**"Agreed"**

**Head of**

**SRD for the city of Nur-Sultan**

**\_\_\_\_\_\_\_\_\_\_\_\_\_ Isakov K.M.**

**" 05 " May 2022**

**Analytical report**

based on the results of the internal

analysis of corruption risks in the Department

state revenues for the Almaty region

Department of State Revenues for Nur-Sultan

In accordance with paragraph 5 of Article 8 of the Law of the Republic of Kazakhstan "On Combating Corruption" dated November 18, 2015 No. 410-V (hereinafter referred to as the Law) and Methodological recommendations for conducting an internal analysis of corruption risks, approved by the Chairman of the Anti-Corruption Agency of the Republic of Kazakhstan dated April 07, 2021 year (hereinafter referred to as the Methodological Recommendations) in the Department of State Revenues for Nur-Sultan of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan (hereinafter referred to as the Department), by order of the head of the Department dated April 07, 2022 No. 89, an internal analysis of corruption risks in the structural divisions of the Department was entrusted to the Human Resources Management (hereinafter referred to as HRM).

In accordance with the above order, in order to identify and eliminate possible facts of corruption offenses in the activities of the State Revenue Office for the Almaty region of the Department (hereinafter referred to as ASRD), an internal analysis of corruption risks for the 1st quarter of 2022 was carried out.

The internal analysis of corruption risks in the ASRD was carried out in accordance with the approved Methodological recommendations for the following stages:

1) collection and generalization of information about the object of analysis;

2) analysis of legal acts and internal documents regulating the activities of the object of analysis, its organizational and managerial activities for the presence of corruption risks;

3) preparation and signing of an analytical report.

**1. Collection and generalization of information about the object of analysis.**

As of January 1, 2022, the total headcount of the ASRD was 86 units, actual - 84, management - 4, department heads - 9, chief specialists - 59, leading specialists - 12.

As of April 01, 2022, the headcount of the ASRD is 86 units, the actual number is 82 units. The turnover of employees in the Department amounted to 4 units, of which:

voluntarily - 1,

to another state body - 3.

When occupying vacant positions of facts, direct subordination of a position occupied by close relatives (parents (parent), children, adoptive parents (adopters), adopted children (adopted), siblings and half-siblings, grandfathers, grandmothers, grandchildren) or spouse, not found.

Promotion in the civil service of civil servants is carried out taking into account their qualifications, competencies, abilities, merit and conscientious performance of their official duties.

In order to fill the vacant administrative positions of corps "B" during the 1st quarter of 2022, 2 competitions were held:

- internal competition - 1, no documents submitted,

- general competition - 1, 1 official appointed.

Competitive procedures were carried out in accordance with the rules for holding competitions for the occupation of an administrative public position of corps “B”, approved by order of the Chairman of the Agency of the Republic of Kazakhstan for Civil Service Affairs and Anti-Corruption dated February 21, 2017 No. 40 “On Certain Issues of Occupation of an Administrative Public Position”.

No facts of giving unlawful preference to certain candidates for vacant public positions have been established.

The terms and procedure for training, advanced training of employees are approved by the schedules.

During the analyzed period, the ASRD received 697 appeals, of which: 288 applications, 12 complaints, 397 messages, requests and responses.

For the 1st quarter of 2022, there are no employees brought to disciplinary responsibility for violating the norms of the Code of Ethics, and there are also no employees for committing a disciplinary offense that discredits the public service.

In order to fulfill the instruction to ensure compliance with the norms of official ethics and prevent violations of the law on public service, combating corruption and the Code of Ethics, the ASRD carried out appropriate measures, including with the involvement of employees of the authorized body.

On March 11, 2022, the Commissioner for Ethics of the Department Abildinov B.U. together with the first deputy of the metropolitan branch of the youth section "Zhas Otan" under the party "Amanat" Magzum A.T., officer for internal affairs of the Prevention Department of the Department of the Anti-Corruption Agency of the Republic of Kazakhstan in Nur-Sultan Kenebayeva A.E. a seminar-meeting was held for ASRD employees on the topic “Prevention of corruption crimes and offenses and changes in anti-corruption legislation. Prevention of ethical violations”.

16.04.2022 for the employees of the AUGD and entrepreneurs of the city of Nur-Sultan, the acting director of the RPP "Atameken" Zholboldiev B.B., the first deputy head of the Anti-Corruption Service of Nur-Sultan Bazilov I.S. services of the city of Nur-Sultan Dabenov A., deputy head of the SRD of the city of Nur-Sultan Abildinov B.U. a seminar was held on the topic “Consideration of a submission to eliminate the circumstances that contributed to the commission of a criminal offense and other violations of the law (on the issue of preventing bribery of an official)”.

On April 19, 2022, Deputy Head of the Anti-Corruption Service of Nur-Sultan Bazilov I.S., Senior Investigator of the Investigation Department of the Anti-Corruption Service of Nur-Sultan Aigaliyev A., Deputy Head of SRD for Nur-Sultan Abildinov B.U. a seminar was held for ADRD employees on the topic “Consideration of a submission to eliminate the circumstances that contributed to the commission of a criminal offense and other violations of the law (on the issue of preventing bribery of an official)”.

As part of the memorandum concluded between the Department and the Anti-Corruption Service of Nur-Sultan, at the site of the Anti-Corruption Service of Nur-Sultan, within the framework of the Antikor Live and Adal komek project, in accordance with the approved schedule, on January 24, 2022, an online speech was made by the head of the ASRD Kapdusultan G.A. on the topic: "The fight against corruption as one of the measures to improve the efficiency of the state body."

Through the information service "Special Accounts", an analysis of violations committed by officials of the ASRD is carried out, with the adoption of appropriate measures.

In order to establish the level of knowledge of the norms of anti-corruption legislation, from February 21 to February 28, an anonymous survey was conducted among the personnel, as a result of which weaknesses in knowledge of the norms of anti-corruption legislation were noted for the purpose of further development together with the authorized body.

In the 1st quarter of 2022 (as of April 1, 2022), 9 employees were disciplined, including reprimands - 7, severe reprimand - 2.

Appeals from individuals and legal entities on the fact of manifestations of corruption were not received.

In the first quarter, a corruption offense was committed in the ASRD by the chief specialist of the department for the administration of individual entrepreneurs of the AUGD Chingis Muratovich Moldakanov, the Anti-Corruption Service for the city of Nur-Sultan registered material in the Unified Register of pre-trial investigations under Article 366 part 2 of the Criminal Code of the Republic of Kazakhstan.

Currently, the pre-trial investigation is over, the criminal case is pending before the court.

In order to establish the causes and circumstances that led to the corruption offense, an internal investigation was carried out, as a result of which the head of the department for the administration of individual entrepreneurs Otezhanova B.M.

 **2. Analysis of legal acts and internal documents regulating the activities of the object of analysis, its organizational and managerial activities for the presence of corruption risks.**

The activity of the object of analysis is regulated by the following list of legal acts.

- Code of the Republic of Kazakhstan dated December 25, 2017 No. 120-VI "On taxes and other obligatory payments to the budget" (hereinafter referred to as the Tax Code);

- Regulations on the structural divisions of the State Revenue Department for Nur-Sultan of the Ministry of Finance of the Republic of Kazakhstan, approved by the Order of the Chairman of the Committee dated July 22, 2019 No. 350 Appendix 222.

The analysis carried out in the regulatory legal acts affecting the activities of the ASRD revealed discretionary powers and norms that contribute to the commission of corruption offenses.

 **1) According to paragraph 2 of Article 67 of the Tax Code, individual entrepreneurs who, at the time of filing a tax application for termination of activities, simultaneously meet the following conditions are subject to termination of activities in a simplified manner:**

1. Not registered as a payer of value added tax;

2. Not carrying out activities in the form of a joint venture;

3. Not carrying out certain types of activities specified in paragraph 1 of Article 88 of the Tax Code;

4. Not included in the plan of tax audits or in the list of selective tax audits based on the results of activities of the risk assessment system or absent in the semi-annual schedule of tax audits conducted in a special order based on risk assessment;

5. Not having tax debts, debts on social payments;

6. Not having a high level of risk management system.

At the same time, this norm does not establish a ban on the closure of an IP in a simplified manner in the presence of unfulfilled notifications of cameral control, i.e. individual entrepreneurs are subject to termination in the presence of such notifications, which gives the taxpayer the opportunity to avoid paying the amounts identified as a result of in-house audit.

**Recommendations:** consider amending paragraph 2 of Article 67 of the Tax Code in terms of including the mandatory execution of in-house audit notices when an individual entrepreneur is closed in a simplified manner.

**2) Within the framework of articles 66,67 of the Tax Code, in order to terminate the entrepreneurial activity of an individual entrepreneur, it is necessary: ​​to fulfill tax obligations; make contributions to OSMS; submit liquidation reports and apply for termination of activities (simultaneously). When submitting the necessary documents for terminating the entrepreneurial activities of an individual entrepreneur in electronic form, implemented since 2021 through the taxpayer's office, the facts of posting the accrual and payment of OSMS and the presence of unfulfilled notifications of the need to fulfill tax obligations sent by the tax authorities are not taken into account.**

**Recommendations:** to consider the implementation of the function of checking for the existence of debts under compulsory medical insurance in the information system.

**3) Article 59 of the Code establishes the specifics of the fulfillment of the tax obligation of a resident legal entity in liquidation, which simultaneously meets the following conditions:**

1) Is not a payer of value added tax;

2) Does not apply a special tax regime for producers of agricultural products, aquaculture products (fisheries) and agricultural cooperatives;

3) Not reorganized or is not the legal successor of the reorganized legal entity;

4) Not included in the plan of tax audits or in the list of selective tax audits based on the results of activities of the risk assessment system, or not included in the semi-annual schedule of tax audits conducted in a special order based on risk assessment;

5) Is not registered as a payer carrying out certain types of activities

According to the results of in-house control, the corresponding conclusion is formed in IS INIS.

Meanwhile, the form of conclusion implemented in IS INIS approved by the order of the Ministry of Finance of the Republic of Kazakhstan dated 05.08.2013 No. 380 and Appendix 14 to the order of the Ministry of Finance of the Republic of Kazakhstan dated 30.12.2008 No. 637 contains incomplete information, namely, the following information is not reflected:

- on compliance with the specifics of the fulfillment of the tax obligation established by Articles 59 and 66 of the Code;

- on the reconciliation of these forms of tax reporting on the mandatory pension contributions of the employer (OPVR);

- on the reconciliation of these forms of tax reporting on mandatory professional pension contributions (OPPC);

- on the reconciliation of these tax reporting forms for deductions and (or) contributions for compulsory social health insurance (OSMI).

Non-compliance of the form of conclusion approved by the order of the Ministry of Finance of the Republic of Kazakhstan dated 08.02.2018 No. 146, i.е. operating today makes it possible to formally approach the issue of working out information during the liquidation of taxpayers, since incomplete information is entered on the liquidated

**Recommendations:** to enter into the INIS IS the conclusion form approved by the order of the Ministry of Finance of the Republic of Kazakhstan dated 08.02.2018 No. 146.

4) In accordance with Article 128 of the Tax Code of the Republic of Kazakhstan, if an individual fails to pay tax debts, the tax authority, no later than five working days from the date of delivery of a tax order subject to delivery to an individual in the manner established by paragraph 1 of Article 115 of the Tax Code of the Republic of Kazakhstan, sends such a tax order to the relevant justice bodies by territoriality or to the regional chamber of private bailiffs for enforcement in the manner prescribed by the legislation of the Republic of Kazakhstan on enforcement proceedings and the status of bailiffs.

The procedure for canceling a tax order is determined by clause 3 of Art. 128 of the Tax Code of the Republic of Kazakhstan.

Also, paragraph 1 of Article 47 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Bailiffs” defines the grounds for terminating enforcement proceedings.

At the same time, according to paragraph 1 of Article 118 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Enforcement Bailiffs”, payment for the activities of a private enforcement agent is made within the framework of enforcement proceedings at the expense of the debtor and is set at a rate of three to twenty-five percent, depending on the category cases and the amount of recovery with the establishment of maximum amounts of not more than ten thousand monthly calculation indices.

When an individual repays a tax debt, the state revenue authorities send a letter to the CSI on the termination of enforcement proceedings in accordance with paragraph 7) paragraph 1 of Article 47 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Bailiffs” *(paragraph 7 of paragraph 1 of Article 47 Law - recovery or other requirement of the executive document is executed in full);*

If the tax debt, for the non-payment of which a tax order was issued, was formed as a result of incorrect calculation of taxes, then a letter to the PSI on the termination of enforcement proceedings is sent in accordance with subparagraph 5), paragraph 1, article 47 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Judicial executors” *(clause 5, clause 1, article 47 of the Law – the decision of the relevant body, on the basis of which the writ of execution was issued, was cancelled).*

However, in practice, the automatic formation of the Order to cancel the tax order to collect the debt of an individual in IS INIS is not performed correctly.

Thus, the reason for issuing an Order to cancel a tax order for the collection of debts of an individual may be displayed as “Repayment of tax debts”, while in fact the debt was formed as a result of incorrect calculation.

It should be noted here that the payment for the activities of a private enforcement agent depends on the reason for the termination of enforcement proceedings, and the above gap gives the inspector the choice of subparagraphs 5 and 7 of Art. 47 of the Law of the Republic of Kazakhstan “On Enforcement Proceedings and the Status of Bailiffs”, which

**Recommendations:** to make changes to the INIS of the Republic of Kazakhstan, in terms of displaying correct information when automatically generating Orders to cancel tax orders to collect debts of an individual. This change would eliminate the sending of letters, requests to PSOs to terminate enforcement proceedings, which in turn would eliminate the risk of deliberate evasion of payment for PSO services.

5. When a taxpayer executes a notification on in-house control, taxpayers often submit explanations on the notification on paper, which, firstly, leads to contact with the inspector of the tax authority, and secondly, the explanation provided is not controlled by information systems, which may affect the loss of control by the head of the department.

**Recommendations:** In order to control the execution of the notification, we propose to establish a procedure for submitting explanations on the notification of in-house audit sent electronically, exclusively in electronic form, which will ensure transparent control over the adoption of timely measures (decision, conclusion) in relation to the taxpayer.

6. Corruption risk in the administration of individual entrepreneurs that contribute to the manifestation of corruption offenses in terms of untimely unblocking of RPRO on executed notifications based on the results of in-house control, untimely issuing of RPRO on unfulfilled notifications (category A, in the RVU / ECD). These risks arise due to the existing human factor, i.e. there is contact with the taxpayer.

**Recommendation:** In order to avoid the risk of corruption, we consider it necessary to consider the issue of executing notifications in the RVU / ECD "RPRO" system (account closure) upon expiration in an automated mode.

**4. Assessment of identified corruption risks.**

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| **№** | **Identified corruption risk** | **Risk probability assessment** | **Risk impact assessment** | **Risk zone** |
| 1 | Corruption risk in not establishing a ban on closing an individual entrepreneur in a simplified manner in the presence of unfulfilled notifications of desk control | 5 | 4 | Red zone |
| 2 | Corruption risk upon termination of the entrepreneurial activity of an individual entrepreneur in electronic form, implemented from 2021 through the taxpayer's office, the facts of posting the accrual and payment of the OSMS and the presence of unfulfilled notifications about the need to fulfill tax obligations are not taken into account | 5 | 4 | Red zone |
| 3 | Corruption risk in non-compliance with the form of the conclusion approved by the Order of the Ministry of Finance of the Republic of Kazakhstan dated 08.02.2018 No. 146, i.e. currently in force, makes it possible to take a formal approach to the issue of processing information during the liquidation of taxpayers, since incomplete information about the person being liquidated is entered | 4 | 4 | Orange zone |
| 4 | Corruption risk in terms of the inspector's choice of the reason for termination of enforcement proceedings under paragraphs 5 and 7 of Article 47 of the Law of the Republic of Kazakhstan "On Enforcement Proceedings and the status of bailiffs" | 3 | 3 | Orange zone |
| 5 | Corruption risk in the execution by the taxpayer of the notification on desk control, in the submission by the taxpayer of explanations on the notification on paper | 5 | 4 | Red zone |
| 6 | Corruption risk in terms of not timely unblocking of the RPO on executed notifications based on the results of desk control, not timely issuance of the RPO, on not executed notifications | 5 | 4 | Red zone |

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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk in not establishing a ban on closing an individual entrepreneur in a simplified manner in the presence of unfulfilled notifications of desk control** |
| **Red Zone** |
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|   | **Influence** | 5 |   |   |   |   |  |  |  |   |
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|   |  |  | 1 | 2 | 3 | 4 | 5 |  |  |   |
|   |  |  | **Probability** |  |  |   |
|   |  |  |  |  |  |  |  |  |  |   |
| **Probability:** | **5 points** |  |  |  |  |  |   |
| **Influence:** |  | **4 points** |   |   |   |   |   |   |

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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk upon termination of the entrepreneurial activity of an individual entrepreneur in electronic form, implemented from 2021 through the taxpayer's office, the facts of posting the accrual and payment of the OSMS and the presence of unfulfilled notifications about the need to fulfill tax obligations are not taken into account** |
| **Red Zone** |
|   |  |  |  |  |  |  |  |  |  |   |
|   | **Influence** | 5 |   |   |   |   |  |  |  |   |
|   | 4 |   |   |  |  | **+** |  |  |   |
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|   |  |  | **Probability** |  |  |   |
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| **Probability:**  | **5 points** |  |  |  |  |  |   |
| **Influence:**  |  | **4 points** |   |   |   |   |   |   |

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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk in terms of non-compliance with the form of conclusion approved by the Order of the Ministry of Finance of the Republic of Kazakhstan dated 08.02.2018 No. 146** |
| **Orange zone** |
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|   | **Influence** | 5 |   |   |   |   |  |  |  |   |
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| **Probability:**  | **4 points** |  |  |  |  |  |   |
| **Influence:**  |  | **4 points** |   |   |   |   |   |   |

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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk in terms of the inspector's choice of the reason for the termination of enforcement proceedings under paragraphs 5 and 7 of Article 47 of the Law of the Republic of Kazakhstan "On Enforcement Proceedings and the status of bailiffs".** |
| **Orange zone** |
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| **Probability:**  | **3 points** |  |  |  |  |  |   |
| **influence:**  |  | **3 points** |   |   |   |   |   |   |
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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk in case of non-fulfillment by the taxpayer of the notification on desk control of the submission of explanations on the notification on paper** |
| **Red Zone** |
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|   | **influence** | 5 |   |   |   |   |  |  |  |   |
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| **Probability:**  | **5 points** |  |  |  |  |  |   |
| **influence:**  |  | **4 points** |   |   |   |   |   |   |

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| **RISK MAP** |
| **Name of corruption risk** |
| **Corruption risk in terms of untimely unblocking of the RPO on executed notifications, not timely issuance of the RPO, on unfulfilled notifications** |
| **Red Zone** |
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|   | **influence** | 5 |   |   |   |   |  |  |  |   |
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| **Probability:**  | **5 points** |  |  |  |  |  |   |
| **influence:**  |  | **4 points** |   |   |   |   |   |   |

**Deputy Head Abildinov B.U.**

Executor: Zhumazhanov N.B.