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LEGAL SUPPORT FOR WORK OF SMALL AND MEDIUM-SIZED BUSINESSES

Analysis of the economic situation in Kazakhstan clearly demonstrates a significant increase in the role of small and medium-sized businesses, which is an important strategic resource that can ensure economic growth, the effectiveness of economic interactions and the enhancement of national welfare.

However, small business in the Republic of Kazakhstan has to face serious difficulties arising in the course of a complex set of institutional transformations, among which general economic instability, imperfection of legislation and tax system, financial problems, numerous administrative barriers, lack of necessary knowledge, skills and experience.

The aim of the research is to substantiate theoretical and practical provisions aimed at improving the legal regulation of the activities of small and medium-sized businesses.

The methods of the research: system method, logical method, analysis, synthesis, formal legal method, method of comparative law, method of technical and legal analysis, as well as methods of other sciences – historical, statistical, linguistic.

Key words: small and medium-sized businesses, economic activity, the legal regulation, the credit and financial system.

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Шағын және орта кәсіпкерлікті құқықтық реттеу

Қазақстандағы экономикалық жағдайды талдау экономикалық өсуді, экономикалық өзара іс-қимыл тиімділігін және Ұлттық әл-ауқатты арттыруды қамтамасыз етуге қабілетті маңызды стратегиялық ресурс болып табылатын шағын және орта бизнес рөлінің едәуір артуын айқын көрсетеді. Алайда, Қазақстан Республикасындағы шағын бизнеске институционалдық қайта құрулардың күрделі кешені барысында туындайтын күрделі қиындықтарға тап болып отыр, олардың ішінде жалпы экономикалық тұрақсыздық, заңнама мен салық жүйесінің жетілмегендігі, қаржылық проблемалар, көптеген әкімшілік кедергілер, қажетті білімнің, дағдылар мен тәжірибенің болмауы. Сонымен қатар, шағын кәсіпкерлікті дамытудың тиісті деңгейі мемлекеттің экономикалық және әлеуметтік қауіпсіздігін қамтамасыз етудің маңызды шарты болып табылады. Шағын бизнеске салық салудың оңтайлы жүйесі, бір жағынан, кәсіпкерлердің іскерлік белсенділігін ынталандыруды, ал екінші жағынан – салықтарды өндіріп алудың жеткілікті қарапайым және тиімді тетігінің болуын көздейді. Осыған байланысты салық жүктемесін төмендету, салық салу мен есептілік рәсімдерін оңайлату, шағын кәсіпкерлікті заңдастыру мен дамыту үшін қолайлы жағдайлар жасау шағын кәсіпкерлікті дамытуды ынталандыру тұрғысынан ерекше өзекті және маңызды болып отыр. Зерттеудің мақсаты шағын және орта кәсіпкерлік субъектілерінің қызметін құқықтық реттеуді жетілдіруге бағытталған теориялық және практикалық ережелерді негіздеу болып табылады.

Түйін сөздер: шағын және орта бизнес, экономикалық қызмет, құқықтық реттеу, кредиттік қаржы жүйесі.

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Правовое регулирование малого и среднего бизнеса

Анализ экономической ситуации в Казахстане наглядно демонстрирует значительное повышение роли малого и среднего бизнеса, который является важным стратегическим ресурсом, способным обеспечить экономический рост, эффективность экономических взаимодействий

и повышение национального благосостояния. Однако малому бизнесу в Республике Казахстан приходится сталкиваться с серьезными трудностями, возникающими в ходе сложного комплекса институциональных преобразований, среди которых – общая экономическая нестабильность, несовершенство законодательства и налоговой системы, финансовые проблемы, многочисленные административные барьеры, отсутствие необходимых знаний, навыков и опыта. Целью исследования является обоснование теоретических и практических положений, направленных на совершенствование правового регулирования деятельности субъектов малого и среднего предпринимательства. Методы исследования: системный метод, логический метод, анализ, синтез, формально-юридический метод, метод сравнительного правоведения, метод технико-правового анализа, а также методы других наук – исторической, статистической, лингвистической. Одним из условий, необходимых для эффективного развития предпринимательства, является государственное регулирование, основными задачами которого являются формирование законодательной базы для функционирования субъектов малого и среднего предпринимательства, обеспечение защиты конкуренции, ограничение монополизма и защита прав потребителей, развитие предпринимательской инфраструктуры, государственная поддержка отдельных видов предпринимательской деятельности, прежде всего в социально значимых сферах экономики.

Ключевые слова: малый и средний бизнес, экономическая деятельность, правовое регулирование, кредитно-финансовая система.

Introduction

There are high hopes connected with small and medium-sized businesses in solving the key problems of the Kazakh economy: the development of production and trade, the creation of new jobs, and the provision of significant tax revenues to the budget.

Throughout the period of development of this sector, the state took measures to support it by improving the legislative base and creating conditions for economic growth.

In economically developed countries, small business is one of the most important sectors of the economy, employing more than half of the able-bodied population and producing the bulk of GDP.

So, small and medium-sized enterprises in European countries employ about 70% of the total number of employees, and the share of small businesses in GDP is more than 50%.

It is small enterprises that have become a mass form of entrepreneurship that provide the conditions for socio-economic stability and economic security of the country, and therefore they receive the most serious attention from the state.

Ineffective state and legal regulation of the activities of small businesses is the main factor that creates a threat to the development of small business as a sector of the economy.

Conditions and factors common to a particular business sector and factors that arise for objective reasons and which pose a threat to business, as a type of economic activity; constitute threats to the security of entrepreneurship.

At the same time, the proper level of development of small business is the most important condition for the economic and social security of the state.

The optimal system of taxation for small businesses provides, on the one hand, the stimulation of business activity of entrepreneurs, and on the other – the availability of a fairly simple and effective mechanism for tax collection.

In this regard, the reduction of the tax burden, the simplification of procedures of taxation and reporting, the creation of favorable conditions for the legalization and development of small business, become particularly relevant and important from the perspective of stimulating the development of small businesses.

The main part:

An important task of the state is the formation of an economic environment that is favorable for all types of entrepreneurial activity.

Small enterprises and individual entrepreneurs are in need of special state support.

Types of this support are different: financial, property, consulting and information.

One of the most significant measures to stimulate the development of the small business sector is to create preferences for it in the field of taxation, the introduction of special rules for participation in tax relations for small businesses, which ensures the implementation of indirect government funding.

In order to reduce the tax burden on small businesses, it is expedient to release small businesses from VAT when buying state property.

The experience of the majority of economically developed foreign countries shows that the bulk of the gross domestic product falls to small-scale

enterprises, small and medium-sized enterprises provide jobs to the majority of the able-bodied population, most of all innovations are implemented in the small business sector, the main share of tax deductions falls on the sector of small and medium-sized business.

In Kazakhstan, there is a slightly different situation in which a large part of the gross domestic product is created by large industrial enterprises, while small businesses experience serious difficulties in carrying out business activities.

These difficulties are largely caused by the low level of development of the legislative base regulating crediting to small and medium-sized businesses.

The current legislation in this sphere is not only ineffective, but also does not regulate a number of issues requiring proper legal regulation.

In the Republic of Kazakhstan, the problems associated with the significant lag in the legal regulation of the credit and financial system from the requirements of a modern market economy come to the fore today.

In these conditions, the problem of limited access of small businesses to borrowed funds is due to the fact that crediting of small and medium-sized businesses is characterized by the lack of effective legal mechanisms that guarantee the realization of the property interests of participants in credit transactions.

Obviously, the further development of small and medium-sized businesses in modern Kazakhstan is impossible without improving the normative base regulating the procedure for providing small and medium-sized businesses with accessible borrowed funds.

The financial crisis worsened the situation in the sphere of small business crediting.

Many banks have reduced crediting programs for small and medium-sized businesses due to high transaction costs and financial risks.

The limited credit offers for small businesses and the lack of a competitive market for crediting led to the preservation of high interest rates and limited access of small and medium-sized businesses to credit resources.

Credits are of great importance for financing the activities of small and medium-sized businesses.

However, to date, banks cannot meet the needs of small and medium-sized businesses in borrowed funds in full.

The transition of the Republic of Kazakhstan to market reforms has led to profound changes in the financial policy pursued by the state.

Under these circumstances, small and medium-sized businesses are taking a key role in the development of the domestic economy.

Today hopes and expectations of successful development of Kazakhstan's society are connected with small business, as, dynamically reacting to the market situation, it is able to activate structural restructuring of industries, overcome monopoly in the economy of the country, solve numerous regional tasks, and create additional jobs.

In modern conditions of management the Kazakh tax system has a number of destabilizing phenomena characteristic of the transition period: the instability of the tax legislation, the low level of tax collection, the high level of the tax burden, and the irrational distribution of the tax burden among business entities.

The above factors, reflecting the real situation of the tax system, fully refer to the system of taxation of small and medium-sized businesses. The unfavorable influence of the current tax system is particularly acute in small and medium-sized businesses. In this regard, recently, considerable attention has been paid to state support for small business, a special role in which belongs to the creation of a favorable tax climate. The functioning of three parallel taxation systems in small business is conditioned by the desire of the state to simplify the tax mechanism as much as possible in this sphere.

However, all tax reforms in the field of small business did not bring the expected effect.

The main obstacle to the harmonious balanced development of the tax system for small and medium-sized businesses, in our opinion, is the chaotic, unsystematic functioning of tax forms that are applied separately from one another and do not have a scientifically grounded mechanism for their implementation. One of the conditions necessary for the effective development of entrepreneurship is state regulation, the main objectives of which are the formation of a legislative base for the functioning of small and medium-sized businesses, providing the protection of competition, limitation of monopoly and protection of consumer rights, development of the entrepreneurial infrastructure, state support for certain types of entrepreneurial activities, primarily in socially significant spheres of the economy.

State regulation is the main instrument for overcoming market inefficiencies in most spheres of economic activity.

Conclusion

World experience convincingly testifies that small business is the most important component of the economy.

Its development influences on the formation of a new social stratum in society – the middle class, on the economic growth, employment growth, the structure and quality of the gross national product, the speed-up of scientific and technological progress, the development of competition, the increase in export potential, the better use of local raw materials, on the creation of a natural social support for the societal structure.

Without exaggerating the importance of small business, it should be noted that its role in meeting the needs of the population is quite high, especially in the current conditions of market economy.

Today, the economy of our country is in serious condition, which is the consequence of the crisis.

In order to restore the economic position of the state, one of the main tasks falls on the shoulders of small and medium-sized businesses.

The state, in turn, establishes measures to support small and medium-sized businesses, in particular, reduces the rates of special taxation regimes, expands access to the supply of goods and services for state needs, and establishes supervisory holidays for newly registered small businesses and individual entrepreneurs.

It is worth noting that small business entities are mainly engaged in trade and services to the public, while medium-sized businesses are concentrated in such spheres as construction, agriculture, manufacturing, i.e. in the spheres with higher added value.

However, there are few medium-sized entrepreneurs in our country in comparison with entrepreneurs of small businesses, and fewer than in developed countries.

The conclusion is the following: the number of those legal entities that are able to improve the economic situation of the country is negligible, and therefore they do not play a significant role in ensuring economic development.

In addition, there was a not very positive trend in the total number of small and medium-sized businesses.

The state, taking various measures, tries, first of all, to make it so that small enterprises actively start to deal with the issues of construction and industry, and thus they could reach the level of medium business, since, as can be seen from the data presented above, medium-sized businesses

play a huge role in the economic activity of the state.

Small businesses are in high risk because their activities are not secured by their own capital and reserves; they are more susceptible to the impact of changing conjuncture of the market.

Therefore, the state is trying to make maximum favorable conditions for the sustainable development of small business entities and their further development.

And this is one of the reasons why the supervisory holidays came into effect on January 1, 2016 with regard to small business. What are they and what is their purpose?

In the Strategy for the Development of Small and Medium-sized Entrepreneurship in the Republic of Kazakhstan for the period until 2030, the highlighted goal is to develop small and medium-sized businesses, in particular, to achieve innovative development and improve the sectoral structure of the economy, as well as to increase the level of employment among the population.

In order to achieve this goal, the state has set the following tasks:

1. Increase in labor productivity;
2. Strengthening staff potential;
3. Stimulating the development of entrepreneurial activity in all 14 regions of the Republic of Kazakhstan;
4. Improving the policy in the field of taxation and non-tax payments, etc.

The President of the Republic of Kazakhstan in his Address to the Nation urged “to remove the restrictions from business as much as possible, to relieve it from obsessive supervision and control (Message of the President of the Republic of Kazakhstan N.Nazarbayev to the people of Kazakhstan. “Third modernization of Kazakhstan: global competitiveness” January 31, 2017).

As we can see, these measures have been adopted and have been implemented to date.

From January 1, 2016 until the end of 2018, a moratorium was introduced on conducting scheduled non-tax inspections of small business entities.

It is worth noting that not all persons falling under this category will be exempt from inspections, but only those who have acquired a reliable reputation – for three years did not have serious violations – they have the right to a three-year moratorium.

Moreover, checks on issues relating to life and health of citizens will be obligatorily held, and in these cases there is no restriction, which is certainly correct.

Inspections conducted in relation to small and medium-sized businesses are divided into tax and non-tax ones (Moldabaev 2014: 18)

Those changes that were adopted and entered into force on January 1, 2016, concern only non-tax audits of organizations and individual entrepreneurs related to small business entities.

The procedure for organizing and conducting non-tax, also known as administrative, inspections is envisaged by the Tax Code of the Republic of Kazakhstan.

Non-tax inspections, in turn, are divided into scheduled and unscheduled.

This moratorium extends only to scheduled non-tax inspections.

Non-tax inspections are measures taken by sanitary epidemiological stations, labor inspectorates, local authorities, etc.

Moreover, according to the law, scheduled inspections should be conducted no more than once in three years (Ivanova, Kasperskikh 2013:5)

It means that the small business entities avoid just one inspection according to the moratorium from 2016 to 2018 year.

The country is considering new provisions on the application of the risk-based approach.

The essence of it is that organizations and individual entrepreneurs, depending on what activity they are engaged in, will be divided among themselves according to risk classes.

It means that people with a small class of risk, or without it, will not be included in the register of inspections against them, or the duration of the audit will be reduced for them.

The purpose of this innovation is, on the one hand, to reduce the costs of organizations and individual entrepreneurs, to increase the efficiency and effectiveness of their activities, and, on the other hand, to optimally use labor and financial resources for those bodies, that have authorities to exercise the control.

The Government of the Republic of Kazakhstan has the right to determine certain types of state control (supervision), which, with the use of a risk-based approach, can be implemented before January 1, 2018 (Ruchkina 2015: 280)

Thus, the activities of small and medium-sized businesses play a huge role for the development of not only the economic sector of the state, but also the country as a whole.

Recently, the state has taken various measures that have supported business in taking "the right way".

However, in 2012-2014 years there have been taken measures, which, on the contrary, had

a negative impact on the activities of small and medium-sized businesses.

In particular, insurance payments for individual entrepreneurs have been increased, privileges on property tax of organizations for taxpayers of special tax regimes have been abolished, new requirements for conducting a special assessment of working conditions have been claimed, and etc.

These measures, conducted by the state, led to the fact that many organizations and individual entrepreneurs began to close.

Therefore, it is necessary that the authorities and business closely interact with each other, and not hamper the development of the latter, moreover not to take action that would cut across the successful business activities (Tolegen:2008. 112-115)

Otherwise, this will lead to the fact that many businesses will have to go into the shadow economy.

Despite the existence of significant problems in the activities of small and medium-sized businesses, these subjects still have a good foundation for the development of their activities and play a significant role in overcoming the crisis consequences.

The main thing is the creation of favorable conditions for this.

The state, supporting small and medium-sized businesses, develops legal, economic, incentive measures that ensure the development and activities of private initiative, and, which is extremely necessary, provides finance and material resources using preferential terms (Armstrong: 2016. 85-90)

So, for the Kazakhstani business structures at the current stage of economic development, it is necessary to overcome:

- the imperfection of the legislative base, its gaps, the instability of the legislation, concerning the need for legal guarantees ensuring the equality of any form of ownership;

- imperfection of the tax system, which is characterized by exceeding the reasonable limits of the current tax rates;

- imperfections in the system of finance and credits, strict requirements of banks in the case of an application for a credit and high interest for the use of credit resources, inappropriate use of budget funds that are intended to support entrepreneurship by the authorities, as well as by the structures of the enterprise;

- lack of confidence in the system of supporting entrepreneurial activities of state and public nature.

Consequently, ensuring the optimal combination of interests of the state, the consumer and the business entity will contribute to the achievement

of the goal in the further successful development of entrepreneurship in the Republic of Kazakhstan.

In order to improve the mechanism providing state support of small and medium-sized businesses, it is necessary to have an orderly and effective regulatory and legal framework stimulating progress in the development of entrepreneurship for the creation of favorable conditions for those who start and continue their own business (Attolini: 2017. 45)

It is advisable to highlight the areas for improving the activities of these forms of management (Bouri: 2016. 23)

- Creation of a regulatory legal framework that would establish the notification character of the commencement of entrepreneurial activity in the consumer market;

- Improvement of programs aimed at supporting small and medium-sized businesses, the goal of these programs is to create new innovative products, as well as technologies that would interact with large businesses, different scientific and educational centers; – introduction of grants, the purpose of which would be the development of innovative activities;

- granting subsidies for the implementation of new modern technologies, as well as subsidies for the purchase of new equipment; – development and adoption of state targeted programs aimed at supporting small and medium-sized businesses, as well as providing financial credit support for the development and strengthening of business.

Particular attention should be paid to the study of the specifics of state support for the process of stimulating small and medium-sized businesses in countries where this sphere is most developed, in particular Germany.

One of the most important directions of state support for small business is the development of the system of training, retraining and professional development of the staff and provision of qualified personnel through consultations and support for retraining.

The following activities are envisaged within the framework of this direction (Bullock:2004. 39)

1. Granting subsidies from the funds of the Federal Ministry of Economics and Technology with co-financing from the European Social Fund.

Recipients of subsidies are industrial and commercial chambers, associations of persons of

free professions and other non-profit organizations in the sphere of professional education.

2. Granting subsidies from the Federal Ministry of Economics and Technologies, recipients of subsidies are small and medium-sized enterprises (according to the criteria of the European Union).

Thus, the successful development of small and medium-sized businesses in Germany is largely the result of the active economic policy pursued by the government aimed at creating a stimulating economic, political and social environment.

It seems that the study of Germany's experience in this area is relevant in the formation and development of small and medium-sized entrepreneurship in Kazakhstan.

The fact that today small and medium-sized businesses are unprotected has a negative impact on its development.

Therefore, it seems necessary to take measures at the state level, the goal of these measures is to improve the legislative, in particular tax, bases, by providing preferences for the development of small and medium-sized businesses.

The state support is needed in order to achieve successful development of small and medium-sized businesses (Connolly: 2016. 56)

It is necessary to improve the legal framework, clearly prescribe complex issues of its functioning at all levels of interaction between authorities, business, and the population, thus creating favorable conditions, the goal of which is to increase the economy in the sphere of small and medium-sized businesses.

The state policy for the development of small and medium-sized businesses, providing and guaranteeing the necessary conditions, should facilitate the involvement of the population in small and medium-sized enterprises by increasing the entrepreneurial potential and employment of the population.

Existing structures, without assisting small and medium-sized businesses, are more occupied with their own problems and do not give proper attention to concrete assistance to entrepreneurs (Farouk: 2011. 45)

State support for the development of small and medium-sized businesses should consist in creating framework conditions for the functioning of market entities when they comply with the requirements of the regulatory and legal base.

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