**«Agreed"**

**Acting Head of Department**

**government revenue**

**in Pavlodar region**

**\_\_\_\_\_\_\_\_\_\_\_\_\_ T. Goryaev**

**"\_\_" April 2022**

**Analytical reference**

**Pavlodar 15 April 2022**

**I. Introduction**

The working group of the Department of State Revenues for the Pavlodar region (hereinafter referred to as the Working Group), on the basis of the order of the acting head of the Department of State Revenues for the Pavlodar region (hereinafter referred to as the Department) dated 08.04.2022 No. 113, conducted an internal analysis of corruption risks in the activities of the structural divisions of the Department .

In accordance with the Model Rules, the internal analysis of corruption risks of the Department was carried out in the following areas:

Identification of corruption risks in regulations and legal acts affecting the activities of the Department.

The internal analysis of corruption risks was carried out in the period from 04/08/2022 to 05/08/2022.

The analysis of corruption risks was carried out by the composition of the Working Group, while independent experts (specialists) were not involved.

***Identification of corruption risks in the organizational and managerial activities of the Department and its territorial divisions***

Identification of corruption risks in the organizational and managerial activities of the Department and its territorial divisions was carried out on the following issues:

1) personnel management, including personnel turnover;

2) settlement of conflicts of interest;

3) provision of public services;

4) implementation of licensing functions;

5) implementation of control functions;

6) Other issues arising from organizational and managerial activities.

**II. Descriptive part**

***1. Personnel management, including personnel turnover***

The internal analysis of organizational and managerial activities showed that personnel management in the Department and its territorial divisions is carried out in accordance with the current legislation of the Republic of Kazakhstan: the Labor Code of the Republic of Kazakhstan, the laws of the Republic of Kazakhstan “On Civil Service in the Republic of Kazakhstan”, “On Combating Corruption”, as well as other laws and by-laws.

The total staffing of the state revenue bodies of the region as of March 31, 2022 is 419 units (actual headcount -409 units), including the Department - 189 units (actual headcount -187 units), territorial state revenue authorities -230 units (actual headcount –222 units).

For the 1st quarter of 2022, 22 people were replaced in the state revenue bodies of the region (Department - 9 people, territories - 13 people), including 13 people who were replaced in connection with the transfer within the state body, dismissed in connection with the transfer to another state body - 3 people, net turnover - 5 people (of which 5 people - other reasons), dismissed due to the release of the main employee - 1 person).

In the 1st quarter of 2022, 26 officials were brought to disciplinary responsibility, while in the same period of 2021 only 8 officials were brought to justice.

No offenses discrediting the civil service, violations of the norms of the Code of Ethics by civil servants for the 1st quarter of 2022 were established.

The study of the civil service processes in the Department and its territorial subdivisions (holding competitions for vacant positions, imposing disciplinary sanctions, retraining and advanced training, mentoring, etc.) showed that, in general, they comply with the established requirements of the civil service legislation.

In the course of the analysis on the issues of personnel management in the activities of the Department, no corruption risks were identified.

***1.2. Settlement of conflict of interest***

Ethical control in the civil service is an important mechanism for preventing corruption, violations of professional ethics and resolving conflicts of interest. Since 2016, by Decree of the President of the Republic of Kazakhstan dated December 29, 2015 No. 153 “On measures to further improve the ethical standards and rules of conduct of civil servants of the Republic of Kazakhstan”, the institution of ethics commissioners in central and local government bodies has created conditions for improving official discipline and responsibility of civil servants , as well as an additional anti-corruption mechanism.

In the Department, the functions of the Commissioner for Ethics are assigned to the Deputy Head of the Department.

In the course of analyzing the activities of the Commissioner for Ethics of Reports for the 1st quarter of 2022, it was established that the Commissioner for Ethics of the Department for the reporting period carried out work as part of the performance of the functions assigned to him by the Regulations on the Commissioner for Ethics, approved by Decree of the President of the Republic of Kazakhstan dated December 29, 2015 No. 153 (hereinafter referred to as the Regulation). Regarding the identification of a conflict of interest according to the submitted quarterly reports, there were no written requests about the conflicts of interest that have arisen or the possibility of its occurrence.

In accordance with subparagraph 9) of paragraph 4 of the Regulations, the ethics commissioner is obliged, in order to prevent and prevent violations of the legislation of the Republic of Kazakhstan in the areas of public service, combating corruption and the Code of Ethics, as well as forming a positive image of the public service, to interact with civil society institutions and government bodies .

Thus, the Commissioner for Ethics of the Department is working to clarify the legislation of the Republic of Kazakhstan in the field of public service, prevention of corruption, and the Code of Ethics.

As part of the implementation of the concept of a “hearing” state body, the Commissioner for Ethics of the Department conducts a personal reception of citizens according to the schedule for the reception of individuals, representatives of legal entities, posted on the Internet resource of the Department, which corresponds to paragraph 9 of Section 3 of the Regulations.

For the 1st quarter of 2022, the Commissioner for Ethics of the Department held 2 lectures, published 78 articles in the media, social networks and radio (official website of the Department Facebook, Tweeter, Instagram).

In the 1st quarter of 2022, the Commissioner for Ethics of the Department conducted a survey of 70 employees of state revenue bodies.

The analysis carried out shows the transparency of the activities of the Commissioner for Ethics of the Department.

No corruption risks have been identified with regard to the settlement of conflicts of interest in the activities of the Department.

***1.3. Provision of public services***

According to the results of the 1st quarter of 2022, the Department provided 207,447 public services, including 101,295 for individuals and 106,152 for legal entities. The number of services in electronic form is 206,739 or 99.6%, on paper - 708 or 0.4%.

In the course of the analysis, it was found that public services provided on paper comply with the legislation of the Republic of Kazakhstan.

For example, one of the public services provided by the Department of State is “Issuance of a license for the storage and retail / wholesale of alcoholic products, with the exception of the storage and retail / wholesale of alcoholic products in the territory of its production.”

Thus, in order to obtain a license for the storage and retail/wholesale sale of alcoholic products, with the exception of the storage and retail/wholesale sale of alcoholic products in the territory of its production (hereinafter referred to as the License), the applicant submits the necessary documents.

In the period from 01/01/2022 to 03/31/2022, the Department issued 224 licenses for the storage and retail sale of alcoholic products and 2 licenses for the storage and wholesale of alcoholic products.

In addition, during this period there were no motivated refusals on applications that did not meet the qualification requirements.

In the course of the analysis, it was found that the license is issued through the e-Government web portal www.egov.kz in the e-license application, which excludes direct contact between the licensee and the service provider. The implementation of the provision of services in electronic form eliminates the occurrence of corruption risks

During the internal analysis of corruption risks on the provision of public services in the activities of the Department, no corruption risks were identified.

***1.4. Implementations of permissive functions***

In the course of conducting an internal analysis of corruption risks on the implementation of licensing functions in the activities of the Department, no corruption risks were identified.

***1.5. Implementation of control functions***

*1.5.1. The risk of making a decision based on the results of an in-house audit in connection with the liquidation of a taxpayer by a taxpayer at his own discretion*

According to Article 66 of the Tax Code, in the event that individual entrepreneurs and persons engaged in private practice who terminate their activities are not VAT payers and are not included in the tax audit plan or the list of selective tax audits based on the results of risk assessment system activities, or are not included in the semi-annual schedule of tax audits conducted according to a special procedure based on the assessment of the degree of risk, are subject to deregistration with the tax authority based on the results of an in-house audit.

So, in the event of a decision to terminate the activities of an individual entrepreneur or a person engaged in private practice, at the same time submit to the tax authority at the location:

1) tax application for termination of activities;

2) notification of the beginning or termination of activities as a taxpayer carrying out certain types of activities;

3) liquidation tax reporting;

4) a tax application for deregistration of a cash register in the order (in the event that a KKM was registered with a tax authority).

The tax authority, within three working days from the date of receipt of the tax application of an individual entrepreneur or a person engaged in private practice, on the termination of activities, is obliged to send a request:

1) to the authorized state bodies - on the submission of information on transactions with property subject to state registration, committed by an individual entrepreneur, or a person engaged in private practice, terminating activities, as well as on their property as of the date of receipt of a tax application for termination of activities;

2) to second-tier banks and (or) organizations engaged in certain types of banking operations - on the provision of information on the balances and movement of money on the bank accounts of an individual entrepreneur or a person engaged in private practice, terminating activities, as of the date of receipt of a tax application for termination of activities.

The tax authority, within ten working days from the date of receipt of all information, is obliged to carry out an in-house audit and draw up a conclusion in the manner prescribed by the Tax Code.

The conclusion reflects the results of in-house control and the status of calculations for taxes, payments to the budget and social payments.

The conclusion is drawn up in at least two copies and signed by officials of the tax authority. One copy of the conclusion is handed over no later than three working days after its signing to an individual entrepreneur or a person engaged in private practice against signature or sent to him by registered mail with notification.

In case of detection of violations as a result of in-house control, the individual entrepreneur or a person engaged in private practice, no later than five working days from the date of receipt of the conclusion, is served with a notice of elimination of violations identified as a result of in-house control.

The execution of the notice on the elimination of violations identified as a result of an in-house audit is carried out by an individual entrepreneur or a person engaged in private practice in the manner prescribed by Article 96 of the Tax Code.

In case of non-fulfillment of the notification and (or) disagreement of the tax authorities with the explanations provided by the taxpayer, a tax audit is carried out in relation to an individual entrepreneur or a person engaged in private practice that ceases to operate.

An individual entrepreneur or a person engaged in private practice is recognized as deregistered from the date of:

1) drawing up an opinion - in the absence of violations based on the results of in-house audit and tax debt, debt on social payments;

2) execution of the notification on the elimination of violations identified as a result of an in-house audit - in the presence of such violations and the absence of tax debts, debts on social payments;

3) repayment of tax debts, debts on social payments - in the presence of tax debts and the condition of elimination of violations revealed by the results of in-house audit, in full.

As for the simplified liquidation of legal entities based on the results of an in-house audit, the specifics of the fulfillment of tax obligations by certain categories of liquidated legal entities are reflected in Article 59 of the Tax Code.

The mode of formation of conclusions of cameral control in connection with the liquidation of taxpayers is implemented in the IS INIS RK. Thus, a specialist to whom an application for termination of activities has been submitted for execution forms a conclusion in the IS INIS RK. At the same time, the technical capabilities of the program do not provide for the coordination, signing or approval of the conclusion of the cameral control in connection with the liquidation of the taxpayer by the head of the department and the supervising deputy head of the State Revenue Office.

**Risk:** all actions to conduct in-house control in connection with the termination of the taxpayer's business activities, including the decision to liquidate it, are carried out only by the specialist, for the execution of which the application for termination of activities was sent, which gives the specialist the right to make a decision at his own discretion, therefore, there is a risk of corruption.

**Recommendations:** in order to eliminate the risk of corruption in terms of unlawful liquidation of taxpayers based on the results of an in-house audit, we consider it appropriate to implement in information systems the function of agreeing and approving by management the conclusion of an in-house audit in connection with the liquidation of taxpayers and to implement in the IS the functionality of format-logical control for compliance with Art. 59.66 of the Tax Code, and in case of non-compliance with the requirements, provide for a ban on the formation of conclusions in a simplified mode.

*1.5.2. The risk of corruption risks arising when interacting with taxpayers classified in accordance with the risk management system as a low-risk category, while having debts*

In accordance with the Laws of the Republic of Kazakhstan “On Pension Provision in the Republic of Kazakhstan”, “On Social Insurance in the Republic of Kazakhstan”, the Code “On Taxes and Other Obligatory Payments to the Budget” (hereinafter referred to as the Tax Code), methods of ensuring and enforcement of debt collection are applied by state revenue authorities in in relation to taxpayers classified in accordance with the risk management system as high or medium risk. At the same time, methods and measures of enforcement are formed in IS INIS in automatic mode.

With regard to taxpayers with a low degree of risk, enforcement measures are not applied, which creates certain problems in ensuring the timely repayment of existing debts by debtors.

At the same time, in accordance with paragraph 11 of Chapter 4 of the Order of the Minister of Finance of the Republic of Kazakhstan dated February 20, 2018 No. 252 “On approval of the Rules for the application of a risk management system based on criteria that are not confidential information” (hereinafter referred to as the Order), it was established that for taxpayers for which a low degree of risk is determined, in case of non-payment of tax debt and (or) debt on social payments for more than thirty calendar days, the degree of risk is subject to updating at least once a month.

In practice, taxpayers with a low degree of risk do not repay their debts for a long time. At the same time, in order to ensure the reduction of arrears, mining is carried out by calling on the phone, visiting the taxpayer's address, which is not always effective.

In addition, with such direct interaction between the state revenue authorities and the taxpayer, the possibility of corruption risks cannot be ruled out.

**Risk:** the emergence of corruption risks when interacting with taxpayers classified in accordance with the risk management system as a low-risk category, while having debts.

**Recommendations**: in order to prevent the formation of corruption risks in the course of debt collection, it is necessary to exclude the risk categorization of taxpayers who owe taxes and social payments. Or provide for in IS INIS an automatic change in the degree of risk from low to medium or high for taxpayers, in case of non-payment of tax debt and (or) debt on social payments for more than thirty calendar days.

*1.5.3. The risk of untimely sending or not sending decisions to the authorized bodies on limiting the disposal of the taxpayer's property to pay off tax debts, as well as the removal of encumbrances when paying off tax debts*

In accordance with paragraph 6 of Article 120 of the Tax Code, no later than five working days from the date of delivery to the taxpayer (tax agent) of the decision to restrict the disposal of property, the tax authority sends a copy of such decision to the authorized state bodies to register the encumbrance of rights to property, the right to which or transactions on which are subject to state registration, or property subject to state registration.

INIS IS provides for automated forwarding through external systems of decisions on restrictions on the disposal of property to NJSC "Government for Citizens".

Decisions are sent to other authorized state bodies (UAP DIA, Department of Agriculture, Transport Control Inspectorate, Department of the Industrial Safety Committee) on paper by hand or by mail.

**Risk:** there is a risk of not sending or untimely sending decisions on restricting the disposal of the taxpayer's property to the registration authorities by hand or by mail, which may lead to the alienation (withdrawal) of property by the taxpayer.

**Recommendation**: to make a proposal on the implementation of the interaction of information systems of state revenue bodies and authorized bodies in terms of the automated sending of decisions on the restriction of the disposal of the taxpayer's property to register the encumbrance of the rights of the taxpayer's property, as well as the removal of encumbrances upon repayment of debt.

*1.5.4. The risk of tax evasion as a result of the execution of a notice on the elimination of violations based on the results of an in-house audit*

In-house control is the control exercised by the tax authorities on the basis of the study and analysis of tax reporting submitted by the taxpayer (tax agent), information from authorized state bodies, as well as other documents and information about the activities of the taxpayer.

In accordance with paragraph 1 of Art. 96 of the Tax Code, in case of detection of violations based on the results of an in-house audit, a notice is issued on the elimination of violations identified by the tax authorities based on the results of an in-house audit.

According to paragraph 2 of Art. 96 of the Tax Code, the execution of a notice of elimination of violations identified by the tax authorities based on the results of an in-house audit is carried out by the taxpayer (tax agent) within thirty working days from the day following the day of its delivery (receipt).

In the event of agreement with the violations specified in the notification, the elimination of the identified violations by the taxpayer (tax agent) is recognized as fulfillment by submitting tax returns on the notification for the tax period to which the identified violations relate.

At the same time, suppose a taxpayer sold goods (works, services), reflecting it in the IS ESF, according to the results of in-house control, it was revealed that this sale was not reflected in tax reporting, that is, there is a fact of minimizing income. Further, the taxpayer is issued a notice of the elimination of violations identified by the tax authorities based on the results of an in-house audit, for which he submits tax returns reflecting the amounts of income in it in accordance with the ESF.

At the same time, there is a possibility that doubtful expenses will be deductible when calculating taxes, resulting in a zero tax assessment. Thus, the notification will be executed, however, the effectiveness of cameral control is inconclusive. In this case, there is a corruption risk leading to tax evasion.

Specialists exercising in-house control need to check the expenditure part reflected in the statements by comparing it with the ESF for the purchase of goods, works, services.

**Risk:** An official, in collusion with a taxpayer, may facilitate tax evasion despite two-step verification.

**Recommendations:** To eliminate corruption risks, automate the integration of IS SONO with IS ESF in terms of reflecting the acquisition of goods, works, services.

1.5.5 The risk of removal from control of the customs declaration for a vehicle (hereinafter referred to as TDTS) without the actual departure from the territory of the Eurasian Economic Union (EAEU) of vehicles for personal use and vehicles of international transportation

In accordance with the Decision of the Commission of the Customs Union No. 511 dated November 18, 2010, customs operations upon completion of the temporary import or temporary export of vehicles of international transportation (hereinafter referred to as TSMP), except when the TDTS is submitted in the form of a certificate.

When exporting temporarily imported TSMP from the customs territory or when importing temporarily exported TSMP into the customs territory, the carrier must submit the TDTS and documents to the customs authority.

After the carrier submits the necessary documents to the customs authority, the official of the customs authority shall carry out the following customs operations:

1) registration of submission of documents, in a journal, the form of which is established by the body of the Member State authorized in the field of customs, including using information systems and information technologies;

2) registration of the completion of temporary import or temporary export of TSMP in the log;

3) registration of the completion of the temporary import or temporary export of the TSMP based on the results of the TDTS check by affixing it to the TDTS.

**Risk:** Removal from control of TDTS without actual departure from the territory of the Eurasian Economic Union (EAEU) of vehicles for personal use and vehicles of international transportation. (avoidance of payment of due payments by prior agreement with individuals.)

**Recommendation:** Conduct a customs inspection in accordance with the order of the Ministry of Finance of the Republic of Kazakhstan No. 188 dated February 14, 2018, upon the actual departure from the territory of the EAEU of vehicles for personal use and vehicles of international transportation.

**6. Other issues arising from organizational and managerial activities**

***6.1 Risk of unlawful removal of restrictions from the taxpayer's current account***

The technical capabilities of the program do not provide for the approval, signing or confirmation of the withdrawal of RPRO on bank accounts by the head of the department, or by the supervising deputy head of the State Revenue Office. The decision to withdraw the RPRO is made and carried out only by the specialist for whose execution the notification of the results of the in-house audit was sent.

**Risk:** an official of the state revenue body, pursuing mercenary goals and colluding with the taxpayer, has the opportunity to form a withdrawal of RPRO on bank accounts in the ECD IS in the "manual" mode, which gives rise to corruption risks.

**Recommendations:** in order to eliminate the risk of corruption in terms of unlawful removal of restrictions from the taxpayer's current account, we consider it appropriate to implement the function of automated revocation of RPRO on executed in-house audit notifications.

Application: \_\_\_\_l.

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