

# DOING BUSINESS IN AZERBAIJAN

2019



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## **COUNTRY PROFILE**

As the largest country in the South Caucasus for both its territory and population, Azerbaijan has undergone enormous advancements both in economy and in national legal framework. Those developments are ranging from the significant changes in legislation, the establishment of centralized real estate and movable property registries, the establishment of e-government, the adoption of international standards for financial reporting and accounting, the establishment of special economic zones, as well as industrial and technological parks, and the introduction of one-stop-shop (a single window) system for business registration, including introduction of simplified procedures in applying for work permits.

It is noteworthy that Azerbaijan is ranked 25<sup>th</sup> among 190 economies in the ease of doing business, according to the World Bank's annual ratings being improved from 57<sup>th</sup> in 2017. In fact, Azerbaijan has ranked 9<sup>th</sup> in "Business registration", 17<sup>th</sup> in "Registering property", 22<sup>nd</sup> in "Getting credit", 2<sup>nd</sup> in "Protecting minority investors", and 28<sup>th</sup> in "Taxation". According to Doing Business 2019 report, Azerbaijan has been included to the list of countries with the most noticeable improvement in the economy.

As BHM team, we have contributed to this year's Doing Business 2020 Guide with the intend to highlight some of the principal issues in relation to establishing and doing business in Azerbaijan providing key insights and useful tips to the legal and business sphere in the national market.

Government Structure – The Constitution of Azerbaijan Republic has the highest

legal force in the territory of the Republic of Azerbaijan. According to provisions of the present Constitution, Azerbaijan is a democratic, secular, unitary presidential republic where legislative, executive and judicial powers interact and are independent within the limits of their authority.

The legislative authority is exercised by the Parliament of the Republic of Azerbaijan, consisting of 125 members elected for a five-year period. Executive authority belongs to the President of the Republic of Azerbaijan, which is executed through the Vice Presidents, the Prime Minister and the Cabinet of Ministers under the leadership of the President. As the head of state, the President appoints the Prime Minister subject to the approval of the Parliament. The courts of the Republic of Azerbaijan exercise judicial power, which will be described below.

Population - As of 6 April 2019, population of Azerbaijan reached 10 million. Majority of population are ethnic Azerbaijanis with 91,6 % and the minorities include Lezgins, Russians, Talysh, Jews, Kurds, Georgians and others. Although, most of the population in Azerbaijan is Muslim, Azerbaijan is a secular country recognizing equal rights of all ethnic groups and religions.

<b>Main Cities</b>	<b>Population (thousand)</b>
<b>Baku</b>	2245.8
<b>Ganja</b>	331,4
<b>Sumgait</b>	339,0
<b>Mingachevir</b>	103,2
<b>Nakhchivan</b>	92,1

The official state language is Azerbaijani. However, Russian and English (the latter is mainly used among younger generations) are also widely spoken in the country.

Geography – The total area of the Republic of Azerbaijan is 86,600 square km bordering the Caspian Sea on the East, Iran on the South and Russia on the North, as well as sharing border with Georgia, Armenia and Turkey on the West. 20% of its territory, (namely Nagorno-Karabakh and seven adjacent districts) has been occupied by Armenia.

Climate – The climate of Azerbaijan can be divided into three different climate zones. It is rather continental climate with relatively cold winters and hot summers. Azerbaijan is surrounded by mountains, namely, the Caucasus Minor in the West and the Great Caucasus in the North. Majority of the land in the country is useful for agriculture. The main agricultural products of Azerbaijan are cotton, tobacco, grain, rice, grapes, fruit, vegetables, potato, tomato and tea.

Visiting Azerbaijan (E-visa) – Since 2016, there are two ways of applying for a visa to Azerbaijan: (a) apply for electron visas for single-entry (E-visa); or (b) apply for visa in a traditional way for a multiple entry

through the embassy/consulate of the Republic of Azerbaijan abroad.

E-visa - A foreigner or a stateless person can apply online directly for single-entry electron visa (E-visa) valid for 30 days stay in the country. The payment is made online and the applicant's physical presence or his/her passport is not required anymore.

E-visas are issued by "ASAN visa" service within 3 working days, while urgent visas are issued within 3 hours (not depending on non-working days) granting entry to Azerbaijan. E-visa is available for the citizens of 94 countries, the list of which is determined by the Ministry of Foreign Affairs.

As of 15<sup>th</sup> May, 2018 the issuance of entry visas is enabled at Baku International Airport via the self-service terminals. Currently, citizens of 15 countries, namely Bahrain, UAE, South Korea, China, Iran, Israel, Indonesia, Kuwait, Qatar, Malaysia, Oman, Saudi Arabia, Singapore, Turkey and Japan can benefit from this service.

"ASAN Service"- ASAN Service is a cutting-edge Azerbaijani public service delivery model which gained high recognition for its transparency and functionality.

## **ECONOMIC OVERVIEW**

<b>Indicators</b>	<b>2018</b>	<b>Indicators</b>	<b>2018</b>
<b>Population</b>	9923.9	<b>GDP - Agriculture:</b>	6580,0 million manat
<b>Economical active population</b>	5081,8 thousand	<b>GDP - Industry</b>	39555,4 million manat
<b>Unemployment</b>	5%	<b>Export</b>	18.9 billion USD
<b>GDP:</b>	79,8 billion manat	<b>Non-oil and gas</b>	5948,9 mln USD
<b>GDP Per Capita:</b>	8126,2 manat	<b>Import</b>	10.3 billion USD

## **SUPPORT TO BUSINESS**

Azerbaijan enjoyed inflow of foreign investment due to its ample hydrocarbon resources. The Agreement of the Century signed in 1994 involving largest oil and gas companies has become a major oil agreement and a critical milestone to exploit its oil and gas resources. Under the main Production Sharing Agreement (PSA) operated by BP, a key oil production Platform is Azeri-Chirag-Guneshli (ACG) oilfield, oil of which is transported by Baku-Tbilisi-Ceyhan Pipeline (BTC).

In 2006, Azerbaijan was regarded as the world's fastest growing economy, mainly due to its oil production industry. Supported by the favorable terms of trade and stabilized oil production, Azerbaijan's economy expanded by 1.3% in the first half of 2018. As the effects of the 2015 depreciation faded away, annual inflation moderated to 2.3% in the first half of 2018.

Since 2014, Azerbaijan again became the center for significant foreign investment in the oil and gas fields. In fact, BP's exploration of gas from Shah Deniz brought significant economic, political and regional advantages to the country. In order to export Shah Deniz gas from Azerbaijan to Georgia and Turkey, there was built The South Caucasus Pipeline (of which the shareholders are: BP, operator (28.8 per cent), AzSCP (10.0 per cent), TPAO (19 per cent), Petronas (15.5 per cent), Lukoil (10 per cent), NICO (10 per cent) and SGC Midstream (6.7 per cent), which follows the route of the Baku-Tbilisi-Ceyhan (BTC).

It is quite notable that, the rank of Azerbaijan improved to 25 in 2018 from 57 in 2017. Ease of Doing Business in Azerbaijan averaged 56.64 from 2008

until 2018, reaching an all-time low of 71 in 2012 and a record high of 25 in 2018.

Striving to carry out deep institutional and regulatory reforms with the task of escaping the 'resource curse' by modernizing and diversifying the economy away from reliance on oil revenues, Azerbaijan developed 12 Strategic road maps for the national economy and main economic sectors aiming to define the country's development goals and priorities and ensure their implementation.

According to the new regulation adopted in the end of 2015, the licenses are issued through internet & "ASAN Service". The same regulation has also eliminated the requirement of licensing for certain type of business such as tourism (hotels), retail of alcohol and tobacco etc.

In 2017, the Agency for Development of Small and Medium sized Businesses (SMB) was established to support micro, small and medium sized businesses by rendering one stop shop services, coordinating services and policies of other state authorities towards entrepreneurship. The list of the services ranges from establishing legal entities, issuing licenses and permits, issuing credit guarantees, registration of patents and trademarks, customs clearances of goods and nearly hundred other related services from 31 state authorities.

The SMB was delegated to deal with creation of new infrastructure, tax exemptions and other reforms for small and medium sized entrepreneurship and the Cabinet of Ministers is assigned to draft a law on development of small and medium sized entrepreneurship.

Since October 2017, foreigners and stateless persons can register limited



liability companies (LLC) with foreign capital through electronic signature within two days. The relevant Regulation also revoked, among others, the requirement of having permanent registration. Electronic signatures are obtained based on temporary residence permit from ASAN and other relevant state authorities. LLC with foreign capital is defined as an entity established by foreigners and stateless person as well as legal entities registered in jurisdictions other than Azerbaijan.

Since November 1, 2015, Government extended suspension of inspections of businesses until 2021 with exceptions of tax audits, quality inspections of medicines and food products.

By passing the Presidential Decree dated January 18, 2016, endorsing regulations on stimulating investment in Azerbaijan using investment certificates foreign individuals and legal entities are granted tax and customs privileges (through confirmation of payment at least 10 % of the statutory minimum investment under the investment project and submitting its business plan supplemented with a copy of a taxpayer registration certificate. Government initiated issuance of Investment Incentive Certificate to investors who make investments beyond determined thresholds on production of products related to agriculture, pharmaceuticals and construction.

Due to decreased demand and low oil prices, GDP growth decelerated from an average 13% in 2004-2013 to average 0.1% in 2014-2016. As a result of the declined oil output Azerbaijan furthered diversification of the economy and targeted to drop the economy's dependence on hydrocarbon revenues placing a special emphasis on the agribusiness sector,

promoting "Made in Azerbaijan" brand to increase export, supporting tourism, stimulating entrepreneurs and providing guarantees to foreign investors.

Enjoying government subsidies, a centerpiece of the agrobusiness sector was production of cotton, tobacco, silk, tea, tomato, paddy, etc.

Manat - national currency of Azerbaijan was denominated into the New Azerbaijani Manat (AZN) since January 2006. From February 2015, the Central Bank shifted manat to a floating regime.

In the last two years exchange rates were as follows:

Foreign currency	2018	2017
<b>US Dollar 1</b>	AZN 1.7020	AZN 1.7230
<b>Euro 1</b>	AZN 1.9206	AZN 1.9423
<b>Pound Sterling 1</b>	AZN 2.2152	AZN 2.2160

Profit of micro or small entrepreneurship startup subjects operating as a legal entity is exempted from tax for three years. Under the provisions of Tax Law, a part of not more than 10% of reporting period's profit of taxpayer (excluding legal entities, with 51% or more stakes owned directly or indirectly by public legal entities established on behalf of the state and/or state) transferring to the enterprises and organizations, which operate in education, health, sport and culture and meet factors defined by relevant executive body, is exempted from tax for 10 years from January 1, 2019. The provisions of the mentioned reform covered the cashless payments only.

Further, SME Cluster's profit is exempted from tax for 7 years since inclusion in SME cluster companies' registration. Moreover, capital expenditures by a legal entity, which is a participant of the SME cluster, from its profit obtained from provision of the goods (services) on the basis of an agreement with SME is exempted from tax for 7 years.

Since 7 November 2017, according to the amendments to the Criminal Code, certain economic and financial breaches committed for the first time, including the avoidance of customs and tax payments are not considered crime anymore if damage is indemnified. On the other side, the law brings alternative pre-trial detention and electronic monitoring as opposed to incarceration.

Baku-Tbilisi-Kars rail route connecting Baku to Tbilisi in Georgia and Kars in Turkey is the biggest regional project after Baku-Tbilisi-Ceyhan pipeline. It is the latest effort in Azerbaijan's drive to strengthen its role in connecting China directly to Western Europe along "silk road". The first cargo train loaded with grain from Kazakhstan arrived to Kars on November 3, 2017. To this end, Baku International Sea Trade Port was recently modernized to become regional transport and logistics hub in Eurasia.

On 18 January 2018 the President signed an order on promotion of investment activities and protection of rights of foreign investors in Azerbaijan. The order is mainly covering the planning of a new law on investment activity including state guarantee to investor's rights, rules on alternative dispute resolution and indemnification. So that the government is expected to strengthen its policy of supporting privately held enterprises,

including the companies with foreign capital and owned by foreign nationals. Up to date, exports are not subject to customs duties or restrictions and also there are no general trade barriers or embargos for the import of goods to Azerbaijan. There is only certain regulations applying for the export of strategic commodities as oil, cotton, electricity etc.

## **BUSINESS OVERVIEW AND FOREIGN INVESTMENT**

Forms of business – According to the Civil Code of the Republic of Azerbaijan, there are several forms of doing business in Azerbaijan, by establishing a legal entity or not establishing a legal entity (sole entrepreneurship). In fact, the laws stipulate the following types of commercial legal entities:

(i) General Partnership (GP) established by two or more individuals and/or legal persons. The Civil Code imposes "unlimited" liability to the owners of GP in terms of its obligations.

(ii) Limited Partnership (LP) established by two or more individuals and/or legal persons, its distinction from GP is that apart from having at least one participant bearing unlimited liability for the obligations of the LP, there also must be one or more participants liable only in the amount of share they have in LP and are not participating in the activities of LP.

(iii) Limited Liability Company (LLC) is the most widely-spread legal entity form in doing business in Azerbaijan due to flexible management, liability limits, simplified procedure for registration, etc. It is established by one or more individuals and/or legal persons and the charter capital is divided into authorized shares of its

founders. In fact, the law doesn't set any requirement regarding the minimum capital for establishing LLC. It is up to the discretion of the founders to determine the issued capital and required paid-up capital and its shareholders' liability is limited to the amount of their shares in the LLC.

(iv) Additional Liability Company (ALC) unlike to LLC, in ALC the participants of an ALC may assume liability in excess of their contributions.

(v) Joint-Stock Company (JSC) can be either "open" or "closed". In an "open" JSC its shares can be offered to public, while in a "closed" JSC its shares can be offered only among its shareholders.

The following steps shall be observed for registering a legal entity, namely: (i) Collection and notarization of all necessary documents, (ii) Submission of documents (iii) Obtaining a company seal and opening a bank account. According to the recent amendments to the Law on State Registration of Legal Entities adopted on 30 October 2018, application for state registration of legal entity shall be signed both by founder(s) and legal representative(s) of legal entity, or by the person(s) appointed by them. As per the new amendments, a commercial legal entity shall provide information on its legal address only.

**Branches and Representative Offices –** Foreign entities can also operate in Azerbaijan by merely establishing a branch or a representative office. Although under Civil Code they are not recognized as a separate legal entity, tax legislation of Azerbaijan treats a branch or representative office as a legal entity for the purposes of taxation. There is a distinction between a representative office and a branch office. While the former only represents interests

of a legal entity, the latter may perform the commercial activities that the head office does. Registration requirements are identical for both a representative office and a branch.

**Taxation** – The Tax Code of the Republic of Azerbaijan is the main legislative act regulating taxation in the country. There are three different tax regimes: i) statutory tax regime; and ii) special tax regimes which are accordingly a) Production Sharing Agreements (PSAs) existent in the oil & gas sector, and b) Host Government Agreements (HGAs) regulating the agreements exclusively dealing with Baku-Tbilisi-Ceyhan and South Caucasus pipelines. The statutory tax regime applies to all legal entities with the exception of those that are governed by a PSA or HGA.

There are several types of taxes payable when conducting business in Azerbaijan:

**Corporate Income Tax (CIT)** – Both resident and non-resident entities (through their permanent establishment, such as representative or branch offices) are subject to CIT (profit tax) in Azerbaijan. Foreign legal entities who are present in Azerbaijan for more than 182 cumulative days during a calendar year shall establish a representative or branch office in Azerbaijan. Both local legal entities and the branches or representative offices of foreign legal entities in Azerbaijan are taxed on profit, which is determined as gross income from business activities minus deductible expenses, at a flat rate of 20%. The branches and representative offices are only taxed on the gross income from business activities conducted in the territory of Azerbaijan minus deductible expenses, while other legal entities are taxed on their worldwide income. In addition to CIT paid by a



permanent establishment of a foreign legal entity, it will also be subject to branch profit tax at the rate of 10% for each amount repatriated by such permanent establishment from its net profit. CIT for non-resident entities which do not have their permanent establishment in Azerbaijan is taxed from their gross profit without deductions for expenses at the rate of 10% (“Withholding tax”).

The law sets a number of tax exemptions for the specific types of businesses. Since January 2013, Tax Code established few concessions for the residents of the industrial and technological parks by exempting them from profit tax for the period of 7 years starting from the registration as a resident of the industrial and technological park. According to the recent amendments to the Tax Code which are effective from the 1<sup>st</sup> of January 2019, new categories of entrepreneurs are specified. The law provides tax exemptions for income, profit and property taxes including for salaries to reduce tax duties of businesses and introduces reduced and unified simplified tax while excluding simplified tax for certain category of entrepreneurs. The new categories of entrepreneurs are the micro and small entrepreneurs. Basically, 75% of income and profit of micro entrepreneurs are exempt from tax as well as they are exempt from property tax and allowed apply 2 coefficients for amortization. As per the new amendments, micro entrepreneurs are sole entrepreneurs and legal entities (i) having medium annual employees between 1- 10 people and (ii) annual income not more than AZN 200,000. Small entrepreneurs are sole entrepreneurs and legal entities (i) having employees between 11-50 people and (ii) annual income between AZN 200,000 – 3 mln. In addition to micro and small entrepreneurs, startups

are also exempt from income and profit tax for three years from the date of “Startup” certificate.

Unless otherwise specified in the double taxation treaties which Azerbaijan is a party to, foreign legal entities with no permanent presence in Azerbaijan are subject to the withholding tax on their following income from Azerbaijani sources:

Dividends – 10% ; Interest – 10% ; Rent and royalties – 14%; Telecommunication and transport services – 6%; Risk insurance and re-insurance fees – 4%; Income received from performing works and rendering services – 10%; and Other income – 10%.

Simplified tax – legal entities or persons with annual turnover not exceeding AZN 200,000 can be registered as a simplified taxpayer. Pursuant to the new changes to the Tax Code, simplified tax rate is reduced to 2% of the gross income, and the entrepreneurs who does not render services and/or sell goods to the public but to the businesses (except transportation businesses), production businesses having more than 10 employees, wholesalers, businesses requiring licenses (except building construction and businesses providing services on compulsory insurance) are not eligible for the simplified tax anymore. The entrepreneurs who does not fall under the simplified taxpayer’s category, though having the same amount of income as simplified taxpayers will now pay 20 percent income tax. Nevertheless, they will pay taxes from 25 percent of income after deducting allowable costs.

Value Added Tax (VAT) – supply/import of goods and the provision of services in Azerbaijan are subject to VAT at the rate

of 18% for each taxable operation. Legal entities and individuals with taxable transactions exceeding AZN 200,000 within a consecutive 12 month period shall register as VAT payers. Other companies carrying out business activities in Azerbaijan may voluntarily register. Only registered VAT payers may charge VAT or claim a credit for the VAT contribution. All VAT tax payers shall issue electronic VAT invoices in Automated Tax Information System.

**Transfer Pricing** – The rules on transfer pricing are applicable to the related party transactions which exceed AZN 500,000 within a calendar year. These rules apply to the transactions concluded between following persons: (i) resident of Azerbaijan and non-resident in a related party relationship; (ii) permanent establishment of non-resident in Azerbaijan and that non-resident or its any representative office, branch office or other unit located in other countries; (iii) resident of the Azerbaijan and (or) permanent establishment of non-resident in Azerbaijan and legal entities incorporated in countries with favorable tax regimes. Any of the above persons must submit a certificate in a form determined by the Ministry of Taxes regarding the transaction exceeding AZN 500,000 annually no later than 31 March following the reporting year.

Administrative penalties may be applied for noncompliance with tax legislation which vary from 50% up to 100% of the amount of taxes due.

**Production Sharing Agreements (PSAs)** – The Tax Code also recognizes the special tax regimes applicable to contracting and subcontracting parties in oil and gas production sharing agreements (“PSAs”)

which provide for lower withholding tax rates (around 5% to 8%), exemption from VAT and customs duties, and simplified reporting and accounting procedures.

Other taxes: **Property tax** – Companies are levied with property tax at the rate of 1% on average annual value of fixed assets. Non-residents with permanent establishment (PE) in Azerbaijan are also subject to property tax on the average annual value of fixed assets connected with the PE.

Land tax – Except for agricultural lands, a land tax is imposed on legal entities or individuals owning or using land plots, the rate varying between 0.1-20 AZN, which depends on the purpose of use and location of the land.

Production of excisable goods in and/or import of those goods to Azerbaijan are subject to excise tax.

Legal entities and individuals involved in extracting mineral in Azerbaijan shall pay mining tax at rates from 3% to 26% of its total wholesale price.

All individuals producing or importing petrol, diesel and liquefied gas in Azerbaijan are subject to road tax. Rates for the road tax vary depending on vehicle engine, number of axles, weight carried and how long the vehicle is supposed to be in the country.

**Employment taxes and social contributions** – Personal Income Tax is exempted for the salaries up to AZN 8,000 and any amount exceeding this threshold will be taxed at the rate of 14%.

Accounting – the Law “On Accounting” sets the general requirements on financial reporting and accounting:

1. IFRS Standards – It is a mandatory requirement to follow IFRS Standards for public interest entities, more specifically, credit organizations, insurance companies, private pension funds and legal entities with stock market share listings. Entities with: *(a)* revenue of AZN 120 mln; *b)* an average of 1,500 employees, and *c)* a total balance sheet of AZN 300 mln are also considered as public interest entities.
2. National Standards – Commercial entities must either follow IFRS or the National Accounting Standards for Commercial Organizations (NAS) which are largely drafted according to IFRS.
3. Simplified Accounting Rules – Small and medium sized entities (SME) are allowed to follow simplified accounting rules approved by the Ministry of Finance. Besides, they can also choose to follow NAS.

Customs – Import and export tariffs are predominantly calculated based on commodity nomenclature of foreign economic activity and methods of evaluating price of goods. Nomenclature of commodities in foreign-economic activity of the Azerbaijan Republic is defined and updated by the Cabinet of Ministers of the Azerbaijan Republic in accordance with world practice of commodities classification. Since 2018, Azerbaijan has adopted new regime on simplification of the import rates by including only three rates of 0%, 5% and 15%, depending on the import subject. The new regime was designed to support the program of import substitution for the development of local production.

Within the new state program named as “Digital Trade Hub” which has been

prepared by the “Trade Facilitation Centre”, Azerbaijan has stated new measures on facilitation of the relations of the entrepreneurs with foreign partners by providing mutual recognition of signatures and e-purses. Under the provisions of the same state program, there has been integrated the new “One Stop Shop” Export Support Centre, by which the provision of cross-border electronic services are granted. Entrepreneurs implementing the export procedures may acquire the following certificates by spending and exchanging fewer information resources:

- international veterinary certificate (for animals, animal products and raw materials exported);
- phytosanitary certificate;
- certificate of quality for export of food products to the EU ;
- certificate verifying the country of origin;
- certificate for export of endangered species of wild fauna and flora;
- certificate for protection of cultural assets (for export of cultural assets);
- permit for export of religious literature and other informational materials with religious content;

“One Stop Shop” Export Support Centre is also applying the unified control with Food Safety Agency on veterinary, phytosanitary and other customs inspections at the border checkpoints and accordingly electronic submission of information is used when submitting customs declarations to the customs authorities for food products.

In 2018, the customs audit has been included into the list of the inspections in the field of entrepreneurship which are still

to be conducted during suspension period (till 1 January 2021).

In 2016, "Green Corridor" gating system was formed. The main goal of the new gating system is the creation of more favorable conditions for enabling importers and exporters to submit their documents (especially, declarations) electronically. The applicants of the new system are granted with "permanent use right", by which they may ensure faster crossing of goods through customs control gates by priority pass. The registration procedure for the mentioned gating system consists of three steps: the individual submits the application electronically to the State Customs Committee; the Committee evaluates the application within one month; the Applicant is granted with the permanent user status from "Green Corridor» gating system.

On 21 December 2018, the President of the Republic of Azerbaijan approved the new Rules "On obtaining, suspension, termination and restoration of the rights of foreign trade participants for permanent use of the "Green Corridor" customs clearance system", by which the importers were categorized as (1) high, (2) medium and (3) low risk groups. Relevantly, the importers with low or medium risk category were granted with the benefit on usage of the "Green Corridor" customs clearance system.

Other main advantages of the new customs control system are examination of goods in priority order, less physical inspection, holding the customs clearance in places other than the customs offices.

Banking Regulations – Basically, loans are issued by banks and other micro-finance organizations named as "non-bank credit organizations". Unlike banks which are

allowed to accept deposits, issue loans and make money transfers, non-bank credit organizations are not allowed to accept deposits. Postal service is also allowed to render banking services, including accepting deposits, issuing credit cards and making money transfers. Banks, non-bank credit organizations and postal services are licensed by the Financial Markets Supervisory Authority (FMSA). The license is granted on a perpetual basis. Minimum charter value requirement for the Banks is AZN 50 million.

FMSA is the quasi-state supervisory organization on revision of the financial statements, accounting books and any other records of banks. FMSA is also authorized to demand explanations on matters relating to the accounts and financial statements of the banks, to demand prior written notification for any purchase which will cause the purchaser's shares to become equal or exceed the threshold of 20% of the charter capital. Further, any person who wishes to become a major shareholder of a bank in Azerbaijan or to create a bank holding must obtain a prior written consent from the FMSA. Operations of foreign banks in the form of branch and representative office are licensed by the FMSA.

Within the last 3 years the Ministry of Taxes, FMSA and the banks themselves have taken a number of measures for boosting the rate of the non-cash payments. So that, since 2017 entrepreneurs' cash operations have been restricted to certain limits defined by the Law of the Republic of Azerbaijan "On non-cash payments." Relevantly, payments of administrative fines, taxes, customs duties, pensions and others have been transferred to non-cash basis. Entrepreneurs withdrawing cash from their bank accounts became subject to

tax payment at the rate of 1% (one percent) of the total withdrawal amount. As the result of the mentioned measures, the funds in banks has impressively increased and such measures also founded the new ground for the issuance of new loans as well.

Notwithstanding with the fact that FMSA is the main regulatory authority of the credit organizations, the Central Bank of the Republic of Azerbaijan fulfills functions of a state bank and implements state monetary policy, maintains cash circulation and regulates foreign exchange rate of manat.

After the inspections in the field of customs audit were added to the Law “On suspension of inspections in the field of entrepreneurship”, as one of the exceptional inspections which would not be suspended, the inspections have been broadened in the field of financial markets as well. The inspections on financial markets are conducted by the FMSA, which investment funds, insurance organizations, controls securities market, credit organizations, currency exchange and payment systems.

Manat (ISO 4217 code of manat - “AZN” and the logo of manat - “₼”) is the name of the official currency of Azerbaijan Republic. All local and foreign companies and individuals may have accounts both in local and foreign currencies at all local banks. All the transactions and settlements within the territory of Azerbaijan Republic (including the payment of an employee’s salary) has to be made in AZN, with a few exceptions stipulated by law.

Securities Market – Under the Civil Code, stocks and bonds are investment securities which are principally traded in primary and secondary markets.

Since 2015, changes to the Civil Code and adoption of the new Law on Securities Market brought many changes in the structure of securities market. Under the Civil Code securities are a document recognizing contractual relations between the issuing company and the owner. Securities can be uncertified and registered electronically.

Investment securities are issued publicly or privately. Public offering is an offer to more than 50 people or offer through media. Initial Public Offering of investment securities is subject to approval by the FMSA. Initial Public Offerings and public offerings of derivatives are to go through stock exchange.

Securities are registered at the National Depository Centre under the FMSA. Trading with the securities in the primary and secondary markets is subject to change of register at the National Depository Centre.

Both in primary and secondary markets, securities can be traded through investment companies. Investment companies are organized in the form of joint stock companies and licensed by the FMSA.

Insurance – Under the Law on Insurance Activity, insurance companies are established as life insurance or non-life (general) insurance companies.

Insurance companies must be established as open joint stock companies and must be licensed by the FMSA. Apart from the licensing, insurance companies are required to get separate permits for any type of insurance activities such as voluntary insurance, compulsory insurance and reinsurance.

Under the law on Compulsory Insurances,



owners or holders of the property must have the following insurances:

- Compulsory insurance of real property;
- Compulsory civil liability insurance associated with use of real property;
- Compulsory civil liability insurance of motor vehicle owners;
- Compulsory personal accident insurance of passengers

Among other compulsory insurances, all employers are required to obtain compulsory insurance against loss of professional work capacity of employees as required by the Labor Code and the relevant law.

Until 20th day of the month following the end of each quarter insurers (also reinsurers) are obligated to report on fixed assets of legal entities, their branches and representative offices insured by them. Since 1 January 2019, new social insurance contribution rates for nonpublic sector and for non-oil and gas sector have been determined as follows:

- Individuals with gross taxable monthly income below AZN 200 – 3% to be withheld from employee and 22% from employer;
- Individuals with gross taxable monthly income above AZN 200 – 10% of the amount exceeding AZN 200 plus 6 AZN to be withheld from employee and 15% of the amount exceeding AZN 200 plus AZN 44 to be paid by employer

## **SPECIFIC REGIME FOR NON-OIL INDUSTRY**

Agriculture and Food – Being one of the most attractive fields for potential investment in the economy of Azerbaijan, the agricultural sector is one of the priority sectors for diversification of the economy. On account of perfect climatic conditions, minimal unit productions costs, its high quality and the extended growing season, agricultural production covers a large variety of crops, fruits (apples, grapes, olives, cherries, melons, lemons, persimmons, peaches, pomegranates, watermelons, plums, raspberries and strawberries), vegetables (tomatoes, onions, cucumbers, carrots, potatoes, cabbage and greens), grains (barley, maize), hazelnuts and tea leaves which became recognizable brand in the post-Soviet market.

In fact, the crucial areas in the agricultural and food processing field are the following:

- Milk and dairy production;
- Fruit and vegetable growing, including viticulture;
- Meat and meat foods production;
- Apiculture production;
- Fish and fish products;
- Alcoholic and non-alcoholic beverages production

*Tax benefits* - The government stimulates a significant growth in the agriculture and food-processing sector by means of various measures such as import substitution, tax exemptions and subsidies of pesticides, fertilizers and machinery. According to the Tax Code of the Republic of Azerbaijan, the agricultural producers do not pay property tax, profit tax and VAT for ten years until 01 January 2024. Import and sale of wheat, production

and sale of flour and bread, including sale of poultry are exempt from VAT for three years until 01 January 2020. In addition, import and sale of seeds and seedlings; breeder animals; mineral fertilizers, pesticides; equipment for seed breeding, poultry and beekeeping, veterinary preparations for preventions, diagnostics and treatment of livestock animals and poultry breeding, as well as laboratory equipment and machines for cleaning, sorting or calibration of seeds, grains and legumes; direct agricultural irrigation and other facilities, vehicles, equipment and techniques are not subject to VAT.

Industrial Parks – The government has established a number of industrial parks in order to ensure sustainable development of the economy, preferably in various non-oil industry spheres and has offered tax incentives for the residents of industrial parks, alongside with different infrastructure opportunities. The crucial industry spheres are the following mainly focusing on (i) machinery (Neftchala Industrial Park, Masalli Industrial Park); (ii) eco-industry (Balakhany Eco-Industrial Park); (iii) chemical industry (Sumqayıt Chemical Industrial Park); (iv) shipbuilding (Garadag Industrial Park); (v) textile (Mingachevir Industrial Park); (vi) pharmaceutical (Pirallahı Industrial Park); (vii) high technologies (High Technologies Park, Mingachevir High Technologies Park, High Technologies Park under the Azerbaijan National Academy of Sciences).

*Tax benefits* – Special incentives, exemptions and privileges have been applied to the residents of the industrial and technological parks. Hence, the residents of these parks are free from property and profit taxes for the period of seven years since their registration.

Machinery, technological equipment and plants imported by the residents of the industrial and technological parks for the construction of production facilities of industrial or technological parks, the research and development works are not subject to import VAT within seven years from the date of registration of the resident in the industrial or technological parks. VAT exemptions have been applied for all types of goods imported by the residents of industrial parks for the purposes of their activities for the period of five years until 1 May 2021 based on a document issued by the relevant executive authority. Machinery, technological equipment and plants imported by the residents of the industrial or technological parks for the construction of production facilities of industrial or technological parks, research and development works are free from import VAT for 7 years from the date of registration of the resident in the industrial or technological parks. Furthermore, zero (0%) rate VAT shall be applied to the provision of goods, performance of works and services for the purposes of the same activities by contractors to the residents of these industrial parks, or by subcontractors to the contractors of such residents for the period of 5 years until 1 May 2021.

Free Trade Zones - (Alat free-economic zone) –The establishment of the free trade zones will play pivotal role in non-oil trade, which accelerates the development of entrepreneurs and will have significant impact to the economy of the Republic of Azerbaijan. According to the Law of the Republic of Azerbaijan “On Special Economic Zones”, which became effective on 14 April 2009, provides a preferential tax and customs regime applicable to residents of special economic zones (however no such zones were established until now). The following tax

benefits shall be applied to the companies operating in special economic zones:

- (a) Zero (0% ) rate VAT;
- (b) 0.5% tax levied on overall turnover from supplied goods, performed services, or works;
- (c) customs exemptions.

On 18 May 2018 the Law on Alat free economic zone was adopted. Under the provisions of this Law, the legislation of Alat free economic zone will be effective in the territory of Alat free economic zone and in case of any conflict with the domestic law, the legislation of Alat free economic zone will be applied. In addition, Free Zone Competent Authority, Free Zone administrative offices, Free Zone legal entities and their employees, Free Zone residents are exempted from all taxes and customs. Following relevant orders of the President of Republic of Azerbaijan (dated 4 June 2018 & 29 January 2019, etc.) to provide legal compliance of all legal acts with the Law on Alat free-economic zone, this issue is now on agenda of the Parliament of the Republic of Azerbaijan and is expected to be finalized soon in order to put this law into effect.

It is worthy to note that Alat settlement is located in Garadagh district of Baku (65 km south of the capital) where Azerbaijan intends to build a major trading hub as a tax-free zone covering the territory of the Baku International Sea Trade Port, with such components as Truck Parking, International Logistics Centre and Domestic Logistic Centre, as part of a special economic regime. The Port will act as a major logistics hub in the Caspian region, serving both European and Asian markets, as well as being part of an extensive international logistics network linking Europe and Asia.

Protection of Foreign Investment. Being the another step forward to diversification of national economy and following the Strategic Roadmap of the National Economy Prospects signed by the President of the Republic of Azerbaijan in December 2016, presidential decree on some actions regarding the promotion of the investment activities and protection of the rights of foreign investors was signed earlier last year. The document aims attraction of the foreign investments into the economy and envisages drawing up of new laws on investment activities and protection of foreign investments reflecting the international best practices. The new laws are expected to be adopted this year.

Under the current legislation, including the Law on Protection of Foreign Investment, the Law on Investment Activity, the Law on Privatization of State Property (including the “Second Privatization Program”) the individuals and legal entities including foreign entities, governments, international organizations, and individuals permanently residing outside Azerbaijan may carry out any business activities not prohibited by Azerbaijani law. The law recognizes the following forms of foreign investment including both tangible and intangible rights, as well as intellectual property rights: (i) participation in interest and shareholding with Azerbaijani legal entities and citizens; (ii) establishment of legal entities with full foreign investors; (iii) acquisition of enterprises, immovable properties, buildings, structures, and other kinds of property allowed by law.

It should be stated that the bilateral investment treaties (BITs) ratified by Azerbaijan, the number of which is currently about 50), prevail over domestic

law regulating the same issue (except for the Constitution and acts adopted by referendum).

Overall, foreign investors provided with “**not-less-favored**” regime, with certain guarantees, including profit repatriation guarantee; deterioration (assurance that even when Azerbaijani legislation will change in a manner adversely affecting an investment, the application of that change will not come into force for a period of ten years of the initial investment); guarantees against nationalisation and requisition (foreign investors are entitled to prompt, effective, and adequate compensation in case of nationalisation and requisition).

#### Employment law and migration.

Employment contract is the ground for formation of employment relations. In general, employment contract, as well as its termination and any amendments, shall enter in force after registration of notice of an employment contract entered into the special electronic information system using

enhanced electronic signature and sending of electronic information about it to the employer. Labor Code of the Republic of Azerbaijan provides general rights and obligations, including vacation rights, wage system and methods, grounds for termination of employment contract for both employee and employer (related legal guarantees and financial consequences) and other matters.

Employees must be provided with compulsory insurance for occupational and professional disability resulting from industrial accidents and occupational diseases, unemployment insurance in a manner provided by laws. Medical insurance (which is voluntary now) shall be mandatory starting from January 1, 2020.

The table below illustrates the rates on social insurance payments in accordance with the latest amendments to the Law on Social Insurance amendments:

<b>№</b>	<b>Monthly income</b>	<b>Compulsory social insurance (employee)*</b>	<b>Compulsory social insurance (employer)*</b>
1	Up to 200 AZN	3 per cent	22 per cent
2	Over 200 AZN	6 AZN + 10 per cent from the amount over 200 AZN	44 AZN + 15 percent from the amount over 200 AZN

Migration - migration procedures must be complied with by foreign nationals who want to work and stay in the Republic of Azerbaijan. Azerbaijan has a less restrictive admittance policy for highly skilled workers.

The foreigners shall be exempted from work permit requirement if they hold position of the head or deputy head in:

- a subsidiary or representative office of a foreign legal entity in the Republic of Azerbaijan;
- a legal entity incorporated in the Republic of Azerbaijan and the founder or at least one of the

founders of which is a foreign legal entity or individual.

Limits on land ownership. Foreign citizen can buy any property in Azerbaijan, except the land. Pursuant to the Land Code, foreigners, stateless persons, foreign legal entities, international communities and organizations as well as foreign states may be parties to land transactions by observing restrictions provided with legislation. Thus, in accordance with Article 48 of the Land Code, foreigners may obtain a land only by rent.

Intellectual Property Rights (IPR). The Law on Copyrights and Related Rights, Law on Trademarks and Geographic Designations, Law on Patents, the Law on Unfair Competition and the Law on Securing Intellectual Property Rights and Combating Piracy, Customs Code are the main legal acts in the field of IPR in Azerbaijan.

Copyright - Generally, the right is protected throughout the lifetime of the author and for 50 years after his death. No formalities are required for protection to exist, and this protection also applies in other countries.

Trademarks and Geographical indications - In order for a trademark to be protected in Azerbaijan it has to be registered at the Intellectual Property Agency of the Republic of Azerbaijan. The term of the trademark protection is 10 years from the date on which the respective body of executive power received the application for registration. The term of the registration may be renewed for further periods of 10 years at the request of the owner of the trademark, subject to a state fee. Trademarks and geographical indications, which are not registered in the

Azerbaijan Republic, but have force under the international treaties which the Azerbaijan Republic is a party to, or are well-known, are granted protection as well.

Patent Protection, Utility Models, and Industrial Design - A standard patent generally has a term of 20 years from the date on which the application was filed with the respective body of executive power. If the subject matter of an invention patent is a product or process subject to administrative procedures, the validity term may be extended for five years. Unlike patent, utility model should not meet the requirement of inventive step. In case the invention is new and “industrially applicable”, it shall enjoy 10 years protection under the law of the Republic of Azerbaijan. Art-constructive solutions determining outward appearance of an article refers to industrial design. Industrial design can be constituted as a picture or a model or in a combination of those features. If the industrial design meets the criteria of novelty and originality, it can enjoy the protection for the term of 10 years.

Personal Data Protection. The Law on Personal Data aims to protect the right to privacy of the person, recognized both in Constitution of the Republic of Azerbaijan and Article 8 of European Convention for the Protection of Human Rights and Fundamental Freedoms which Azerbaijan is a contracting party to. It is noteworthy that Azerbaijan has ratified the European Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data. However, Additional Protocol to this Convention regarding supervisory authorities and transborder data flows is not adhered yet.



The data enabling to identify, directly or indirectly, the person shall be considered as personal data, including such categories as public (surname, given name and patronymic is regarded as public data); and data of specific category (data related to race or nationality, family life, religion and religious belief, health or conviction).

Except the cases provided by law, including information systems in respect of the persons who are in labor relationships with the owner or operator of the system or required for their access to the working territory, the information systems of personal data are subject to the state registration.

Collection, processing, dissemination and transfer of personal data is allowed with written consent of the person only. The consent could be in the form of electronic document with reinforced electronic signature or on the basis of written data submitted by the person that shall meet the requirement set out in the Personal Data Law. Regardless of level of legal protection of personal data in the country to which data is transferred cross-border transfer is possible with the written consent of the person.

## **LEGAL SYSTEM**

The Legal system of Azerbaijan is based on civil law.

Courts – The court system is three-tiered, consisting of the first instance courts (District (city) courts, administrative-economical courts, military courts, courts on grave crimes), the courts of appeal and the Supreme Court, which all hear the cases within their competence respectively. Pursuant to the amendments made to the

Civil Procedure Code (effective as of January 1, 2017), any statements of claim and complaints as well as any other documents in economic disputes may be submitted to the courts either in written form or via an electronic cabinet established within the Electronic Court system. Additionally, any court notices to the parties using electronic cabinet can be served by means of placing the notices into the electronic cabinets.

International arbitration. Pursuant to the Civil Procedure Code and the Law on Protection of Foreign Investments, investment disputes may be resolved with the dispute resolution procedures agreed by the parties. International arbitration in Azerbaijan is regulated in accordance with the Law on International Arbitration. Azerbaijan has ratified the New York Convention on Enforcement of Arbitral Awards as well as the Washington Convention on the Settlement of Investment Disputes between States and Nationals of Other States, which provides for arbitration at the International Centre for Settlement of Investment Disputes (ICSID).

Mediation. On April 3, 2019, by the adoption of the new Law “On Mediation”, mediation will be used as the main alternative dispute resolution method of social relations. The mentioned Law mainly determines the principles, goals, implementation rules of mediation and the status of mediators in Azerbaijan.

According to the provisions of the new law, mediation applies to: (1) civil cases and (2) economic and commercial disputes; (3) dispute arising from family relations; (4) labor disputes; (5) disputes on administrative law relations. The mediation shall also apply to the economic

disputes with a foreign element. The Law mainly, invites the parties of following disputes to attend an initial pre-court mediation session before going to the court. The provisions concerning the pre-court mediation session shall enter into force from July 1, 2020.