**ANALYTICAL REPORT**

**of the internal analysis of corruption risks**

**for 2021 and the 1st quarter of 2022**

Taldykorgan с. 12.04.2022у.

**I. INTRODUCTORY PART**

In accordance with paragraph 5 of Article 8 of the Law of the Republic of Kazakhstan "On Combating Corruption", the Standard Rules for Conducting Internal Analysis of Corruption Risks, approved by the Order of the Chairman of the Agency of the Republic of Kazakhstan for Civil Service Affairs and Anti-Corruption dated 19.10.2016 No. 12, and in accordance with the procedure defined by the Method. recommendations on conducting an internal analysis of corruption risks approved by the Chairman of the Agency of the Republic of Kazakhstan for Combating Corruption dated 07.04.2021 in the Department of State Revenue in the Almaty region (hereinafter – the Department) on the basis of the Department's order No. P-134 dated 28.03.2022, an internal analysis of corruption risks (hereinafter – VAKR) in organizational and managerial activities and regulatory acts affecting the activities of tax and customs administration units by a working group consisting of:

- Head of the Department of development and quality control of public services of the UGU Tostikbaeva D.B., head of the department of desk monitoring No. 2 UKM Sarmurzinova G.N., Head of the Department of non-tariff regulation and intellectual property UTA Bakytuly B., chief specialist of the department of collection of URZ Raisova Z.B.

The WACR was conducted on the basis of regulatory legal acts affecting the activities of both the Department and its territorial divisions, data from the database of information systems and other information, the provision of which is permitted by the legislation of the Republic of Kazakhstan.

Thus, the sources of information for the WRC are regulatory legal acts and internal documents affecting and regulating the activities of the tax and customs administration departments of the Department.

**II. DESCRIPTIVE PART**

**1. Personnel management**

On personnel management issues, no corruption risks were identified in the Department's activities during the internal analysis of corruption risks.

**2. Conflict of interest settlement**

On the issues of conflict of interest settlement during the internal analysis of corruption risks, corruption risks were not identified in the Department's activities.

For 2021 and the 1st quarter of 2022, there was no information about the conflict of interests of employees of structural and territorial divisions of the Department.

**3. Implementation of permissive functions**

Regarding the implementation of licensing functions during the internal analysis of corruption risks, corruption risks were not identified in the Department's activities.

**4. Provision of public services**

**1. Name of corruption risk:**

Corruption risk for the service "Registration of value-added tax payers" during the state registration of legal entities (legal entities).

Illegal registration for VAT, which leads to the conduct of a tax survey act by the OGD specialists (ANO); possible provision by the OGD specialist of preference in confirming the location of the taxpayer who illegally registered for VAT.

**Description:**

According to paragraph 1 of Article 83 of the Tax Code, persons who are not subject to mandatory registration for VAT in accordance with paragraph 1 of Article 82 of the Code are entitled to register for VAT by submitting a tax application for VAT registration in one of the following ways:

1) in hard copy, in person;

2) in electronic form;

3) at the state registration of a legal entity (legal entity) in the National Register.

Currently, in the information systems of tax authorities, the VAT registration service is automated, this optimization provides an opportunity for taxpayers to easily register for VAT registration.

At the same time, according to Article 6-1 of the Law of the Republic of Kazakhstan dated April 17, 1995 No. 2198 "On state registration of legal entities and registration of branches and representative offices", state registration of legal entities related to small business entities is of a notification nature, i.e. it is carried out by submitting a notification of the start of entrepreneurial activity through a web portal "e-government" and at the same time carrying out registration for VAT registration.

The introduction of the notification nature of registration in relation to the legal entity led to the exclusion of the requirement to refuse state registration and re-registration, in cases of absence of a document confirming the location of the legal entity.

In order to prevent taxpayers' evasion from fulfilling tax obligations, timely establishment of registration of enterprises on figureheads without a fixed place of residence, a tax survey is conducted in accordance with Article 70 of the Tax Code.

The document confirming the location of the NP is:

- confirming the ownership of real estate (use of it);

- written consent of the natural person whose ownership right is the immovable property declared as the location.

Personal contact of the OGD specialists during the tax survey with taxpayers, as a result, IT may give preference to confirming the location of the NP that illegally entered the VAT registration.

The current norm gives the right to payers, by submitting a notification of the start of entrepreneurial activity through the PEP, to simultaneously register for VAT registration.

At the same time, during the tax survey, the absence of the lessor's consent to the provision of premises for the registration of a legal entity is revealed.

In this case, there is a risk in the form of preference on the part of a specialist who can confirm the location of the VAT payer, who does not have the written consent of the lessor.

**Recommendations for elimination:**

- when registering a legal entity with the simultaneous choice of registration for VAT registration, the application should be supplemented with an Appendix in the form of a tab, where the details of the document confirming the location of the legal entity will be reflected (database integration: the number of executive inscriptions made by a notary in the register of the Republican Notary Chamber (notariat.kz ) and ENIS (enis.kz ).

- in the absence of a document confirming the legality of the location of the legal entity at a particular address, the automatic system refuses to register the VAT payer.

When implementing the above recommendations, there is no need to conduct an ANO in relation to NP that have illegally registered for VAT.

**5. Implementation of control functions**

**1. Name of corruption risk:**

Corruption risk when working out possible debtors in the process of collecting tax debts.

**Description of corruption risk:**

All methods and measures of enforcement are carried out automatically, with the exception of the formation of Notifications of foreclosure on money in debtors' bank accounts.

These notifications are generated in the IS INIS in the Documents mode/Notifications in manual mode.

 Further, this Notification is sent to the possible debtor via an electronic channel. The deadline for execution by the debtor under this notification is 20 working days.

However, there are debtors who, for personal purposes, do not provide or do not provide a timely response to this Notification. After that, at the expiration of the term, this notification is assigned the status of "UNFULFILLED UV".

In turn, it is possible that there will be omissions on the part of the territorial administrative divisions in terms of untimely control over the execution of these notifications (that is, debtors are not brought to administrative responsibility for late provision of a response under Article 288 of the Administrative Code of the Republic of Kazakhstan and thematic checks are not assigned to identify the amounts of receivables), this makes it possible for debtors to make all kinds of transactions for settlements with suppliers and contractors and to avoid enforcement measures against them by collecting receivables from the debtor's settlement accounts by collection order.

Given the workload in the territorial administrative divisions, this area of work may be ignored, which will lead to untimely initiation of inspections on debtors, as a result of which the efficiency of work on collecting tax debts due to debtors' processing will significantly decrease.

These actions may lead to corruption risks. As a result, due to the untimely adoption of enforcement measures against debtors, budget losses may occur.

**Recommendations for elimination:**

After the expiration of the Notification period, that is, 20 working days from the date of delivery of the report on debtors, finalize it in the IS INIS/Accounting and control over the fulfillment of tax obligations/Order on the suspension of expenditure transactions on bank accounts the mode of blocking all current accounts of the debtor in automatic mode until the causes are eliminated (providing a response to each invoice and bringing the debtor to administrative responsibility).

**2. Name of corruption risk**

Corruption risk arising during the procedures of desk control, in terms of the formation of the Order on the suspension of expenditure operations (RPRO).

Description of corruption risk:

In case of non-fulfillment of notifications on the elimination of violations identified by the results of desk control, according to paragraph 6 of Article 96 of the Tax Code of the Republic of Kazakhstan, the suspension of expenditure transactions on the taxpayer's bank accounts under Article 118 of the Tax Code of the Republic of Kazakhstan entails. That is, an employee of the YEAR in the IS of the RVU manually generates the RPRO on the taxpayer's bank accounts. In this connection, corruption risks arise, it is possible to give preference to the taxpayer in solving this issue.

**Recommendations for elimination:**

In the case of failure to submit the BOTTOM, as well as the corresponding explanation by the taxpayer after five working days, in the automated mode, to provide for the suspension of expenditure operations and the establishment of a color indicator.

**3. Name of corruption risk**

Corruption risk arising in the process of implementing desk control, arising from the lifting of restrictions on the taxpayer's expenditure operations on the notifications of desk control.

**Description of corruption risk:**

An employee of the OGD, when eliminating violations by the taxpayer upon notification to the IS INIS of the Republic of Kazakhstan, manually puts down the appropriate status for revoking the order on suspension of expenditure operations (RPRO). In this connection, corruption risks arise, it is possible to give preference to the taxpayer in solving this issue (lifting restrictions in case of incomplete elimination of violations by notification).

**Recommendations for elimination:**

In the TNF, provide for the cell "complete elimination of violations by notification", that is, in case of agreement with violations, when submitting the DFO on notification and payment of taxes due, in the IS, make a link with the information systems of the SONO, TSULS, INIS, to automate the process of removing restrictions on taxpayer bank accounts.

**4. Name of corruption risk:**

Corruption risk in the exercise of control over the activities of temporary storage warehouses.

**Description of corruption risk:**

According to the order of the First Deputy Prime Minister of the Republic of Kazakhstan - Minister of Finance of the Republic of Kazakhstan dated April 10, 2020 No. 374 "On certain issues of accounting and reporting to the State Revenue Authority", persons engaged in customs affairs provide monthly, quarterly reports to the Customs control Department of the UTA Department of the region. According to art . 507 item 1 of item 7 of the Code on Customs Regulation, the owner of a temporary storage warehouse is obliged to keep records of goods in a temporary storage warehouse and submit reports to customs authorities on such goods, including using information and communication technologies, in accordance with the procedure determined by the authorized body.

In accordance with this Order, the owners of SVH at border posts quarterly submit reports to the Department on received and issued goods.

The accounting of received and issued goods from the SVH is carried out exclusively on paper (goods accounting journal).

At the same time, the release of goods at customs posts is carried out by means of IS Astana-1 (the release of DT under the IM-40 procedure or the transit procedure).

In this regard, there is a possibility of providing false data by the owners of SVH. Along with this, the OGD employee can also correct the accounting data of the SVH on paper, which in turn will lead to withdrawal from the administrative responsibility of the owners of the SVH.

**Recommendations for elimination:**

To settle the above facts, it is advisable to adopt amendments to the existing regulations (orders) in order to prevent the manifestation of corruption risks.

Accounting of goods on SVH should be carried out exclusively in IS Astana-1.

**5. Name of corruption risk:**

Corruption risk in the control of international transportation vehicles.

**Description of corruption risk:**

The procedure for temporary importation of international transport vehicles (TSMP) is regulated by the Agreement on Temporary Importation (Istanbul, June 26, 1990) and containers are recognized as multi-turn containers. The term of temporary import of TSMP in the territory of the Republic of Kazakhstan is 6 months (previously it was 3 months).

In addition, there are discrepancies in regulatory legal acts on the definition of the concept of "container".

Thus, in accordance with subparagraph (c) of Article 1 of Chapter 1 of the Convention on Temporary Importation (Istanbul, 26.06.1990), ratified by the Republic of Kazakhstan, the term "container" is referred to transport equipment. The purpose of the Convention is the uniformity of provisions in the field of temporary importation in order to achieve and develop economic, humanitarian, cultural, social and tourist ties.

However, according to paragraph 49) of Article 2 of the Customs Code of the Eurasian Economic Union, the term "container" is attributed to vehicles.

In addition, according to paragraph 24) of paragraph 1 of Article 1 of the Law "On Railway Transport", a container is a universal transport equipment of multiple use intended for the carriage of goods, on the basis of which the container is not a vehicle.

Other EAEU member states that recognize empty containers as TCMP, establish their temporary import period, which are valid on their territory. Accordingly, in the event of a violation of the term of temporary importation, the administrative material is considered by the customs authority by which the TDTS was registered.

Taking into account the above, in case of detection of expired temporary import under the TSMP, the TDTS of which was issued by one of the EAEU member states, the full package of documents will be sent to the appropriate customs authority.

The above disadvantage leads to the manifestation of preference for certain categories of carriers and vehicles, as well as officials.

**Recommendations for elimination:**

To make appropriate amendments to the Customs Code of the EAEU for the purpose of uniform interpretation of the law.

Due to the fact that the containers belong to foreign entities, as well as taking into account the different definitions of the container concept that contradict each other, it is necessary to exclude an additional sanction in the form of confiscation of a vehicle in the Administrative Code of the Republic of Kazakhstan.

**6. Name of corruption risk:**

Corruption risk in the implementation of control through the use of an inspection and inspection complex (IDC).

**Description of corruption risk:**

One of the types of customs control is the use of an inspection and inspection complex (hereinafter referred to as the IDC) used at customs posts.

According to paragraph 7 of Chapter 2 of the Order of the SRC of the Ministry of Finance of the Republic of Kazakhstan No. 558 dated 11.12.2018 "On approval of the procedure for the use of inspection intrascopic equipment by officials of state Revenue bodies", it follows that: the direct use of the IDC is carried out by officials – operators of the IDC, which are divided into a system management operator (OUS) and an image analysis and comparison operator (OAS).

The operator of image analysis and comparison (OAS):

1) analyzes the X-ray image obtained using the IDC in order to determine the risk area of possible import/export of prohibited items and substances (weapons, ammunition, explosives, drugs, psychotropic substances, precursors and other prohibited items and substances);

2) compares the images by examining the data obtained as a result of scanning with information about goods and vehicles contained in transport, commercial, customs and other documents submitted to the state revenue authority regarding the presence of signs of declaring goods of different physical properties in order to determine the risk area of false declaration.

3) performs the following actions based on the results of the analysis and comparison of information:

a) in the absence of (obvious) suspicions of the presence of goods prohibited for import /export to/from the customs territory of the EAEU, discrepancies in the results of scanning the goods with the information stated in the shipping documents:

makes comments to the IDC system "IDC control, without suspicion", with the obligatory attachment of an X-ray image in the tab of an electronic copy of the customs declaration. If there is no technical possibility of attaching an X-ray image in the electronic copy of the customs declaration tab, affix the stamp "IDC control, without suspicion" on the front side of the printed X-ray image in the form, according to Annex 2 to this Procedure, certifies the LIP and signature.

At the same time, the electronic versions of scanned images of vehicles are saved in the format "\*.JPG", the file is assigned a name corresponding to the number of the customs declaration and transmits the electronic version of the X-ray image by e-mail to the official issuing the customs declaration, to the RMP, according to the distributed zones of activity and the customs authority of destination.

b) in case of suspicion of the presence of goods prohibited for import/export to/from the customs territory of the NPP, as well as in case of detection of discrepancies in the results of scanning of goods with the information stated in the shipping documents:

makes comments to the IDC system "IDC control, under suspicion" with the numbering of the risk area and the mandatory attachment of an X-ray image in the tab of the electronic copy of the customs declaration. If there is no technical possibility of attaching an X-ray image in the electronic copy of the customs declaration tab, affix the stamp "IDC control, under suspicion" on the front side of the printed X-ray image in the form, according to Annex 2 to this Procedure, certifies the LIP and signature, with the provision of an opinion in the form, according to Annex 3 to this Procedure, on the back of the printed X-ray image.

At the same time, the electronic versions of scanned images of vehicles are saved in the format "\*.JPG", the file is assigned a name corresponding to the number of the customs declaration and transmits the electronic version of the X-ray image by e-mail to the official issuing the customs declaration, to the RMP, according to the distributed zones of activity and the customs 3) informs about the suspicions of the head of the T/P/K1IIII or the person replacing him.

It should be noted that there is a possibility of substitution of IDC images by an inspection inspector - an operator of image analysis and comparison (OAS) to conceal the revealed violation of customs legislation in connection with outdated customs control equipment of the inspection and inspection complex requiring their replacement.

**Recommendations for elimination:**

To develop a centralized subsystem in the IP "Astana-1" with automatic loading of IDC images with the final result without further editing and restricting access to responsible officials of state revenue bodies.

*Appendix: Risk Map.*

**Head of Development and Control Department**

**the quality of public services of the UGU: D. Tostikbayeva**

**Head of the Department of desk**

**monitoring No. 2 UKM: G. Sarmurzinova**

**Head of the Department of Non-tariff**

**Regulation and Intellectual**

**Property of UTA: B. Bakytuly**

**Chief Specialist**

**of the collection department of URZ Z. Raisova**

**AGREED:**

**Head of the working group**

**on internal analysis**

**of corruption risks N. Baymuldinov**

\* The analytical report was reviewed at the meeting of the working group on internal analysis of corruption risks (protocol of 12.04.2022)