



On approval of the Rules for writing off the amount of penalties and fines subject to payment of the amount of arrears

Unofficial translation

Order No39 of the Minister of Finance of the Republic of Kazakhstan as of January 21, 2019. Registered with the Ministry of Justice of the Republic of Kazakhstan on January 24, 2019, No. 18233.

Unofficial translation

In accordance with Article 57-1 of the Law of the Republic of Kazakhstan as of December 25, 2017 “On the Enactment of the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget” (Tax Code)”, I hereby **ORDER:**

1. To approve the appended Rules for writing off the amount of penalties and fines subject to payment of the amount of arrears.

2. In accordance with the procedure established by the legislation of the Republic of Kazakhstan, the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan shall:

1) ensure state registration of this order with the Ministry of Justice of the Republic of Kazakhstan;

2) within ten calendar days of the state registration of this order, send it in Kazakh and Russian to the Republican State Enterprise with the Right of Economic Management “Republican Center of Legal Information” of the Ministry of Justice of the Republic of Kazakhstan for its official publication and inclusion into the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan;

3) place this order on the website of the Ministry of Finance of the Republic of Kazakhstan after its official publication;

4) within ten working days of the state registration of this order with the Ministry of Justice of the Republic of Kazakhstan, submit information on the implementation of measures , provided for in subparagraphs 1), 2), and 3) of this paragraph, to the Legal Department of the Ministry of Finance of the Republic of Kazakhstan.

3. This order shall take effect ten calendar days after its first official publication.

Minister

A.Smailov

Approved by
Order № 39 as of January 21, 2019
of the Minister of Finance of the
Republic of Kazakhstan

Rules for writing off the amount of penalties and fines subject to payment

of the amount of arrears

Chapter 1. General provisions

1. These Rules for writing off the amount of penalties and fines subject to payment of the amount of arrears (hereinafter referred to as the Rules) are developed in accordance with Article 57-1 of the Law of the Republic of Kazakhstan “On the Enactment of the Code of the Republic of Kazakhstan “On Taxes and Other Obligatory Payments to the Budget”(Tax Code)” as of December 25, 2017 (hereinafter referred to as the Law on the Enactment of the Tax Code) and establish the procedure for writing off:

1) the amount of the penalty recorded in the personal account of the taxpayer as of October 1, 2018, as well as the amount accrued on the amount of arrears recorded in the personal account of the taxpayer as of October 1, 2018, for the period from October 1, 2018 to the date of its payment, including the day of payment, by the type of tax and another obligatory payment to the budget for which the arrears were paid;

2) the amount of the fine imposed for tax offenses in accordance with the Administrative Offenses Code of the Republic of Kazakhstan as of July 5, 2014 (hereinafter referred to as the AOC), as of October 1, 2018 recorded in the personal account of the taxpayer for that type of tax and another obligatory payment to the budget for which the arrears were paid;

3) the amount of penalties and fines, in case of the taxpayer’s early fulfillment of the tax obligation to pay tax and another obligatory payment to the budget in full, the due date for which as of October 1, 2018 was changed in accordance with the tax legislation of the Republic of Kazakhstan and the legislation of the Republic of Kazakhstan on rehabilitation and bankruptcy.

2. The provisions of these Rules do not apply to taxpayers who are not subject to the provisions of Article 57-1 of the Law on the Enactment of the Tax Code.

Chapter 2. The procedure for writing off the amount of penalties and fines

Clause 1. Introduction

3. In order to inventory personal accounts, to select taxpayers who paid in full the amount of arrears recorded in their personal accounts as of October 1, 2018, also through offsets in the manner specified in Article 102 of the Code of the Republic of Kazakhstan dated December 25, 2017 “On Taxes and Other Obligatory Payments to the Budget” (Tax Code), who, as of the indicated date, had arrears of penalty and (or) fine for the type of tax and another obligatory payment to the budget, for which the arrears were paid, in their personal accounts, within two working days of entry into force of these Rules, the state revenue

authority at the place of the taxpayers' maintaining personal accounts shall set up a Commission for writing off the amount of penalties and fines from the personal account subject to the payment of the amount of arrears (hereinafter referred to as the Commission).

4. The Commission shall include officials:

- 1) responsible for maintaining records and personal accounts of the taxpayers;
- 2) responsible for the registration of the taxpayers;
- 3) responsible for arrears management;
- 4) having the right to consider administrative offense cases;
- 5) responsible for tax audits;
- 6) of the legal department.

The Commission is led by chairman who is the head or deputy head of a state revenue authority.

5. The Commission inventories personal accounts from the date of its establishment to December 31, 2019.

Clause 2. Writing off the amount of penalty recorded in the taxpayer's personal account as of October 1, 2018, as well as the amount accrued on the amount of arrears recorded in the taxpayer's personal account as of October 1, 2018, for the period from October 1, 2018 to the date of its payment, including the day of payment

6. If the results of the inventory specified in paragraph 5 of these Rules identify taxpayers who, since October 1, 2018, have paid in full the amount of arrears recorded in their personal accounts as of October 1, 2018, who, as of the indicated date, had arrears of penalty in their personal accounts, the state revenue authority, within three working days of such taxpayers' identification, shall make a decision to write off the amount of penalty subject to payment of the amount of arrears in accordance with the form in Appendix 1 to these Rules (hereinafter referred to as the Decision).

The amount of penalty in the taxpayer's personal account as of October 1, 2018, as well as that accrued on the amount of arrears paid for the period from October 1, 2018 to the date of its payment, including the day of payment, shall be written off. In this case, the amount of penalty is written off by the type of tax and another obligatory payment to the budget for which the arrears were paid.

An example of calculating the amount of penalty accrued on the amount of arrears paid for the period from October 1, 2018 to the date of its payment, including the day of payment, is given in Appendix 2 to these Rules.

The Decision of the state revenue authority shall be signed by the Commission chairman and members.

7. Within three working days of the Decision, the Commission shall write off the amount of the penalty specified in the Decision.

The write-off is made by indicating the amount of penalties to be written off with the minus sign in the columns of the taxpayer's personal account "Settlements in respect of

penalties” - “Accrued (reduced)” and making an entry in the column of the personal account “The subject of the operation and the document on the basis of which the entry (recording) is made”:

“Decision № _____ to write off the amount of penalty from the taxpayer’s personal account as of “___” _____ 20___”.

Clause 3. Writing off the amount of the fine imposed for tax offenses in accordance with the AOC, as of October 1, 2018, recorded in the taxpayer’s personal account for the type of tax and another obligatory payment to the budget for which the arrears were paid

8. If the results of the inventory specified in paragraph 5 of these Rules identify taxpayers who, since October 1, 2018, have paid in full the amount of arrears recorded in the personal account as of October 1, 2018, who, as of the indicated date, had arrears of fine in their personal accounts, officials entitled to consider administrative offense cases, taking into consideration the list of taxpayers submitted by the Commission, within three working days, shall terminate the execution of orders and exempt the taxpayers from executing an administrative sanction in accordance with Article 889 of the AOC by issuing an order to terminate the execution of the order imposing the administrative sanction.

9. The list of taxpayers, in whose respect the execution of orders imposing the administrative sanction has been terminated and who are exempted from the execution of an administrative sanction in accordance with Article 889 of the Administrative Offenses Code of the Republic of Kazakhstan, is made in accordance with the form in Appendix 3 to these Rules, and within three working days of termination of the orders’ execution is transferred to the structural unit of the state revenue authority responsible for maintaining records and personal accounts of taxpayers in order to write off the amount of arrears of fines from the taxpayers’ personal accounts.

In this case, the amount of fine is written off by the type of tax and another obligatory payment to the budget for which the arrears were paid.

The write-off is made by indicating the amount of fines to be written off with the minus sign in the columns of the taxpayer’s personal account “Settlements in respect of fines” - “Accrued (reduced)” and making an entry in the column of the personal account “The subject of the operation and the document on the basis of which the entry (recording) is made”:

“The order to terminate the execution of the order on the imposition of the administrative sanction as of “___” _____ 201___”.

In case of partial payment of the amount of the fine specified in the order on imposing the administrative penalty by October 1, 2018, subject to write-off is the difference between the amount of the fine imposed under such an order and paid before October 1, 2018.

Clause 4. Writing off penalties and fines in case of the taxpayer’s early fulfillment in full of a tax obligation to pay tax and another obligatory payment to the budget, the due date for

which as of October 1, 2018 was changed in accordance with the tax legislation of the Republic of Kazakhstan and the legislation of the Republic Kazakhstan on rehabilitation and bankruptcy

10. In case of early fulfillment in full of the tax obligation to pay tax and another obligatory payment to the budget, the due date for which was changed as of October 1, 2018 in accordance with the tax legislation of the Republic of Kazakhstan, the taxpayer submits an application in any form to the state revenue authority for writing off the amount penalties, the due dates for which were changed as of October 1, 2018 in accordance with the tax legislation of the Republic of Kazakhstan.

Subject to write-off is also the amount of penalties accrued on the amount of the paid tax obligation with the payment deadline altered as of October 1, 2018, for the period from October 1, 2018 to the date of payment, including the day of payment, except for cases when the taxpayer is exempted from paying the penalty for late payment of taxes and (or) fees when changing deadlines for the fulfillment of the tax obligation to pay them as provided for in paragraph 7 of Article 49 of the Tax Code.

In this case, the amount of the penalty is written off by the type of tax and another obligatory payment to the budget for which the principal debt was paid.

Upon confirmation of early fulfillment in full of the tax obligation to pay tax or another obligatory payment to the budget, the state revenue authority shall make a Decision within five working days of the application's receipt.

The penalty shall be written off in the manner prescribed by paragraph 7 of these Rules.

The results of consideration of the taxpayer's application are sent by the state revenue authority in the manner prescribed by the Law of the Republic of Kazakhstan "On the Procedure for the Consideration of Applications of Individuals and Legal Entities" as of January 12, 2007 (hereinafter referred to as the Law).

11. In the case of early fulfillment in full of a tax obligation to pay tax or another obligatory payment to the budget, the due date for which was changed as of October 1, 2018 in accordance with a final and binding court ruling on approval of a rehabilitation plan or on alterations and additions to such a plan, the taxpayer sends an application for writing off the amount of penalties and (or) fines (hereinafter referred to as the application) to the state revenue authority.

The application is sent in any form with the details of the final and binding court ruling on alterations and additions to the rehabilitation plan in connection with the fulfillment of the tax obligation in full.

Upon confirmation of early fulfillment in full of the tax obligation to pay tax or another obligatory payment to the budget, the state revenue authority shall make a Decision within three working days of the application's receipt, and the relevant officials shall terminate the

Total	X	X			X		
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Head (deputy head) of a state revenue authority _____
(surname, name, patronymic (if any), signature)
Commission members _____

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(surname, name, patronymic (if any), signature)

Appendix 2 to the Rules for
writing off the amount of penalties
and fines subject to payment of the
amount of arrears

An example of calculating the amount of penalties accrued on the amount of arrears paid for the period from October 1, 2018 to the date of its payment, including the day of payment

The amount of arrears in the personal account of the taxpayer as of October 1, 2018 is 500,000 tenge, the amount of arrears equal to 500,000 tenge was paid in the following order:

- October 25, 2018 - 50,000 tenge;
- November 25, 2018 - 150,000 tenge;
- December 25, 2018 - 200,000 tenge;
- January 25, 2019 - 100,000 tenge.

The amount of penalty accrued on the amount of arrears for the period from October 1, 2018 to the date of its payment, including the day of payment, is calculated using the formula provided for by paragraph 127 of the Rules for maintaining personal accounts approved by Order No. 308 of the Minister of Finance of the Republic of Kazakhstan as of February 27, 2018 (registered in the State Registration Register of Regulatory Legal Acts under No. 16601, published in the Reference Control Bank of Regulatory Legal Acts of the Republic of Kazakhstan on March 28, 2018) as follows:

1. A penalty is calculated for the amount of 500,000 tenge for the period from October 1, 2018 to October 25, 2018;
2. A penalty is calculated for the amount of 450,000 tenge for the period from October 26, 2018 to November 25, 2018;
3. A penalty is calculated for the amount of 300,000 tenge for the period from November 26, 2018 to December 25, 2018;
4. A penalty is calculated for the amount of 100,000 tenge for the period from December 26 to January 25, 2019;
5. The amount of penalty accrued from October 1, 2018 to January 25, 2019 shall be summed up, and the result shall be transferred to column 8 of Appendix 1 of these Rules.

Appendix 3 to the Rules for
writing off the amount of penalties
and fines subject to payment of the

Item №	Code of the state revenue authority	Taxpayer's IIN/BIN	Taxpayer's name	BCC	Amount of arrears as of October 1, 2018	payment of arrears	the amount of penalty		the amount of fine		payment or rehabilitation
							date	amount	date	amount	
1	2	3	4	5	6	7	8	9	10	11	12
	Total	X	X	X		X	X		X		X

Head (deputy head) of a state revenue authority _____

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(surname, name, patronymic (if any), signature)