

SETTLEMENT OF ACCOUNTS IN THE REPUBLIC OF UZBEKISTAN

According to Article 94 of the Civil Code of the Republic of Uzbekistan payments in the Republic of Uzbekistan shall be effected in cash and non-cash forms only. Settlement of accounts between individuals in the Republic of Uzbekistan, not relating to performance of entrepreneurial activity, shall be executed in cash without limitation of amount, as well as in non-cash form. Settlement of accounts between legal entities, as well as between individual entrepreneurs shall be executed exclusively in non-cash form. Non-cash settlements shall be performed exclusively through banks.

Non-cash settlement of accounts in the Republic of Uzbekistan shall be performed in the following forms:

- Payment orders (applied documents are payment orders and payment demands);
- Letters of credit (applied documents are application for letter of credit and documents relating to title of goods);
- Encashments (applied documents are encashment instructions and documents relating to title of goods);
- Cheques (applied documents are cheques).

Payment order – means an order of a client to the bank on transfer of monetary funds (in the amount specified in the order) to the bank account of a third party. Content and form of the payment order must comply with the requirements stipulated by the legislation.

Letter of credit – means payment to the recipient which is effected upon presentation of certain documents stipulated in the letter of credit - register of accounts, shipping and other documents and observance of other terms specified in the letter of credit: receipt of acceptance by the representative of the payer. The issuing bank shall examine conformity of the documents to the requirements stipulated in the letter of credit, without examination of the facts. Validity period of the letter of credit shall be determined in the contract concluded between the payer and the supplier. Additionally, the letter of credit shall specify name of the issuing-bank, type of the letter of credit, execution method and method of notification of the supplier of issuance of the letter of credit.

In the Republic of Uzbekistan a letter of credit can be applied in the form of the *covered* and the *non-covered, revocable* and *irrevocable* letters of credit. Transfer of monetary funds by Uzbek exporters by means of a transferable letter of credit and other payment methods executed in favor of other legal entities is *prohibited*.

Encashment - shall mean form of payment which is aimed to secure for the creditor receipt of payments for the goods (services or works) supplied or provided to the debtor. Encashment payments shall be deemed completed not at the moment of writing off of the amount from the debtor's account but only at the moment of depositing of the appropriate amounts to the creditor's bank account.

Cheque - is a form of security (negotiable paper) containing an unconditional instruction of the *issuer of cheque* to the bank to make payment to the *holder of cheque* in the amount specified in the cheque. The *holder of cheque* could be any individual or a legal entity. Cheque shall not be a means of payment. Issuance of a cheque shall not mean a fact of payment, but only indicates the replacement of the preceding relations with the new one, which arises between the *holder of cheque* holder and the *issuer of cheque* or other entities responsible under the cheque. In practice, cheques are only accepted by banks from the legal entities for the payout of salaries to their employees.

REQUIREMENTS OF THE REGULATORY ACTS

Requirements stipulated in regulatory acts of the Republic of Uzbekistan as regards payment relations are generally aimed at:

- reduction of the off-bank hard currency circulation;
- settlement of accounts strictly in the national currency;
- avoiding delayed accounts receivable and accounts payable; and
- strict exchange regulation.

The following requirements are established in the legislation to achieve the above purposes:

1. Payments on export-import transactions

Export-import transactions in the Republic of Uzbekistan are under special supervision of the government which is evidenced by a number of controlling functions performed by commercial banks and tax organs of the country.

According to the legislation, main forms of payment on export-import transactions in the Republic of Uzbekistan are documentary letters of credit, bank transfers and encashment. *Payments on export transactions* shall at the choice of parties observe one of the following requirements:

- pre-payment (advance payment) of the exported goods;
- letter of credit;
- guarantee of the buyer's bank; or
- insurance policy against political and economic risks.

Upon factual shipment of goods, payment for the shipped goods (services, works) shall be transferred to the exporter's bank account within 90 days, otherwise the exporter may be imposed administrative sanctions. There is a preferential 180 days term established in relation to payments under contracts concluded by the exporters of the Republic of Uzbekistan via their own trading subsidiaries abroad.

Registration of exports must be preceded by presentation to customs organs of a certificate on settlement of accounts. The certificate must be issued by authorized bank which has registered the export transaction. The certificate on settlement of accounts corresponding to the volume of exported goods shall be presented to the customs organs at registration of cargo for customs exportation regime, whereupon the goods are free for exporting. Special requirements are established for registration for exportation of goods qualified as those which could be exported exclusively as the *centralized exports* on FOB, EX Warehouse terms from the warehouses located outside the customs territory of the Republic of Uzbekistan.

Within 5 days from the moment of receipt of funds to the exporter's bank account, must be made *compulsory sale of 50% of currency proceeds* to the Central Bank of the Republic of Uzbekistan.

Payments on import transactions in foreign currency shall be executed by way of banking wire transfers, letters of credit or encashment in accordance with the terms provided in the contract initially registered with servicing commercial bank and customs organs at the place of state registration of the importer.

Payments on import transactions are referred to the exclusive competence of commercial banks of the Republic of Uzbekistan. The legislation of the Republic of Uzbekistan requires that payments on import transactions shall be executed exclusively from bank accounts in commercial banks of the Republic of Uzbekistan. Violation of payment requirement on export-import transactions constitutes an administrative delict.

In case an import contract stipulates a prepayment for supplied goods, the importer upon the registration of the contract with the exchange control department of the State customs Committee of the Republic of Uzbekistan shall notify the commercial bank of the necessity to effect the pre-payment under the contract from the Importer's account.

Subsequent payments on the import contract shall be released by the bank on the basis of information on importation of goods (to be presented in the standard form) with appropriate records of customs organs on arrival of goods to the customs territory of the Republic of Uzbekistan. The card shall be submitted by the importer to the bank prior to each release of payment.

If the goods are not delivered within the period exceeding 180 days after the advance payment, the State Customs Committee shall accordingly notify the State Tax Inspection for further application of appropriate administrative or criminal prosecution measures against the importer or its management.

2. Payment relations in domestic market

Payments in the domestic market of Uzbekistan must be performed with observance of the following regulatory requirements:

- (a) prohibition of sale of goods, provision of services and performance of works to consumers and customers without pre-payment in the amount of at least 15% of the total price of the supplied goods (works or services); as well as

(b) avoidance of the outstanding debtor indebtedness (accounts receivable) occurring in case if payment for the supplied goods (works or services) was not completed within 90 days.

The outstanding debtor indebtedness (accounts receivable) leads to administrative or criminal responsibility of senior executive officer and chief accountant of the legal entity.

Additionally, for all types of payments, including those made in the domestic market the legislation prohibits settlements with third parties, which restriction significantly restricts cession (assignment) transactions.