

On approval of the Rules and time limits for sending or serving to the inspectee the preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection and for considering such an objection

Unofficial translation

Order of the Minister of Finance of the Republic of Kazakhstan dated April 21, 2021 No. 376. Registered with the Ministry of Justice of the Republic of Kazakhstan on April 22, 2021 No. 22593.

Unofficial translation

In accordance with clause 20 of Article 418 of the Code of the Republic of Kazakhstan “On customs regulation in the Republic of Kazakhstan” **I HEREBY ORDER:**

1. To approve the attached Rules and time limits for sending or serving to the inspectee the preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection and for considering such an objection.

2. To recognize as invalid:

1) order of the Minister of Finance of the Republic of Kazakhstan dated January 23, 2018 № 45 “On approval of the Rules and time limits for serving to the inspectee the preliminary act of a customs preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection, considering by the state revenue body of such an inspection, as well as the categories of the inspectees, in whose relation the norms on preliminary act of an on-site customs inspection apply” (registered in the Register of State Registration of Regulatory Legal Acts of the Republic of Kazakhstan under № 16362);

2) order of the Minister of Finance of the Republic of Kazakhstan dated September 9, 2020 № 840 On amendments to the order of the Minister of Finance of the Republic of Kazakhstan dated January 23, 2018 № 45 “On approval of the Rules and time limits for serving to the inspectee the preliminary act of a customs preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection, considering by the state revenue body of such an inspection, as well as the categories of the inspectees, in whose relation the norms on preliminary act of an on-site customs inspection apply” (registered in the Register of State Registration of Regulatory Legal Acts of the Republic of Kazakhstan under № 21193).

3. The State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan in accordance with the procedure established by the legislation of the Republic of Kazakhstan shall ensure:

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

2) placement of this order on the Internet resource of the Ministry of Finance of the Republic of Kazakhstan;

3) within ten working days after the state registration of this order with the Ministry of Justice, submission to the Department of Legal Service of the Ministry of Finance of the Republic of Kazakhstan of information about execution of measures, stipulated by subclauses 1) and 2) of this clause.

4. Control over execution of this order shall be entrusted to the supervising Vice Minister of Finance of the Republic of Kazakhstan.

5. This order shall be enforced upon expiry of ten calendar days after the date of its first official publication.

*Minister of Finance
of the Republic of Kazakhstan*

Ye. Zhamaubayev

Approved by the Order of the
Minister of Finance
of the Republic of Kazakhstan
dated April 21, 2021 № 376

Rules and time limits for sending or serving to the inspectee the preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection and for considering such an objection

Chapter 1. General provisions

1. These Rules and time limits for sending or serving to the inspectee the preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection and for considering such an objection (hereinafter referred to as the Rules) have been developed for the purposes of implementation of clause 20 of Article 418 of the Code of the Republic of Kazakhstan “On customs regulation in the Republic of Kazakhstan” (hereinafter referred to as the Code).

These Rules shall determine the procedure for sending or serving to the inspectee the preliminary act of an on-site customs inspection, for filing by the inspectee of a written objection to the preliminary act of an on-site customs inspection and for considering such an objection.

2. Within the framework of these Rules, the following concept shall be used:

written objection – a written disagreement of the inspectee with results of the preliminary act of on-site customs inspection.

Chapter 2. Rules and time limits for sending or serving to the inspectee the preliminary act of an on-site customs inspection

3. Prior to drawing up an act of an on-site customs inspection, provided for in clause 19 of Article 418 of the Code, an officer of the state revenue body shall send or serve to the inspectee the preliminary act of an on-site customs inspection.

4. The preliminary act of an on-site customs inspection shall be sent or served to the inspectee with signed acknowledgement no later than 5 (five) working days before the date of completion of the on-site customs inspection.

5. If it is impossible to serve to the inspectee a preliminary act of on-site customs inspection or return it by the postal or telecom operator due to the absence of the inspectee at the location indicated in the registration data of the inspectee, the state revenue authority within 5 (five) working days from the date of return of such documents shall conduct an examination at the location of such a person with the involvement of 2 (two) attesting witnesses.

Based on the results of the examination, an act of examination is drawn up, which indicates:

- place, date and time of drawing up;

- position, surname, name and patronymic (if it is specified in the identity document) of the officer of the state revenue body;

- name of the state revenue body;

- surname, name and patronymic (if it is specified in the identity document), name and number of the identity document, address and places of residence of the involved attesting witnesses;

- surname, name and patronymic (if it is specified in the identity document) and (or) name of the inspectee, his/her individual identification number/business identification number;

- information about results of the examination.

Any adult capable citizens in the amount of at least two people who are not interested in the outcome of the actions of an official of the state revenue body and the inspectee are invited as attesting witnesses. Participation of officers of state bodies of the Republic of Kazakhstan and employees, founders (participants) of the inspectee in capacity of attesting witnesses shall not be allowed.

If, as a result of the examination, the actual absence of the inspectee at the location specified in the registration data is established, the date of delivery of the preliminary act of on-site customs inspection shall be the date of drawing up the act of the examination.

Chapter 3. Procedure and terms for filing by the inspectee of a written objection to the preliminary act of the on-site customs inspection and for considering such an objection

6. A written objection to the preliminary act of on-site customs inspection shall be submitted by the inspectee to the state revenue body performing the on-site customs inspection within 10 (ten) working days from the date of receipt or delivery of the preliminary act of on-site customs inspection, except for inspectees, who are subject to the monitoring of large taxpayers, according to clause 3 of Article 130 of the Code of the Republic of Kazakhstan “On taxes and other obligatory payments to the budget (Tax Code)” (hereinafter referred to as the Tax Code).

At the same time, the inspectee, subject to monitoring of large taxpayers, shall submit a written objection to the preliminary act on-site customs inspection to the state revenue body that carries out the on-site customs inspection within 15 (fifteen) working days from the date of receipt or delivery of the preliminary act on-site customs inspection.

The inspectee shall submit a written objection to the preliminary act of the on-site customs inspection in one of the following ways:

- 1) by personal delivery – on paper;
- 2) by registered mail with notification – on paper;
- 3) via the State Corporation “Government for citizens” – in electronic form.

7. The written objection shall specify:

- 1) name of the state revenue body, carrying out on-site customs inspection;
- 2) surname, name and patronymic (if it is specified in the identity document) or full name of the person submitting the written objection, his/her place of residence (location);
- 3) individual identification number/business identification number of the person, filed a written objection;
- 4) date of filing a written objection;
- 5) circumstances on which the person filing a written objection bases his claims and evidence supporting these circumstances;
- 6) list of attached documents.

8. The date of receipt of the written objection shall be the date of acceptance and registration of the written objection by the state revenue body that carries out the on-site customs inspection.

9. A written objection shall be considered by the state revenue body that carries out an on-site customs check, within the limits of the issues specified in it, within 10 (ten) working days from the date of receipt of the written objection.

At the same time, the term of consideration of a written objection shall be suspended:

- 1) when sending a written request to the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan (hereinafter referred to as the Committee) in accordance with clause 10 of these Rules – for the period of time from the date of sending such a request to the date of receipt of a response;
- 2) when sending a request to the inspectee and (or) to the state bodies of the Republic of Kazakhstan, as well as to the relevant bodies of foreign states and (or) other organizations, in

accordance with clause 12 of these Rules - for the period of time from the date of sending such a request to the date getting an answer.

In case of suspension of the terms for consideration of a written objection, the state revenue body carrying out an on-site customs inspection shall send information to the inspectee about such suspension within 1 (one) working day from the date of sending the request in the following ways:

By mail - by registered mail with delivery notification;

Electronically in the web-application or personal account of a user on the web-portal of “electronic government”.

10. In case of disagreement with the written objection of the inspectees, the state revenue body carrying out the on-site customs inspection, during the period of consideration of the written objection, shall send a request to the Committee in respect of the following inspectees :

1) subject to the monitoring of large taxpayers in accordance with clause 3 of Article 130 of the Tax Code;

2) concluded investment and (or) special investment contracts;

3) for which, according to preliminary acts of on-site customs inspection, the amount of customs payments, taxes, special, anti-dumping, countervailing duties, interest exceeds 5,000 times the monthly calculation index established by the Law of the Republic of Kazakhstan “On the Republican Budget for 2021-2023” and in force as of January 1, of the corresponding financial year.

A request shall be attached with the following documents:

A preliminary act of an on-site customs inspection;

A written objection of the inspectee;

A position of the state revenue body;

calculations, as well as other documents and information obtained during on-site customs inspection, affecting the issues set forth in the written objection of the inspectee.

11. The Committee shall consider the request of the state revenue body carrying out the on-site customs check within 30 (thirty) calendar days from the date of its registration with the Committee, within the circumstances on which the person who filed the objection bases his/her claims and evidence confirming these circumstances, as well as within the limits of the evidence and justifications specified in the position of the state revenue body, carrying out the on-site customs inspection.

When considering the request of the state revenue body, the Committee shall send requests to the inspectee and (or) to the state bodies of the Republic of Kazakhstan, as well as to the relevant bodies of foreign states and other organizations to provide information or explanations on the issues set forth in the written objection.

In this case, the period for consideration of the request shall be suspended for a period of time from the date of sending the request to the date of receiving the response.

Based on the results of consideration of the request, the Committee shall send to the state revenue body that carries out the on-site customs inspection a response with reasoned justification on the issues set out in the written objection.

12. When considering written objections of the inspectees not specified in clause 10 of these Rules, the state revenue body carrying out the on-site customs inspection shall send a written objection to the inspected person and (or) to the state bodies of the Republic of Kazakhstan, as well as to the relevant bodies of foreign states and (or) other organizations requests for information or explanations on the issues set out in the written objection.

In this case the specified requests shall be considered by the state bodies of the Republic of Kazakhstan in the manner and within the time frame, prescribed by Article 44 of the Administrative Procedural and Process-Related Code of the Republic of Kazakhstan.

Interaction with state bodies of foreign states shall be carried out in accordance with international treaties of the Republic of Kazakhstan.

Footnote. Paragraph 12 as amended by the order of the Deputy Prime Minister – Minister of Finance of the Republic of Kazakhstan dated 28.10.2022 № 1101 (shall be enforced upon expiry of ten calendar days after its first official publication).

13. The state revenue body carrying out the on-site customs inspection, based on the results of consideration of a written objection, within the time limits specified in clause 9 of these Rules, and also taking into account the response to the request provided in accordance with clause 11 of these Rules, shall resume and complete the on-site customs inspection in the manner and the time limits established by Article 418 of the Code, by sending or serving to the inspectee:

- 1) notices on the renewal of the on-site customs inspection in accordance with the requirements of clause 18 of Article 418 of the Code;
- 2) an act on the on-site customs inspection in accordance with the requirements of clause 21 of Article 418 of the Code.

14. If the inspectee fails to provide a written objection within the period established by clause 6 of these Rules, or if the inspectee revokes the written objection, the state revenue body carrying out the field customs shall renew and complete the on-site customs inspection in the manner and time limits established by Article 418 of the Code, by sending or serving to the inspectee:

- 1) a notice on renewal of the on-site customs inspection in accordance with the requirements of clause 18 of Article 418 of the Code;
- 2) an act on on-site customs inspection in accordance with the requirements of clause 21 of Article 418 of the Code.

