customer in different periods, each not exceeding 90 days, but together they fall within the criteria of Service-PE, there may be tax consequences.

To avoid the unplanned emergence of a permanent establishment, companies must carefully structure the projects and contracts they enter into. One possible strategy is to clearly delineate between projects to eliminate economic interdependence.

This is advisable, at least from the point of view of local tax law. The provisions of international law are often interpreted against the background of local tax authorities' interests, so the risk of double taxation should always be kept in mind.

Strategies to avoid the emergence of a permanent establishment

To minimize the risk of a permanent establishment, companies should carefully plan their projects and related contracts. It is advisable to closely monitor project timelines and ensure that there is no duplication or dependency between different projects that may be considered „interdependent“.

Companies should therefore regularly review the possibility of a permanent establishment in Kazakhstan and take appropriate measures to prevent it. This may include restructuring projects or adjusting contractual provisions. Comprehensive documentation and cooperation with local tax advisors such as Rödl & Partner are also crucial to ensure compliance with all legal requirements and prevent unwanted tax liabilities.



5. Construction, licensing and regulatory requirements

5.1 Regulation of land plots

In Kazakhstan, the realization of the construction of the object is carried out in stages, as in other countries. Each investor should understand what to pay attention to when building a facility in Kazakhstan. Regulation of land plots

In Kazakhstan it is necessary to settle the issue of the land plot on which the construction project will be located. In this case, certain aspects should be taken into account, namely:

1. Rights to a land plot: privately owned land plots may be held only for the purpose of development or built-up industrial and non-production, including residential, buildings (structures, constructions) and their complexes, including land intended for servicing buildings (structures, constructions) in accordance with their purpose; it follows that when acquiring land from private parties, the investor should carefully examine its intended use. An investor may have temporarily limited land use rights, but not permanent rights.
2. Further, it should be taken into account that one of the principles of the land legislation of Kazakhstan is the target use of land, as certain land has its own category (land of agricultural purpose; land of settlements; land of industry, transport, communication, for the needs of space activities, defense, national security and other non-agricultural purposes; land of specially protected natural territories, land of health-improving, recreational and historical-cultural purposes; land of forest fund; land of water resources; land of water resources) Consequently, before realizing the construction of an object, an investor should acquire a land plot, which should correspond to the intended purpose for construction and operation of the object, as otherwise this land plot will be forcibly withdrawn due to its use or use of its part not in accordance with the intended purpose.

Thus, one of the important factors in the realization of the investor's plans to build a facility is the correct choice of land plot, given that the development and use of land plots are allowed in strict accordance with the intended purpose reflected in title and / or identification documents for land plots.

In Kazakhstan, an investor may acquire a land plot privately for ownership or publicly, i.e. acquire land use rights from the state. The right to the land plot must be registered in the land cadastre and confirmed by relevant documents, e.g. a sale and purchase or a temporary (short-term, long-term) compensated (gratuitous) land use agreement; an identification document (act for the right of temporary compensated (long-term, short-term) land use (lease) / act for the right of temporary gratuitous).

Land plot allocation for construction of facilities is carried out together with architectural and planning assignment, technical conditions for connection to engineering networks and topographic survey.

In addition to the intended purpose of the land plot, the investor should take into account another important aspect of the land plot, namely the period of its development. In this case, we are talking about the period of development of a land plot intended for construction, which is 3 years, unless a longer period is provided for in the design and estimate documentation. If the land plot is not used for its intended purpose and developed within the specified period, such land plot is subject to compulsory withdrawal.

5.2 Design and survey works

An important stage in the construction of the facility is the implementation of design and survey work. In Kazakhstan, engineering surveys for the construction of a facility is a type of construction activity that provides a comprehensive study of a natural and anthropogenic conditions of the territory (region, district, site, plot, route) of the objects of projected construction, making forecasts of the interaction of these objects with the environment, justification of their engineering protection and safe living conditions of the population.

Based on engineering survey materials, project documentation is developed, including urban planning documentation and investment justifications for construction, as well as design and working documentation for the construction of enterprises, buildings, and structures, along with the preparation of recommendations for making economically, technically, socially, and environmentally justified design decisions.

The basis for engineering surveys is the contract between the customer (investor) and the engineering survey contractor with its integral annexes: technical assignment (letter), work schedule, cost calculation and, if required by the customer, engineering survey program, as well as additional agreements to the contract in case of changes in the composition, terms and conditions of work performance.

The investor should understand that in order to carry out engineering surveys for construction or their separate types (works, services) it is necessary to engage legal entities and / or individuals (executor of surveys) that have the established by the appropriate licenses for their production in accordance with the procedure, namely the legislation of Kazakhstan **license for survey activities**.

5.3 Feasibility study and design and estimate documentation

When carrying out pre-design and design work required for the construction of an object, it should be understood that the feasibility study is part of the pre-design documentation, while the design and estimate documentation is part of the design documentation.

A feasibility study is a document containing information on the main technical, technological and other solutions, as well as the results of the study of the feasibility and efficiency of an investment project conducted on the basis of an economic analysis of benefits and costs with the determination of the main technical and economic parameters. In other words, the feasibility study is applied also in cases when the investor realizes an investment project. The investor should take into account that the feasibility study is subject to a comprehensive non-departmental expert review, just like the design and estimate documentation.

The design and estimate documentation is a set of documents containing design solutions developed in accordance with the design assignment, covering the sections of the design and estimate documentation for the construction of the respective facility. The actions related to the design and estimate documentation can be divided into the following stages:

- a. development of design and estimate documentation by a contracting organization,
- b. coordination of design and estimate documentation with state authorities,
- c. implementation of comprehensive non-departmental expertise,
- d. approval of design and estimate documentation by the investor.

Construction of the object, as well as laying of communications, engineering preparation of the territory, landscaping and gardening shall be carried out according to the design and estimate documentation. If the construction of the object was carried out without design and or according to estimate design and documentation estimate documentation that has not passed the examination in accordance with the established procedure, construction and installation works shall be suspended in accordance with the legislation of Kazakhstan on administrative offenses.

Thus, the development of design and estimate documentation is carried out on the basis of: (1) a contract for design work concluded between the customer (investor) and the contractor and (2) a design task drawn up in accordance with the construction standards of Kazakhstan.

5.4 Licenses for project activities

The investor must be aware and take into account that design and estimate documentation is developed by organizations holding licenses for design activities, specifying the relevant types (subtypes) of design activities in the fields of architecture, urban planning, and construction. Additionally, the development of design and estimate documentation is carried out in accordance with the design assignment provided by the investor, taking into consideration the main requirements and recommendations of the architectural and planning assignment, and in compliance with state regulations in the fields of architecture, urban planning, and construction.

Thus, in Kazakhstan, the implementation of construction projects is carried out in the following stages:

- a. obtaining source materials for the development of construction projects (except for cases when source materials are issued together with the land plot for construction);
- b. development and approval of a sketch (preliminary design);
- c. development of design and estimate documentation and comprehensive non-departmental expert examination of construction projects;
- d. notification of bodies exercising state architectural and construction control and supervision of the commencement of construction and installation works, implementation of construction and installation works;
- e. acceptance and commissioning of the constructed facility.

5.5 Environmental Impact Assessment

The investor should consider the need for **an environmental impact assessment** and an **environmental impact statement**.

In this case, the investor should pay attention to the list of types of planned activities and facilities for which environmental impact assessment is mandatory, regulated by the Environmental Code of Kazakhstan.

5.6 Construction phase

After the completion of pre-design and design work for the construction of the facility, the implementation phase of its construction begins, which means the execution of construction and installation works.

In Kazakhstan, the selection of a contractor (general contractor) by the investor for the performance of contract work and the conclusion of a construction and installation work contract is carried out in the following ways: (1) without holding a tender, (2) based on the results of a closed or open tender (competition), or (3) with or without the preliminary qualification of applicants for participation in the tender (competition). The investor is not restricted in their choice of procedure for concluding the construction and installation work contract. Please note that when organizing the construction process, the construction company must comply with the requirements established by Kazakhstan's construction standards, which the investor should take into account.

The investor on the basis of the contract for construction and installation works transfers to the contractor, approved by him design and estimate documentation, working documentation for the whole object or for certain stages of works, as well as working documents for removal of construction waste and garbage to the places of their processing and / or utilization.

Further, after the conclusion of a contract for construction and installation work, the investor must submit **a notice of the commencement of construction and installation work** to the body exercising state architectural and construction control and supervision at the location of the land plot.

5.7 Technical supervision

Technical supervision is mandatory, as this process checks construction at all stages of project realization, including quality, terms, cost, acceptance of completed works and commissioning of facilities.

Thus, in parallel with the conclusion of a contract for the production of construction and installation works, it is also required to conclude a **contract for technical supervision** with an expert organization that has experts with relevant **accreditation certificates**, or the investor can carry out technical supervision independently in accordance with the requirements of the legislation of Kazakhstan.

Upon completion of the construction of the facility, the person performing technical supervision shall issue to the investor **a conclusion on the quality of construction and installation works** in accordance with the approved form.

5.8 Authors' supervision

In addition to the implementation of technical supervision, it is also necessary to carry out **author's supervision**, the purpose of which is to control the development of the construction project (construction documentation), carried out by the author (authors) of the architectural and town-planning work and the implementation of the construction project, carried out by its developers, including the author (authors) of the architectural or town-planning work, and is carried out by the developers of design and estimate documentation.

Thus, the investor is required to conclude a **contract for author's supervision** with the project developer or an expert having **a certificate for the right to provide engineering services** in the field of architectural, town-planning and construction activities.

Upon completion of the construction of the facility, the person performing author's supervision shall issue to the investor **a conclusion on the compliance of the completed works with the project**, in accordance with the approved form.

In addition to the above, the investor should also take into account that during the construction of the facility, all participants take measures to prevent the impact of hazardous and harmful industrial factors on workers.

Additionally, during the construction process, the contractors prepare and maintain as-built documentation, which records the actual implementation of design solutions and the actual location of structures and their elements at all stages of construction as specific phases of work are completed. The requirement to prepare as-built documentation, as well as its content and forms, are established by the legislation of Kazakhstan and the construction standards of Kazakhstan.

5.9 Commissioning

Upon completion of all construction and installation works, the acceptance and commissioning of the completed facility are carried out by the investor (customer) once the facility is fully ready in accordance with the approved project and provided that a declaration of conformity, reports on the quality of construction and installation works, and confirmation of the completed works' compliance with the approved project are available.

The following steps are required before the acceptance of the constructed object can take place:

1. The investor receives a written notification from the contractor (general contractor) about the readiness of the object for acceptance into operation;
2. The Customer shall request a declaration of conformity and conclusions on conformity of the completed works to the project and quality of construction and erection works from the Contractor (General Contractor) and persons performing technical and author's supervision from the date of receipt of the notice;
3. The Contractor (general contractor) and persons performing technical and author's supervision shall submit the above-mentioned documents at the customer's request;
4. Based on the declaration of conformity, reports on the quality of construction and installation works, and confirmation of the completed works' compliance with the project, the customer, together with the contractor (general contractor) and the persons responsible for technical and architectural supervision, must review the as-built technical documentation for completeness and accuracy, inspect the facility, and accept it for operation by signing the relevant act (conduct the final inspection of the facility for readiness for commissioning).

If violations of the approved design solutions and state (interstate) standards are revealed, as well as in the presence of negative conclusions, the customer accepts the facility into operation after the contractor (general contractor) eliminates the violations. If the identified violations are eliminated, the acceptance of the object into operation is carried out in accordance with the established by the procedure legislation of Kazakhstan.

It should be noted that the provision of design and estimate documentation, the declaration of conformity, reports on the quality of construction and installation works, and confirmation of the completed works' compliance with the project to the customer does not release the contractors responsible for design and construction works, as well as the persons performing technical and architectural supervision, from liability for the works performed during design, construction, acceptance, and commissioning of the facility.

Therefore, the acceptance of the completed facility for operation must be formalized by an **acceptance certificate for commissioning**, using the approved form, which must be approved by the investor. The date of signing the acceptance certificate for commissioning is considered the date of its approval and the date the facility is put into operation. It should also be noted that the operation of the completed facility is not allowed without an approved acceptance certificate for commissioning.

The approved acceptance certificate for commissioning serves as a legal title document for the facility, and the ownership right to this real estate is subject to registration in accordance with the legislation of Kazakhstan.

6. Conclusion

Foreign investors planning to implement industrial projects in Kazakhstan can benefit from favorable conditions, including tax incentives, investment preferences, simplified migration procedures, and special economic regimes. However, successful operations require strict compliance with legislative requirements, including taxation, licensing, and labor laws. Carefully studying the available mechanisms of state support will help minimize risks and improve the efficiency of operations in the Kazakhstani market.



Contact



MICHAEL QUIRING

Attorney at Law

Partner

Regional Manager for Central Asia

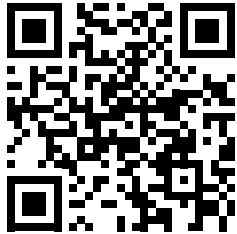
T +7 727 3560 655

michael.quiring@roedl.com

About us

Rödl & Partner – The agile caring partner for Mittelstand shaped world market leaders

www.roedl.com/about-us



www.roedl.com/kazakhstan

www.roedl.kz