

ClientAlert

Oil and Gas

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Subsoil Users May Be Obligated to Finance an Innovative Technologies Park

The Parliament of Kazakhstan is considering a draft Law "On the 'Innovative Technologies Park' Innovation-Oriented Cluster" (the "**Draft Law**") which may oblige subsoil users to finance the Fund managing the Innovative Technologies Park in an amount of up to 1% of their annual income.

The Draft Law provides for and governs the creation of a so-called innovation-oriented cluster based on the currently existing Innovative Technologies Park special economic zone (the "**SEZ**"). The plan is for the SEZ to be managed by a fund which will be a non-profit legal entity established by the Kazakhstan Government (the "**Fund**"). According to the current language of the Draft Law, the assets of the Fund are to be formed from, among others, the *"financing provided by subsoil users within the framework of performance of their obligation to annually finance research, technology promotion and/or development in an amount of **no less than one percent** of their aggregate annual income from contractual operations."*

Please note that the current Republic of Kazakhstan Law "On Subsoil and Subsoil Use" already requires subsoil users to *"annually finance research, technology promotion and/or development undertaken by Kazakhstan producers of goods, work and services in an amount of no less than one percent of the subsoil users' aggregate annual income from contractual operations"* (the "**R&D Obligations**"). According to the Tax Code of the Republic of Kazakhstan, the financing provided in this connection may be tax-deductible if the subsoil user complies with certain conditions.

Neither the Draft Law nor the explanatory note thereto specifies whether the financing of the operation of the Fund should be additional to the R&D Obligations or constitute an alternative or an additional clarification.



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At present, subsoil users that have complied with the R&D Obligations may independently select the target areas of the financing in the form of the costs of compliance with the R&D Obligations. Moreover, by providing such financing, subsoil users may benefit from it to a certain extent by commissioning certain research.

If the financing of the Fund presents an alternative to the existing R&D Obligations, the current version of the Draft Law may adversely affect subsoil users due to the restriction on the choice of R&D financing, and lack of a possibility for subsoil users to benefit from the results of such financing or to treat the costs of such financing as tax-deductible.

On 22 January 2014, the Majilis, the lower chamber of Parliament, approved the Draft Law for further consideration by the Senate, the upper chamber of Parliament. According to the explanatory note of the Majilis, enactment of the Draft Law is to encourage industrial and innovative activity in Kazakhstan.

We will monitor the progress of the Draft Law and will keep you up-to-date about further developments.

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