**Analytical reference**

 **Pavlodar 5 January2022**

**I. Introduction**

The working group of the Department of State Revenues for Pavlodar region (hereinafter referred to as the Working Group), on the basis of the order of the head of the Department of State Revenues for Pavlodar region (hereinafter referred to as the Department) No. 675 dated December 24, 2021, 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.

An internal analysis of corruption risks was carried out in the period from 12/15/2021 to 01/28/2022.

***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 01.12.2021 is 470 units (actual headcount -424 units), including the Department - 210 units (actual headcount -193 units), territorial state revenue authorities -260 units (actual headcount –231 units).

As of 01/01/2022, as a result of the measures taken to optimize the staffing in the state revenue bodies of the region, the total number of employees amounted to 419 units, the actual number was 415 units.

In 2021, 59 people were replaced in the state revenue bodies of the region (Department - 32 people, territories - 27 people), including 27 people who were replaced in connection with the transfer within the state body, 3 people were dismissed in connection with the transfer to another state body , net turnover - 20 people (of which 5 people - in connection with the transition to private organizations, 15 people - other reasons), dismissed due to retirement -3 people, dismissed due to death -1 person, dismissed after the term of the employment contract - 2 people, 3 people were dismissed for negative reasons).

In 2021, a total of 71 officials were brought to disciplinary responsibility, i.e. 17.1%. During the reporting period, compared to the same period in 2020, there is a decrease in disciplinary sanctions by 20 penalties.

For offenses discrediting the civil service, 1 employee was brought to justice, who, on the indicated grounds, was dismissed for negative reasons. In 2020, no offenses discrediting the public service were identified.

In 2021, there were no violations of the norms of the Code of Ethics by civil servants, while for the same period in 2020, this violation was committed by 1 official.

In 2021, 2 ERDRs were recorded (1 ERDR in the territorial OGD, 1 ERDR in the Department), 1 of which was terminated under paragraph 1 of part 1 of article 35 of the Criminal Procedure Code of the Republic of Kazakhstan due to the absence of a criminal offense, 1 each at the stage of pre-trial investigation. In 2020, 1 URDR was also recorded.

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 2021, it was found that the Commissioner for Ethics of the Department for the reporting periods carried out work as part of the performance of the functions assigned to him by the Regulation on the Commissioner for Ethics, approved by Decree of the President of the Republic of Kazakhstan dated December 29, 2015 No. 153. 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, the Code of Ethics, and also held 103 events on this topic (lectures, seminars, also with the participation of representatives of the Anti-Corruption Service, articles in the media, Internet resources).

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 receiving individuals, representatives of legal entities posted on the Internet resource of the Department, which corresponds to paragraph 9 of Section 3 of the Regulations on the Commissioner for Ethics, approved by Presidential Decree No. 153 dated December 29, 2015.

In 2021, the Commissioner for Ethics of the Department held 8 personal receptions of citizens and provided advisory assistance on 21 requests.

In 2021, the Commissioner for Ethics of the Department conducted a survey of 410 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***

Following the results of 12 months of 2021, the Department provided 713,356 public services, including 351,383 for individuals and 361,973 for legal entities. The number of services in electronic form is 710,769 or 99.6%, on paper - 2587 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.

From 01/01/2021 to 31.12.2021 The Department issued 388 licenses for the storage and retail sale of alcoholic products and 9 licenses for the storage and wholesale of alcoholic products.

In addition, during this period, 303 applications that did not meet the qualification requirements were motivatedly denied.

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 illegal removal of restrictions from the current account of the taxpayer***

Based on the order of the Department No. 35 dated January 28, 2021, a thematic audit was conducted at the State Revenue Office for Pavlodar (hereinafter referred to as the State Revenue Office for Pavlodar) on the issue of monitoring the completeness of the fulfillment of the tax obligation of B-Akzhar-PV LLP, as well as analysis processing of issued notices for desk control and the application of measures for the enforcement of debt collection in relation to B-Akzhar-PV LLP.

As a result of the check, the following was found:

On December 10, 2019, notification No. 45159V100014 was sent to B-Akzhar-PV LLP on the results of in-house control, the deadline for which is February 11, 2020.

In the course of the in-house control, by studying and analyzing electronic invoices, tax reporting, information from authorized state bodies, as well as other information, it was found that the supplier (suppliers) did not have the actual ability to perform work, provide services, supply goods.

In this connection, B-Akzhar-PV LLP had to exclude the amount of VAT credited on the basis of Article 256 of the Tax Code (as amended in force until 01/01/2018 - for tax periods until 01/01/2018) and article 400 of the Tax Code - for tax periods from 01.01. 2018.

Also, it was necessary to reduce the costs deductible on the basis of Article 100 of the Tax Code (as amended until 01/01/2018 - for tax periods until 01/01/2018) and Article 242 of the Tax Code - for tax periods from 01/01/2018 . 2018.

On 06/04/2020, due to the failure to comply with the above notification, an order was issued to suspend debit transactions on bank accounts No. 76788 (hereinafter referred to as RPRO) (before that, the notification was appealed in court, in the Department, and the state of emergency was in effect).

On August 4, 2020, B-Akzhar-PV LLP submitted an additional declaration f.300.00 for the period 2.4 quarter of 2016 and 1.2 quarter of 2017, where in Appendix 300.08 mutual settlements with counterparties are excluded.

In this connection, on 08/05/2020, the specialist of the State Revenue Office for the city of Pavlodar recalled the RPRO on the bank accounts of B-Akzhar-PV LLP.

However, the violations of B-Akzhar-PV LLP were partially eliminated, since at the time of the withdrawal of the RPRO on bank accounts, the payer had not submitted an additional declaration f.100.00.

An additional declaration f.100.00 for the period 2016 and 2017 was submitted on August 10-11, 2020, that is, the violations were completely eliminated only on August 10-11, 2020.

From the above, it follows that on 08/05/2021. the specialist of the State Revenue Office for the city of Pavlodar unreasonably recalled the RPRO on the bank accounts of B-Akzhar-PV LLP.”

In this connection, according to the results of a thematic audit conducted by the State Revenue Service for Pavlodar region, an official of the State Revenue Service for Pavlodar was brought to disciplinary liability in the form of a reprimand (order No. 4-D of 03/04/2021).

Thus, 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 UGD. 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 authority, pursuing selfish goals and colluding with a taxpayer, can form a withdrawal of RPRO on bank accounts in the ECD IS in a “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.

***1.5.2. The risk of not timely sending RPRO to bank accounts, a collection order to second-tier banks, namely to the Treasury bodies.***

A detailed analysis and development of corruption risks in the field of tax administration was carried out with the identification of the causes and conditions that contribute to the commission of corruption offenses.

So, in the event of non-payment of tax debts by the state revenue authorities, one of the methods for ensuring the fulfillment of an unfulfilled tax obligation on time is applied to taxpayers, such as the suspension of debit transactions on bank accounts of the taxpayer (tax agent), in accordance with paragraph 3 of Article 118 of Chapter 13 of the Tax Code and measures for the enforcement of tax debts in accordance with paragraph 2 of Article 122 of Chapter 14.

Thus, RPRO on bank accounts of a taxpayer (tax agent) is issued in the form established by the authorized body in agreement with the National Bank of the Republic of Kazakhstan, and comes into force from the day it is received by a second-tier bank or an organization carrying out certain types of banking operations.

The tax authority sends RPRO to second-tier banks or organizations that carry out certain types of banking operations, on paper or in electronic form by means of transmission over a telecommunications network. When sending RPRO to bank accounts of a taxpayer (tax agent) in electronic form, such an order is formed in accordance with the formats established by the authorized body together with the National Bank of the Republic of Kazakhstan.

Also, collection orders by the Tax Authority are issued in the form approved by the National Bank of the Republic of Kazakhstan, and contain an indication of the bank account of the taxpayer (tax agent) from which the collection of tax debts is carried out. After that, it is sent to second-tier banks or organizations that carry out certain types of banking operations, on paper or in electronic form by means of transmission over a telecommunications network.

At the same time, for state institutions, RPRO and collection orders are sent to second-tier banks, namely to the Treasury bodies, only on paper, since there is no electronic interaction with the Treasury bodies.

**Risk:** an official of the state revenue authority, pursuing mercenary goals and colluding with a taxpayer, may delay sending RPRO to state institutions, prolonging the onset of the application of methods and measures for the enforcement of tax debts, debts on mandatory pension contributions, social contributions and compulsory social health insurance. This gives rise to corrupt behavior.

**Recommendation**: make a proposal on the implementation of electronic interaction with the Treasury.

***1.5.3 Risk of release of the taxpayer from administrative liability***

Upon completion of the tax audit, as a result of which the amount of additional charges exceeds 50,000 MCI in accordance with paragraph 38 of Article 3 of the Criminal Code of the Republic of Kazakhstan, the tax authority on the basis of joint order No. 435 dated 09/26/2019. The State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan on approval of the Procedure for Interaction between the Committee for Financial Monitoring of the Ministry of Finance of the Republic of Kazakhstan and the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan on combating the shadow economy submits these materials to the DER for a procedural decision in accordance with Article 245 of the Criminal Code of the Republic of Kazakhstan.

However, in article 245 of the Criminal Code of the Republic of Kazakhstan there is a note according to which the taxpayer is exempted from criminal liability in the event of voluntary payment of tax debts.

Consequently, when paying these additional charges, the taxpayer is released not only from criminal, but also from administrative liability, since the criminal case is terminated due to non-rehabilitating circumstances.

**Risk:** We believe that in this case it is possible for the taxpayer to avoid financial liability for tax evasion.

**Recommendation:** Therefore, it is necessary to amend the legislation and exclude from non-rehabilitating circumstances the payment of additional taxes and bring taxpayers to administrative responsibility for tax evasion.

***1.5.4 Risk of improper operation of information systems when calculating penalties in IS INIS/EKNA***

Upon completion of the tax audit report, in case of establishing violations of tax legislation and additional assessments of taxes and other obligatory payments to the budget, the INIS / EKNA system provides for the calculation of penalties in automatic mode. However, due to the lack of synchronization of the data of the taxpayer's personal cards with the IS TsULS program, the automatic calculation of the penalty fee is not always correct.

In this connection, the inspector calculates the amount of the accrued penalty manually.

**Risk:** We believe that an official/verifier for mercenary purposes or colluding with a taxpayer in case of improper operation of information systems when calculating penalties in IS INIS/EKNA can independently reduce/increase the amount of penalties by entering into the system.

**Recommendations:** Provide for the calculation of penalty interest on additionally assessed taxes based on the tax audit report in automatic mode. Correct the synchronization of the taxpayer's personal accounts with INIS/EKNA.

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

***6.1 Risk of applying an inappropriate/non-existing benefit***

According to subparagraph 1) of paragraph 2 of Article 526 of the Tax Code, separately living pensioners are not payers of property tax - within 1000 times the monthly calculation index established by the law on the republican budget and effective as of January 1 of the corresponding financial year, of the total cost of all objects property taxes. This category of beneficiaries does not have a fixed status, like other categories, for example: persons awarded the titles of “Khalyk kaharmany”, “Kazakhstannyn Enbek Epi”, disabled people, etc.

Previously, in order to apply the exemption, taxpayers provided a Certificate of persons registered at the address on the basis of which the tax authority applied the exemption. Currently, the specified Certificate in paper form is not issued and is not in the list of e.gov services. Instead, the e.gov service was implemented - the Service for obtaining address information from the place of residence by third parties. However, testing showed that after passing through all the stages, the result of the response of this service is empty, there is no attached file. Testing the service at the request of the taxpayer himself showed that the result of the service is a regular address certificate for the taxpayer. In addition, most of the persons applying for the benefit do not have a telephone number registered with the Public Service Center in order for an employee of the State Revenue Office to use this service.

At the same time, we believe that corruption risks in this case are minimal.

However, corruption risks increase with the application of benefits when calculating transport tax for disabled taxpayers, since there is currently no interaction with the databases of the relevant authorized body. Benefits are applied based on the information provided upon request.

Although all manipulations in the personal accounts of taxpayers are transparent (date of entry, performer), due to the large number of taxpayers, there may be a temptation to act corruptly.

**Risk:** An official, for mercenary purposes, being in collusion with a taxpayer, may apply a non-existent benefit within the limitation period

**Recommendations:** To eliminate corruption risks, it is necessary to speed up the implementation of the IS "Integrated Database" (IBD) into practice, where all the information necessary for calculating taxes of individuals will be accumulated.

Application: \_\_\_\_s.

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