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CMS Tax Connect

Special issue: Tax regimes in Central and Eastern Europe

Focus on the market that has significantly contributed to and been a driving force behind European economic growth

Editorial

Focus on the market that has significantly contributed to and been a driving force behind European economic growth

We are pleased to publish this special issue of CMS Tax Connect on tax regimes in Central and Eastern Europe.

To celebrate the tenth anniversary of the CMS network, we wanted to focus on the market that has significantly contributed to and been a driving force behind European economic growth in recent years: Central and Eastern Europe (CEE).

The CEE tax regimes are similar in many ways to those of "Old Europe": the types of taxes, the incidence of taxation and the logic of calculating the tax base, etc. are largely similar or at least comparable. However, they frequently lack certain aspects that are typically present in Western European (and other developed) tax regimes, e.g. group tax consolidation, possibility of tax-neutral asset/business transfers within a corporate group, tax neutral reorganisation of a corporate group, roll-over relief and targeted EU-compliant (as opposed to "blanket") anti-avoidance rules.

The CEE region has witnessed tough tax competition championed by the CEE governments for almost ten years aimed at attracting foreign investment. This has mostly manifested in a reduction of headline tax rates, the introduction of "flat rate tax regimes" (where progressive tax rates are replaced by single flat tax rates and frequently all mainstream taxes are charged at a single unified rate) or reducing or eliminating taxes that may act as a deterrence for foreign direct investment; but lacked the introduction of certain more sophisticated aspects developed in "Old Europe" in response to business demands (e.g. group tax consolidation, groupwide rollover relief), or increase in market sophistication (e.g., sophisticated and EU-compliant anti-avoidance rules, detailed rules and guidance for specialist money and capital market transactions, etc). This sort of policy is going to be much more difficult to maintain in the future due to the effects of the economic crisis in particular in the CEE region. The CEE governments (as is the case for other governments) are under pressure to plug any holes in national budgets by cutting public expenditure and increasing tax revenue (including by improving the efficiency of tax collection and challenging any arrangements considered to involve tax avoidance), without harming the competitiveness of the national economy – a hard task by any means. In most CEE jurisdictions, the new policies have resulted in tax reform packages, which are currently being implemented. It remains to be seen whether CEE governments will respond to the demands of business and market development and also implement the missing aspects of the CEE tax puzzle marking a next phase of CEE tax development.

Another driving force behind tax changes in the CEE region is the harmonisation of the CEE tax systems with European regulations and directives, which has been in progress since the recent (2004 and 2007) EU accession of many CEE countries. This also resulted in some CEE countries having to give up some measures considered by the EU to be measures of "harmful tax competition" (e.g., the Hungarian offshore company and group financing regimes).

At the same time as the development and increasing complexity of CEE tax systems, CEE lawmakers are also gaining more and more experience, training and will to address highly complex transactions and structures along with the finance and tax authorities to review (and challenge) such transactions and structures.

CMS is present in 12 Central and Eastern European countries and is very well placed to assist your business in understanding and managing the new changes and challenges it is facing in this region, and which are triggered by the reform packages expected to enter into force in 2010 and other general law and policy changes. CMS is a "one-stop shop" for legal and tax services in the CEE market and can provide integrated services across various CEE markets. To remain at the forefront of the market and policy developments and to maintain a service of excellence, CMS is now increasing the level of integration of its CEE practices by more formally defining and consolidating its tax services. The members of the CMS CEE Tax Group are excellent tax specialists in the CEE region, who have developed a portfolio of technical and practical excellence in domestic as well as multi-jurisdiction arrangements and can be qualified as "reference tax lawyers" on their domestic markets. Please do not hesitate to contact us or your usual CMS contact lawyer should you wish to discuss any subjects covered in this issue of CMS Tax Connect.

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Bosnia and Herzegovina

The tax system in Bosnia and Herzegovina

In order to understand the basis of the tax system in Bosnia and Herzegovina (BiH), reference must be made to the Dayton Agreement (hereinafter "DA", 1995). The DA established a Constitution for BiH and in addition Constitutions for the Entities within BiH – the Federation of BiH (FBiH) and Republika Srpska (RS). Brcko District ("BD") was subsequently created as a third unit.

Therefore, the tax systems vary between the three units in terms of tax rates and tax benefits. Different tax authorities (entity, cantonal and municipal levels) are in charge of tax collection.

A centrally administered value added tax regime was enacted at the state level on 1 January 2006. BiH Indirect Taxation Authority is in charge of collecting value added tax and generally coordinating fiscal policy issues. This body is also responsible for collecting customs and excises in the entire territory of BiH.

Most important taxes are:

- Value added tax (17%);
- Corporate income tax (10%);
- Personal income tax - as from January 2009, the wage tax on net salaries is replaced by 10% of personal income tax on gross salaries in FBiH, 8% in RS and 10% in BD;
- Property tax – annual fee at various rates (per square metre or market value);
- Real estate transfer tax - in RS, the real estate transfer tax is 3% of the estimated property value. However this tax will be withdrawn on 1 January 2010. In the FBiH, cantonal laws determine the tax rate according to the value of immovable property (5 to 8%);
- Excises, a special type of sales tax paid on some commodities like oil products, tobacco products, soft drinks, alcohol drinks, beer, wine and coffee.

"The tax system in Bosnia and Herzegovina"

Corporate income tax

A taxpayer is a company or other legal entity that independently and permanently carries out economic activities for profit. Non-residents shall be subject to the unit (FBiH, RS and BD) tax on profits achieved in the unit.

The tax base is determined as accounting profit, adjusted in accordance with the provisions of the Corporate Profit Tax (CPT) Law. The tax rate in all three units is 10%. A wide range of incentives is available in FBiH and BD, while CPT Law in the RS does not offer tax incentives.

1. Tax consolidation

Tax consolidation at group level is possible upon request, provided that all the companies within the group are residents in the same unit (FBiH, RS and BD). Different regulations apply in each unit.

2. Tax loss carried forward

In general, a tax loss can be carried forward and offset by reducing the taxable bases in the following five years. Tax losses incurred outside the unit of residency cannot be deducted from the tax base.

3. Thin capitalisation

There are no thin capitalisation rules.

4. Withholding tax

The tax base is income gained by a non-resident taxpayer. The tax is withheld by the local entity at the time of payment abroad.

In FBiH, a withholding tax at the rate of 10% is charged on interest, royalties, fees for market research, tax advisory services, audit services, and insurance and reinsurance premiums. A withholding tax on dividends is charged at the rate of 5%.

In RS and BD, a 10% withholding tax is payable on interest paid to non-residents, interest paid on loans to permanent establishments or subsidiaries from their foreign partners, royalties, fees for management, consulting, financial, technical or administrative services.

These rates can be reduced to zero under Double Tax Treaties.

VAT

A taxable person is any person who independently carries out any economic activity at any place, whatever the purpose or result of such activity. VAT is payable on all supplies of goods and services carried out by a taxable person acting as such for consideration in BiH and on imports of goods. The tax rate is 17%.

BiH Indirect Taxation Authority is in charge of collecting value added tax for the whole territory of BiH. A system of tax representatives is also implemented.

Personal income tax and other taxes

1. Personal income tax

Personal income tax applies to an individual's income. Residents are liable to income tax on their worldwide income (i.e. income derived in BiH as well as abroad). Non-residents are liable to income tax on income derived in BiH. Personal income tax rates apply on the difference between total taxable income and expenses, recognised for tax purposes. The tax base for the non-residents is actually paid income with various exemptions/special rules. The applicable tax rates are as follows:

- 10% (FBiH)
- 8% (RS)
- 10% (BD)

2. Property tax

The taxpayer is the individual who is the actual or beneficial owner of the property. The taxable base is the value ascertained according to special criteria issued by the government and local communities at various rates.

3. Real estate transfer tax

The taxpayer is the seller of the property. In RS, the real estate transfer tax is 3% of the estimated property value. However, this tax will be withdrawn on 1 January 2010. In the FBiH, cantonal laws determine the tax rate according to the value of the immovable property (5% to 8%).

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Bulgaria

❛The tax system in Bulgaria❜

The tax system in Bulgaria

Corporate tax

1. Corporate taxation in general

Bulgaria levies corporate tax at a flat rate of 10%. In addition to the standard tax on corporate profits, the Bulgarian tax system also applies a special tonnage tax (optional regime), gambling tax, and tax on entertainment expenses. Some income derived by non-resident companies with no permanent establishment in Bulgaria is subject to a final withholding tax levied on the gross income.

There is no capital tax or payroll tax.

2. Tax on expenses

Bulgaria levies 10% tax on entertainment expenses incurred for the benefit of employees and maintenance and running costs for vehicles.

3. Taxable entities

Under Bulgarian tax law, taxable entities are local companies or European companies and cooperatives, non-resident companies with regard to income sourced in Bulgaria or derived through a Bulgarian permanent establishment. Non-personified entities are treated as corporate entities for tax purposes. Non-resident trusts, funds and similar foreign entities are treated as taxable corporate entities where the actual owner of the income cannot be identified.

Residents are companies incorporated under Bulgarian law. European companies and cooperatives (EC Regulation 2157/2001 and EC Regulation 1453/2003) are treated as residents provided that their registered seat is located in Bulgaria and they are registered with the Bulgarian Trade Register.

Income from special investment schemes, trusts, pension funds and other collective investment vehicles, Bulgarian REITs, etc. are exempt from corporate income tax. However, dividends distributed by such companies are taxed at shareholder level.

4. Capital gains

Capital gains realised by companies are taxed as ordinary business income. Gains derived on a regulated stock exchange in Bulgaria or in EU/EEA states are tax exempt.

5. Withholding tax

Dividends. Dividends distributed to Bulgarian or EU/EEA corporate shareholders are exempt from withholding tax. Dividends distributed to individuals or non-EU/EEA corporate shareholders are subject to a 5% withholding tax.

Interest and royalties. Bulgaria has used the transitional periods under the Interest and Royalties Directive and levies a 10% withholding tax on interest and royalties unless a tax treaty provides for lower rates. Bulgaria will continue to levy 10% until 31 December 2010 and a 5% withholding tax until 31 December 2014.

Other income. Some income derived by non-residents, which is not generated by a permanent establishment, such as interest, royalties, remuneration for technical services, etc. is subject to a final withholding tax of 10% levied on the gross income. The taxable base for such income derived by residents is calculated after deduction of statutory allowances. This unequal treatment was addressed by the European Commission on 19 March 2009. The Commission found that such treatment is discriminatory against EU/EEA residents and asked the Bulgarian government to amend the practice. However, Bulgaria has not yet complied.

Withholding obligations. In general, the payer of income subject to withholding tax is liable for payment of the tax owed to the treasury. Bulgarian tax law provides for joint liability between the payer and the recipient of the income (taxable person) in the event where the payer of the income does not withhold and pay the tax to the treasury.

Where income subject to withholding tax is paid to a non-resident entity, the term for payment of the withheld tax to the treasury is determined by the existence or non-existence of a tax treaty with the recipient's state of residence. In the event of a tax treaty, the tax shall be paid within three months following the month of accrual of the income. Otherwise, the tax shall be paid to the treasury by the end of the month following the month in which the income is accrued.

6. Avoidance of double taxation

Bulgarian tax law provides for unilateral relief of double taxation in the form of an ordinary tax credit with restrictions per country and per item. Bulgaria is a party to tax treaties, which provide for both methods of avoidance of double taxation – exemption or ordinary tax credit – depending on the treaty partner and type of income.

7. Anti-avoidance

Bulgarian tax law adopts the substance-over-form approach to counter tax avoidance. The approach is used to assess transactions between related or unrelated parties and in domestic and international situations where the terms and conditions of the transactions result in tax avoidance.

The tax authorities may redefine or disregard entire transactions (also series of transactions) or their legal form, separate contractual terms and clauses and determine the taxable income and the respective tax liability based on standard business practices and economic realities.

8. Thin capitalisation

The deduction of interest paid on loans taken from third parties is limited to the total interest received by the company plus 75% of its positive financial result (calculated without taking into account interest income and expenses) where the company's borrowed capital exceeds the equity by a factor of three.

The deductibility of interest payable to banks under loan agreements is subject to thin capitalisation rules and regulations provided that the bank and the company are related parties or the loan is guaranteed by a related party.

Thin capitalisation rules do not apply to the deductibility of the interest where such expenses are capitalised.

In general, non-deductible interest can be carried forward and deducted from the company's profits for five years subject to specific conditions and requirements.

9. Compensating losses

Domestic: Bulgarian companies may carry forward business and capital losses for five consecutive years. No carry-forward is allowed in the scope of restructuring transactions, except for permanent establishments in Bulgaria resulting from an EU merger.

Offsetting foreign losses: Offsetting foreign losses depends on the double tax relief provided by the applicable tax treaties: exemption or credit. In general, foreign-source losses may only be deducted from foreign profits derived from the same source in the same country where the losses were initially incurred.

10. Tax incentives

Bulgarian tax law provides for five types of tax incentives depending on their beneficiaries, which do not fall within the scope of regional and state aid regulations. Beneficiaries of such incentives are companies hiring unemployed persons with decreased working capacity, unemployed persons aged 50 or over, who have been unemployed for more than a year. Tax incentives also apply to companies hiring disabled persons, farmers, health insurance funds, etc. The tax incentive is a tax credit ranging between 50% and 100% of the corporate income tax due for a given tax year.

Tax law provides for tax incentives which are subject to the requirements for minimum state and state aid for regional development. The incentives take the form of tax credits. The credited taxes are used for investments in fixed assets. The incentives are available for companies investing in manufacturing in regions with high unemployment, companies investing in manufacturing activities, infrastructure and high technologies.

11. Tax year

The tax year in Bulgaria corresponds to the calendar year. The tax year for companies incorporated during the calendar year commences on the date of registration with the Trade Register and ends on 31 December.

12. Reporting and administration

All resident companies and other entities subject to corporate taxation as well as foreign companies with permanent establishments in Bulgaria shall file corporate returns by 31 March. Different reporting rules apply to companies subject to special taxes, i.e. tonnage tax, gambling tax, tax on entertainment expenses, etc.

In general, companies pay corporate tax in advance monthly or quarterly calculated on the basis of the profit for the previous year. Annual corporate tax is due on 31 March after the advance payments are deducted from the final amount due. Overpaid advance taxes can be deducted from the advance tax payments and the annual tax due in the following year.

Borrowers paying interest are also subject to filing obligations. The recipient of the interest is not required to file a return with the tax authorities unless taxes have been overpaid.

Personal income tax

1. Taxes

Individuals are taxed at a flat rate of 10% on their income on a self-assessment basis. There is no minimum taxable threshold.

Some type of income such as dividends, royalties, income from renting movable or immovable assets, etc. are subject to final tax. The tax rate is 5% for dividends and 10% for the other types of income taxable with final tax. Residents are entitled to deduct statutory authorised expenses or social and healthcare insurance contributions while non-residents are predominantly taxed on the gross amount (see section Expected Amendments below).

There is no net wealth tax.

2. Taxable persons

Bulgaria taxes its residents based on their worldwide income. Residents are individuals who reside in Bulgaria for more than 183 days in any 12-month period or have their permanent address or centre of vital interest in Bulgaria. Non-residents are taxed on their Bulgarian-source income.

Generally, all income paid by Bulgarian legal entities or persons is treated as Bulgarian-source income and is subject to personal income tax or to a final withholding tax. Income of expatriates working in Bulgaria is treated as sourced in Bulgaria and is subject to Bulgarian income tax irrespective of whether the income is paid by a local or foreign employer.

3. Exempt income

Tax-exempt income includes gains on the sale of real estate subject to specific conditions, gains on the sale of some financial instruments, gains from sale of shares on the Bulgarian stock exchange or on a stock-exchange in a EU/EEA state, social aid, income from rental of agricultural land, etc.

Local taxes

1. Real estate tax

Real estate tax is levied on the tax assessment of the real estate or the net book value plus accumulated depreciation. The rate varies between 0.05% and 0.2% in the various municipalities.

2. Transfer tax

The tax is levied upon the transfer of ownership of real estate. The tax rates vary between 1.3% and 2.6% in the different municipalities. The taxable person is the purchaser of the real estate. The parties to the deal can agree that the seller or both the seller and the purchaser will pay the transfer tax. In the first case, the seller would become a guarantor by virtue of law and in the latter case, the seller and the purchaser would be jointly liable for the payment of the tax.

3. Gift and inheritance tax

Gift and inheritance tax is not imposed on inherited assets and donations between direct relatives and spouses. The rates vary between 0.3% and 10% for collateral relatives and non-related persons. Proceeds from the sale of inherited property are not subject to tax.

VAT

1. Rates

The standard VAT rate is 20%. The reduced rate is 7% and applies to some tourist services such as hotel accommodation.

2. Taxable persons

Taxable persons are all natural persons or legal entities performing taxable supplies within the meaning of Bulgarian VAT law.

3. VAT registration

Persons (both natural and legal) who realise a turnover from taxable supplies exceeding BGN 50,000 (approximately EUR 25,000) in any 12-month period shall register with the tax authorities for VAT purposes. Such registration is mandatory and failure by the taxable person to comply would result in fines.

Other cases of mandatory registration are providing supplies in Bulgaria by persons established in another EU state, supplies of goods where assembly and installation work is carried out on behalf of the supplier, etc.

Intra-Community acquisitions exceeding BGN 20,000 (approximately EUR 10,000) in a calendar year constitute legal grounds for mandatory VAT registration.

The law provides taxable persons with the option to register voluntarily for VAT. In this case, there are no requirements for minimum turnover or performance of specific taxable supplies.

4. VAT registration of non-residents

Foreign persons making taxable supplies where the place of supply is Bulgaria or having a fixed place of business in Bulgaria must register with the tax authorities for VAT purposes. Foreign persons may register voluntarily or upon reaching turnover of BGN 50,000 during a period of 12 months.

Foreign taxable persons may not register directly. They need an accredited representative in Bulgaria. The accredited representative could be legal or natural persons resident of Bulgaria. The accredited representatives are jointly liable with the foreign taxable persons for their VAT liabilities.

Branches of non-resident companies may be registered in Bulgaria for VAT purposes provided that they meet all registration thresholds and requirements.

5. Taxable supplies

Taxable are all domestic supplies of goods or services performed by a taxable person provided that the supply is not explicitly listed as exempt. Intra-Community acquisitions, exports and imports (zero rates) are also taxable.

6. Exempt supplies

Bulgarian VAT law has closely followed and implemented EU legislation and the list of exempt supplies replicates the list contained in EU directives.

Taxable persons may treat the granting of interest-bearing credits, including under a leasing agreement, as taxable supplies.

7. VAT Grouping

There is no VAT grouping system in Bulgaria.

Income tax treaties

Bulgaria has concluded approximately 70 double tax treaties. Among the treaty partners are countries such as Austria, Belgium, Cyprus, France, Germany, Greece, Italy, Japan, Luxembourg, Malta, the Netherlands, Russia, Spain, Switzerland, United Kingdom, United States of America, United Arab Emirates, etc.

Bulgaria is a party to around 60 investment protection treaties. Treaty partners include France, Luxembourg, the Netherlands, United Kingdom and the United States of America.

Expected amendments

The newly elected Bulgarian government has not announced any intentions for significant legislative changes to the tax system currently in force.

It is likely that the main driving force behind the amendments due to be introduced before the end of 2009 will be the Bulgarian government's undertakings in relation to the respective directives (e.g. the VAT package – Directive 2008/8/EC, Directive 2008/9/EC and Directive 2008/117/EC), in relation with the infringement procedures against Bulgaria in the area of taxation or in relation with the ECJ's decisions.

In 2009, Bulgaria had to already amend its tax legislation several times as a result of infringement procedures initiated by the European Commission. Bulgaria extended the tax exemption on income from Bulgarian governmental, municipal or corporate bonds to such bonds issued under the law of another EU/EEA state. Resident taxpayers are now entitled to deduct donations to qualifying EU/EEA beneficiaries and not only donations to qualifying Bulgarian beneficiaries as in the past.

As mentioned above, the European Commission asked Bulgaria to abolish its discriminatory tax treatment relating to some income received by non-residents who are taxed on a gross rather than a net basis as is the case for resident taxpayers. Interests, royalties, management fees, leases for immovable property are included in such income. The amendments have not yet been enacted.

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Croatia

The tax system in the Republic of Croatia

The Croatian tax system is based on taxing income, sales and other specific transactions, rather than capital. Legal person's income is generally subject to corporate income tax, while income earned by individuals is in principle subject to personal income tax. Most domestic sales and imports are subject to VAT, plus various excise and other taxes and fees levied on specific transactions.

The tax collection process is divided between different official bodies depending on the source of tax revenue.

Most important taxes

- VAT (0%, 10% and 23%)
- Corporate income tax (20%)
- Personal income tax (progressive rates: 15%, 25%, 35% and 45%)
- Real estate transfer tax (5%)
- Excise duties (on oil and refined petroleum products, tobacco products, alcoholic beverages, non-alcoholic beverages, beer, coffee, cars and other motor vehicles, vessels and aircraft, luxury products)
- County, municipal and town/city taxes as part of regional and local governments' revenues (city surtaxes on personal income tax)

Recent changes in the state of Croatian economy forced the Government and Parliament to introduce with economic stimulus measures. As part of these measures, VAT was increased from 22% to 23% and additional "crisis" taxes were introduced:

- Charge for service delivery in mobile communication networks (in force from 1 August 2009) with 6% rate; and
- Special tax on salaries, pensions and other receipts (in force from 1 August 2009 until 31 December 2010). For the purpose of this tax, dividends paid to residents are also considered "taxable receipts".

The tax system in the Republic of Croatia

Corporate tax

A taxpayer is a company or other legal entity resident in the Republic of Croatia that carries out activities for profit as well as a resident permanent establishment of a non-resident entrepreneur. Individuals can be corporate income taxpayers upon request. The tax base is the accounting profit, adjusted in accordance with the provisions of the Corporate Profit Tax Law. The tax rate is 20%. Various tax incentives are available, depending on the amount of investment, number of employees and location of the investment.

1. Tax loss carried forward

Generally, a tax loss can be carried forward and offset by reducing the taxable bases in the following five years, unless otherwise provided by the Law. If the right to offset losses was transferred to legal successors in the scope of mergers, acquisition or spin-offs, the legal successors can use the right to carry forward the loss after the expiry of the period in which this right was acquired.

2. Thin capitalisation

If the amount of loans received from a shareholder holding at least 25% of shares or equity capital or voting rights in a taxable person, exceed the four times amount of this shareholder's share in the capital or voting rights, interests on these loans will not be tax-deductible (4:1 debt-to-equity ratio). Also, the maximum tax-recognised interest rate shall be the rate which would apply to non-associated persons at the time of granting a loan (currently 9%). This interest rate shall be determined and published by the Finance Minister before the beginning of the tax period in which it will be applied.

3. Withholding tax

In accordance with the Profit Tax Act, withholding tax is determined as tax on the income derived by a non-resident in the Republic of Croatia. The tax is withheld by the local entity at the time of payment abroad. The withholding tax base is the gross amount of consideration paid by a resident payer to a non-resident recipient. Withholding tax is levied at a rate of 15% on interest, royalties and other intellectual property rights (copyrights, patents, licences, trade marks, designs or models, production processes, production formula, drafts, plans, industrial or scientific know-how and similar rights) and service fees (for market research services, tax and business advisory and auditing service fees paid to non-residents), unless otherwise provided by a DTT (reduction to 5% or 0%).

VAT

A taxable person is any person who independently carries out any economic activity at any place, whatever the purpose or result of such activity. Tax base is the sales/market price of goods delivered or services performed. Services are taxable in Croatia if they are deemed to be supplied in Croatia including imports of goods. The place of supply rules are similar to those applicable in the European Union.

The reverse-charge mechanism applies to certain services provided from abroad. There is no VAT refund for foreigners, except for the entrepreneurs, who exhibit at domestic trade fairs for services and goods that are provided or supplied by domestic entrepreneurs.

Applicable rates are 23%, 10% and 0%.

Personal income tax and other taxes

1. Personal income tax

Personal income tax applies to an individual's income. Different methods of calculating the tax base shall be applied to different sources of income. Tax base for residents shall be the total income realised in Croatia (income from employment, self-employment, property and proprietary rights, capital insurance, other income) and abroad while for foreign taxpayer tax base is income generated in Croatia.

Tax rates are progressive: 15%, 25%, 35% and 45%.

2. City surtax

A taxpayer is a natural person generating taxable income. Municipalities and cities may levy an additional tax, called the city surtax. The City of Zagreb currently has the highest city surtax rate at 18%. City surtax is payable depending on the residence or habitual abode of the taxpayer. The city surtax is calculated on the amount of personal income tax payable. The rates vary in the range from 0-18%.

3. Real Estate Transfer Tax

A taxable person is the person or entity acquiring the real estate. The acquisition of real estate is deemed to be the sale and purchase, exchange, inheritance, giving, adding to and withdrawing real estate from a corporation, acquisition of real estate in the process of liquidation or bankruptcy, acquisition pursuant to a decision of a court or another body and other manners for acquiring real estate from other persons. The tax base is the market value of the real estate at the time of the purchase. The tax rate is 5%.

When real estate is contributed to a company as a founding stake or as an increase of the paid up capital, real estate transfer tax is not paid. This tax is also not paid when real estate is obtained during a merger, takeover or spin-off of companies.

4. Special tax on salaries, pensions and other revenues

Taxpayers are resident natural or legal persons. The tax base is the net amount of receipts (including dividends paid to residents). There are two tax rates: 2% for the total monthly net receipts in the amount HRK 3,000 to 6,000 (between about 415 and 830 euros), and 4% for the monthly receipts exceeding the amount of HRK 6,000.(826 euros). Monthly receipts under the threshold of HRK 3,000 are exempted from this tax.

5. Charge for service delivery in mobile communication networks

The taxpayer is the infrastructure operator. The tax base is the revenue acquired from providing SMS, MMS and voice services. The tax rate is 6%.

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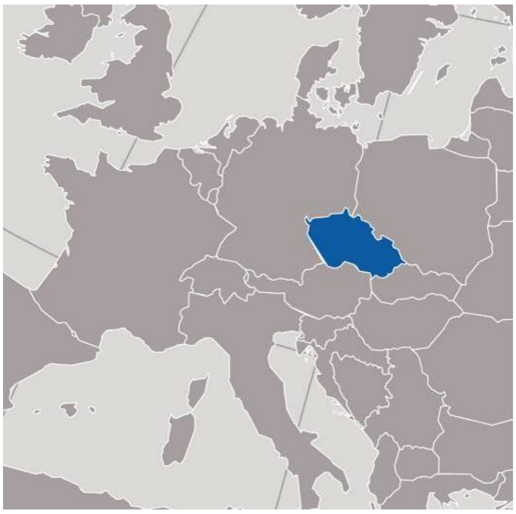

Czech Republic

The tax system in the Czech Republic

Corporate tax

The tax system in the Czech Republic is now very similar to other European tax systems after many years of adaption and harmonisation. The Czech tax system includes the following taxes – income tax, VAT, excise taxes, energy taxes, road tax, real estate tax, inheritance, gift and real estate transfer tax. Health and social insurance are part of the Czech tax system.

In our presentation of the Czech tax system, we would like to particularly focus on specific rules under the Czech tax system and new provisions and laws.

Among the specific rules in the Czech tax system, we will highlight the thin capitalisation rules, holding costs, binding opinion and tax losses.

1. Thin capitalisation rules

The thin capitalisation rules refer to credits and loans from related persons. The debt-to-equity ratio is 4:1. Thin capitalisation rules apply not only to interest but to all financial costs which involve interest, arrangement fees, commitments fees, etc. The new condition is that the credits and loans connected with a parallel credit from a related person to an unrelated creditor are also regulated by thin capitalisation rules.

In comparison to 2008, the conditions were mitigated. The debt-to-equity ratio for related persons was 2:1 and the tests applied not only to related parties but also to credits and loans from unrelated parties.

2. Holding costs

There are specific rules applied to expenses of the parent company relating to shares in a subsidiary. The direct and indirect costs relating to shareholdings are non-deductible from the tax base. Non-deductible expenses are also interest on credits and loans taken out during the six-month period prior to the share purchase if it is not documented that the credit or loan is not connected with the share purchase.

The tax system in the Czech Republic

Indirect costs are set by law at 5% of the value of dividends or other shares of the profit unless the taxpayer documents the lower amount of indirect costs.

3. Binding opinion (ruling) of the tax inspector

The taxpayer can obtain a binding opinion in some areas of taxes from the tax inspector. The possibility of requesting a binding opinion was extended in 2008. At present, the taxpayer has the right to ask for a binding opinion in the following cases:

- carry-forward of tax losses in cases of considerable change in ownership rights

- transfer prices

- allocation of costs between taxable and non-taxable revenues

- allocation of costs on usage of immovable assets between private and business purposes

- allocation of costs between repairs and technical improvement

- consideration of research costs for special tax relief

4. Tax losses

Tax losses can be carried forward during the subsequent five years after the year in which the loss was generated. The deduction of carried forward tax losses is limited if there is a change in the company's shareholding structure by more than 25%. In this case, losses are deductible only if at least 80% of revenue was created by the same business activity.

According to Czech law, tax losses cannot be offset against the profits of another company of the group .

There are also other topical issues in the Czech tax system, e.g.:

5. Changes in tax rate

The corporate tax rate was reduced from 21% in 2008 to 20% in 2009 and should be reduced to 19% in 2010.

6. Dividend exemption and participation exemption

According to Czech law, dividends paid to a Czech parent company or a parent company in the EU and dividends received from a Czech company, a EU subsidiary and from entities in a third country are tax-exempt. Conditions apply to the exemption of dividends. The parent company must hold at least 10% of the share for more than 12 months.

In the case of dividends from the entities in a third country there is no tax on the dividends received if the Czech Republic has signed a double taxation treaty with this country and if the tax rate in this country is not lower than 12 %.

Sales of shares are also tax-exempt whether they are shares in another Czech company, a company in a EU state and a company in a third country. The conditions for applying the participation exemption are the same as the conditions for dividend exemptions. The participation exemption regime does not apply to shares acquired within the purchase of a business or part thereof.

VAT

1. VAT group

The "VAT group" was introduced by the VAT Act in 2008. A VAT group means a group of linked persons whose seat is located in the Czech Republic and this group is registered as a VAT payer. The advantages of a VAT group are as follows: supplies between the members are not taxable and the group files only one tax return for the whole group. This construction is mostly used in groups including a bank.

New acts

Several new acts were adopted in 2009 which refer to the tax legislation. Some new acts were adopted in connection with the economic crisis intended to encourage economic activity.

Among the economic stimulus measures, we can highlight the following:

There are some changes in the area of financial leasing. Lease payments for financial leasing with subsequent purchase of the leased tangible assets are tax deductible under the given conditions. One condition refers to the term of the contract. The term of the contract was reduced. The lease period has to last at least 36 months (for tangible assets allocated in 1. depreciation category – e.g. office equipment), 54 months (for 2. depreciation category – e.g. cars, some kinds of machines) and 114 months (for 3. depreciation category – e.g. steel and metal structures, lifts, air-conditions). However, the conditions in 2008 were as follows: the lease period lasted at least three, five and ten years. The minimum lease period must be 30 years with regard to real estate.

One of the economic stimulus measures is faster depreciation of tangible assets. Taxpayers can apply faster depreciation for tangible assets purchased during the period from 1 January 2009 to 30 June 2010 depreciation on a 12 months period (for assets allocated into 1. depreciation category) or 24 months period (for assets allocated into 2. depreciation category). This depreciation method is optional.

The VAT Act has also been amended. As from 1 April 2009, the VAT payer is entitled to a VAT deduction on the purchase of a passenger car. The right to a VAT deduction previously only applied for the purchase of a lorry. This change has been expected for a very long time and should provide impetus to the car industry.

Expected amendments in law in 2010

The changes to the VAT Act are being prepared and they are expected to be effective as from 1 January 2010. The proposed changes are expected to particularly include the place of performance (according to the seat of the recipient of the service) and refund of VAT to a person registered for VAT in another member state or in the third country (simplification of conditions for tax refunds).

We hope that you find this information useful. Our firm remains at your disposal to provide additional information regarding Czech tax system.

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Hungary

The tax system in Hungary

New developments in Hungary

Mid-year tax law amendments were passed by the Hungarian Parliament at the end of June 2009. The new act is an integral part of the Hungarian government’s recent budgetary reforms and many of these were a condition for the EUR 20 billion IMF/EU stimulus package granted to Hungary. Many of these changes could require Hungarian businesses to restructure their existing operations and prepare themselves for the new legal environment. Most of these changes will enter into force on 1 January 2010 while some of them are already in force. Nonetheless, although the amendments were only published a few months ago, a few of them have already been challenged before the Constitutional Court by the Ombudsman and by various professionals. In addition, there is already another bill pending before the Hungarian Parliament amending these recent amendments and closing a few loopholes which were created by the new rules. Thus, further changes to some of these new rules should be expected.

We have highlighted below the most significant of the many changes. Please do not hesitate to contact us if you feel that any of these changes may particularly affect your business.

Corporate tax

1. Corporate tax

As from 2010, the corporate income tax (“CIT”) rate will increase from 16% to 19%. At the same time, the 4% solidarity tax on companies will be abolished. Moreover, the tax base will become wider, as several items which currently decrease the tax base will be abolished. Among the most significant changes are that the local business tax will no longer be deductible from the CIT base; gratuitous asset transfers will generally not be subject to special tax treatment compared to the accounting treatment; and the 50% exemption on the interest margin between related parties will no longer modify the CIT base (i.e., the favourable Hungarian “interest-box” rule will thus be withdrawn).

“The tax system in Hungary”

From 2009 onwards, credit institutions with a negative tax base are also entitled to carry forward their tax losses to reduce their pre-tax profits in subsequent tax years, subject to the generally applicable conditions.

The definition of related parties has been clarified. Accordingly, a relationship between companies will be classified as being "related" for transfer pricing purposes not only if the same individual(s) has (have) a "significant" influence (broadly: a majority stake), in both companies but also if these companies' respective and separate majority owners are close relatives. Moreover, a Hungarian company and its foreign permanent establishment will also be deemed to be related parties. This change could, for example, affect the way asset allocations are carried out to and from foreign branches of Hungarian companies.

2. Withholding tax

The amendments reintroduce the withholding tax on some Hungarian-source income of foreign entities and private individuals. If a foreign company or an individual is a tax resident in a country with which Hungary has not concluded a double tax treaty, a 30% withholding tax should be applied to interest, royalties and some service fee payments. Among others, the amendment considers fees for management consultancy, advertising and market research activities as service fees.

3. CFC rules

As from 1 January 2010, the definition of a controlled foreign company ("CFC") will undergo significant changes and the Hungarian CFC rules will consequently become much more stringent, allowing for the taxation of undistributed profits of CFCs. These changes could adversely affect some existing Hungarian structures.

A foreign entity will be deemed to be a CFC, if a Hungarian resident individual owns (directly or indirectly) at least 25% of the voting rights or shares or it has a dominant influence therein provided that such foreign entity is located in a low-tax jurisdiction. A "low-tax jurisdiction" means a country in which the effective corporate tax rate is less than two-thirds of the Hungarian corporate income tax rate (i.e. corporate income tax rate is less than 12.66%) or the foreign entity has no CIT payment obligations due to a nil or negative tax base despite positive financial results.

These rules will now also apply to companies seated or tax resident in the EU, in an OECD country or in a country with which Hungary has concluded a double tax treaty unless the company can demonstrate a "real economic presence" in the given jurisdiction. However, it remains to be seen whether the statutory conditions for "real economic presence" would survive the ECJ's scrutiny, in particular the conditions laid down in the Cadbury Schweppes decision (C-196/04).

In addition, the amendments contain new regulations applying to distributed and undistributed profits recorded in CFCs' books. In relation to companies, undistributed profits in a CFC will be subject to Hungarian corporate tax in proportion to the direct interest of the Hungarian company provided that (i) it holds at least 25% of the voting rights or shares or has a dominant influence in the CFC and (ii) no Hungarian resident individual has a direct or indirect participation in such Hungarian company.

In the case of Hungarian individual owners of CFCs, a new item will be included in their consolidated income tax bases. Accordingly, such individuals will need to pay tax on the CFC's undistributed profits, interest and dividend payments, if their direct or indirect shareholding or voting rights reach 25%.

Local business tax

Local business tax is levied by municipalities up to a maximum of 2% of the net sales revenues decreased by material costs, cost of goods sold and some other costs. This tax is very detrimental as it is payable even if the taxpayer is in a net loss position. Service providers' possibilities to reduce their tax base are very limited. The tax was at least deductible up until now from the corporate tax base. However, as from 2010 this will no longer be possible.

With the aim of simplifying administrative formalities, local business tax will need to be declared and paid to the State Tax Authority (instead of the respective local tax authorities). This has already provoked controversy as the local municipalities see this as a way of curbing their independence. Therefore, they have asked the Hungarian Constitutional Court to annul the relevant provisions, which could consequently be subject to further changes and amendments.

A favourable amendment is that taxpayers with a permanent establishment (PE) in a foreign country will now be fully exempt from the local business tax on that share of the tax base, which can be attributed to a PE. However, based on our information, there will be no change in Hungary's prevailing tax policy, which holds that the double tax agreements do not apply to this tax.

Real estate taxation

One of the amendments that could have an adverse effect on some structures involving real estate investments is that shareholders deriving capital gains from the sale of the shares of a "real estate company" will be subject to Hungarian corporate income tax, provided that they are resident in a country in respect of which the relevant double tax treaty allows Hungary to tax capital gains (or with which Hungary has not concluded a treaty). Hungary has concluded double tax treaties with 65 countries to date 21 treaties (e.g., Ireland, Malta) contain the so-called real estate clause allowing the taxation of capital gains from a "real estate company". Due to the complexity of some of the issues involved, we recommend that you seek expert advice on the necessary restructuring steps.

Another important change is that the transfer tax rate on the purchase of property will be decreased and become degressive. Accordingly, as opposed to the current rate of 10%, a 4% rate will apply up to a market value of HUF 1 billion, and 2% for the excess, with an overall cap of HUF 200 million per property (i.e., if the market value of the property exceeds HUF 9 billion, i.e., around EUR 34 million, the excess value will not be subject to any further transfer tax). Whilst the rate of the transfer tax was reduced, its scope was expanded. Thus, the direct purchase of at least 75% of the shares of a company – whether Hungarian or foreign resident – owning real estate located in Hungary will also be subject to transfer tax along the above lines. In other words, the well-known loophole relating to indirect property purchases will be partially closed (and, according the the bill still pending before the Parliament, even further aggravations may soon be expected). Please note that double tax treaties do not apply to the transfer tax, and no relief will therefore be available on this basis.

With regard to the economic crisis, a grace period is being introduced for real estate traders. Accordingly, the two-year period during which a property needs to be resold by traders in order to qualify for the 2% preferential transfer tax rate may, subject to certain conditions, be extended to four years upon request. Such a request may also be submitted in respect of some purchases for which the resale deadline has already passed.

Finally, slight relief has been granted to the real estate sector whereby the cultural contribution (currently levied at 0.2% on the construction of non-residential buildings with a development value exceeding HUF 120 million) will be abolished.

VAT

The Hungarian value added tax regime is based on and essentially fully complies with the framework of EU Directives. The standard rate of VAT was increased to 25% (previously 20%) as from July 2009. A new 18% preferential rate was introduced for socially sensitive products, central heating and hotel services. The second reduced VAT rate of 5% will continue to apply to books, daily and other newspapers, medicines and medical-related goods.

Further changes concerning the place of supply of services are expected as the new EU VAT package will be implemented by 31 December 2009. The relevant bill (now pending before the Hungarian Parliament) contains substantial changes regarding the place of supply of services. Accordingly, a new general rule will be applicable to services supplied to businesses (B2B), whereby the place of supply will be the place where the customer is established. At the same time, in the case of services provided to non-business clients (B2C), the general rule has not been amended and the place of supply corresponds to the place where the service provider is established.

The aim of the changes is to ensure that VAT on services is paid in the actual place of consumption of the service and thus avoid so-called "VAT tariff shopping" (i.e., setting up service provider entities where the VAT rates are the lowest). A new procedure will be introduced for refunds of VAT incurred by EU businesses outside of their home country. The new refund procedure is a long awaited simplification of this often tedious process, allowing businesses to submit their refund requests to the tax authority in their home country.

Personal income tax

The package also affects the personal income tax (PIT) regime. From 2010, the gross income plus the employer's contribution will constitute the PIT base ("supergross"), which is similar to the Czech system. This consolidated tax base will be taxed at 17% on annual income up to HUF 5 million and 32% on the excess.

Employers will benefit from a 5% decrease in the employer's contribution (to 27%), which will apply to all salaries as from 1 January 2010. The itemised healthcare contribution will be abolished.

The amendments include stricter rules for benefits in kind ("cafeteria") regime. As from 2010, most fringe benefits which are currently tax-exempt (e.g., travel vouchers) will be taxed at 25% (subject to certain upper limits on the value). As this tax is payable by the employer, this might force some employers to restructure their existing cafeteria systems, as they might incur a significant additional tax burden if they provide these benefits at current levels.

Wealth tax on homes and "luxury" items

After some lively inter-party wrangling, the Parliament approved the introduction of a wealth tax, thus fulfilling one of the conditions of the EU/IMF stimulus package. The new tax will be introduced as from 1 January 2010. Under the legislation, tax will be payable annually on the market value of residential property located in Hungary (owned by companies or individuals) except for:

- residential property with a market value of up to HUF 30 million for the owner's main residence

- up to one further property in Hungary worth less than HUF 15 million.

The tax rate is progressive: 0.25% of the market value up to HUF 30 million, 0.35% of the market value between HUF 30 and 50 million and 0.5% of the excess. In order to facilitate collection for the tax authorities, the Act determines the deemed market value per usable area by location and type of real estate, including adjustments to reflect items such as age of the real estate, or the access to a swimming pool or garage.

The tax (at different rates) will also be levied on sailing and motor boats and airplanes either registered in Hungary or owned by Hungarian individuals or companies (wherever registered) and also on cars with a motor capacity above 125 kW (existing motor vehicle tax can be credited against it).

New US-Hungary treaty finalized

In addition to the changes to Hungarian tax law, negotiations concerning a new double tax treaty between Hungary and the United States have now come to a close, and the draft new treaty has been initialled by the parties. Unfortunately, we have not seen the actual wording (it has not yet been made officially available), but it is certain that it will include a strict "limitation on benefits" (LoB) clause which, according to reports, closely resembles that of the US-Netherlands treaty. Some might recall that the US-Hungary treaty currently in force is more or less world famous for not having an LoB clause, and is therefore a prime target for treaty shoppers. The new treaty is intended to close this loophole. It is expected to enter into force as from 1 January 2011, but the exact date significantly depends on the ratification processes in the two countries. Sections of the treaty may also become applicable even prior to this date.

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Poland

The tax system in Poland

Personal Income Tax ("PIT"), Corporate Income Tax ("CIT") and Value Added Tax ("VAT") were introduced in the early 1990s. Since that time, Polish tax law has been subject to frequent and fundamental changes. Substantial amendments to tax law have resulted from Poland joining the European Union ("EU") on 1 May 2004.

Corporate tax

1. Scope of CIT taxation

The Corporate Income Tax Law (the "CIT Law") provides for the general rules according to which income received by a legal entity from activities carried out in Poland is subject to corporate taxation, regardless of its residency. However, it should be noted that Polish CIT residents are taxed on their worldwide income while non-residents are subject to CIT exclusively on income generated in Poland, unless an applicable double tax treaty provides otherwise. A company has resident status if its registered or management seat is located in Poland. Based on this rule, Polish subsidiaries of foreign companies (non-residents) are regarded as residents and taxed according to the same rules as Polish companies.

The basic CIT rate was reduced to 19% with effect from 1 January 2004.

2. Determination of the taxable base

CIT is payable on the total taxable income earned from any source during a tax year. Taxable income is the difference between aggregate taxable revenue and aggregate tax-deductible costs. If the costs exceed the total amount of revenue, the difference constitutes a loss. It may be carried forward and offset against income over the subsequent five tax years, but only up to 50% of the original loss may be deducted in one year.

The tax system in Poland

3. Tax-deductible costs

All costs and expenditure incurred in order to generate taxable revenue or maintain or secure a source of income, except for the costs explicitly listed in the CIT Law as not constituting costs of earnings, should be treated as tax-deductible costs. All tax-deductible costs should be properly evidenced, e.g. with invoices or agreements.

4. Tax year

Although CIT is payable on an annual basis, a taxpayer is obliged to make monthly advance payments when cumulative income is recorded. A taxpayer is also obliged to submit yearly CIT returns no later than three months after the end of the tax year.

Under certain circumstances, a simplified advance payment procedure can be applied.

The tax year consists of 12 consecutive months and usually corresponds to the calendar year. A taxpayer is free to change its tax year by choosing another 12-month period and notifying the relevant tax office.

5. Withholding tax

Dividend distributions are generally subject to a 19% withholding tax levied on the gross amount. Profit-sharing income of corporate entities paid by a Polish company to companies established in Poland, EU or EEA countries as well as in Switzerland is exempt from withholding tax under certain conditions specified in the CIT Law. The basic requirement is that the foreign beneficiary should hold at least 10% of the shares in the Polish company for at least two years (with respect to Swiss shareholders, the minimum shareholding is 25%). Moreover, some double tax treaties may provide for a different withholding tax rate.

Interest and royalties sourced in Poland are treated as regular income and taxed at the standard 19% CIT rate. Payments of interest and royalties to foreign companies are subject to a 20% withholding tax unless a relevant tax treaty provides otherwise and an appropriate tax residence certificate is provided. It should also be noted that interest and royalty payments made by a Polish entity to an EU-based parent company are subject to a lower tax rate of 5% provided that some conditions stipulated in the CIT Law are met. The full exemption will apply as from 1 July 2013.

6. Thin capitalisation

The CIT Law envisages thin capitalisation rules, which limit tax deductibility of interest costs on loans from affiliated entities.

Thin capitalisation rules only apply to loans granted by a direct parent company owning at least 25% of the shares in the borrower, or a sister company where the lender and the borrower have the same parent owning at least 25% in each of them. Interest on part of a loan exceeding the value of three times the borrower's share capital cannot be treated as a tax deductible cost of the latter (3:1 debt-to-equity ratio).

Personal Income Tax

1. Scope of PIT taxation

The Personal Income Tax Law (the "PIT Law ") is similar to the CIT Law in terms of construction. The catalogues of PIT taxable revenue, tax deductible costs or tax exemptions are much like those of the CIT Law in many areas.

The general rule is that under the Polish Law on PIT, individuals pay tax on their salaried income or income generated through self-employment. Polish residents are taxed on their worldwide income while foreign residents are subject to Polish tax only on income generated in Poland.

An individual is deemed to be a Polish resident if: (i) his centre of vital interest is in Poland, or (ii) he lives in Poland for more than 183 days in a tax year. It is enough to satisfy one of these conditions to become a Polish resident, with consideration of the relevant tax treaties.

2. Tax rates

Salaried income is subject to progressive taxation with a two-bracket structure. As from 1 January 2009, tax rates and tax brackets were amended as follows:

Tax base (PLN)

- up to 85,528 PLN: 18% of the assessment basis minus PLN 556.02

- over 85,528 PLN: 14,839.02 + 32% of the amount exceeding PLN 85,528

N.B.: There is an initial allowance of PLN 556.02 on the lowest income bracket.

Individuals running business activities as sole traders or partners in partnerships can opt for a flat 19% income tax rate if certain conditions are met.

3. Tax collection

Although in theory PIT is calculated on annual income, its collection is based on the monthly advance payments.

An employer has to deduct advance payments from an employee's salary and transfer such deductions to the tax office on a monthly basis.

With respect to sole traders, they may choose between monthly, quarterly or simplified advance payment procedures. Sole traders are obliged to personally assess and remit the advances to the relevant tax offices, on a monthly or quarterly basis.

Taxpayers (individuals) must file annual tax returns with the tax office by 30 April of the following calendar year.

VAT

As of 1 May 2004, the Polish Goods and Services Law (the "VAT Law") was harmonised with EU regulations, in particular those relating to the Sixth Directive. Thus, it is in principle similar to the VAT provisions of other EU countries.

1. Scope of VAT taxation

Under Polish regulations, VAT applies to the following transactions:

- supply of goods and services in Poland for remuneration;
- exports of goods outside the EU;
- imports of goods from outside the EU;
- EU purchases of goods (from the EU) carried out for remuneration in Poland including the movement of goods between different EU Member States performing the same business;
- EU supply of goods (to the EU) inclusive of the movement of goods between different EU member states performing the same business.

2. Taxpayers

VAT payers include legal entities, organisational units without the status of legal persons and individuals that independently carry out any business activity regardless of the purpose or the effect of such activity.

Entities that perform VATable activities in Poland are obliged to register as VAT payers before undertaking the first taxable transaction. In order to register for VAT, a taxpayer needs to file a registration application with the relevant tax authority and is granted the status as an active taxpayer or an exempted taxpayer.

For EU transactions, an entity should be registered as an EU VAT payer. After registration, a taxpayer is under the obligation to use that VAT number in EU transactions.

3. VAT rates

As a rule, the standard VAT rate is 22%. This rate applies to almost all supplies of goods and services, unless specific VAT regulations provide for reduced rates of 7%, 3% or 0%. Some activities are exempt from VAT.

The reduced rate of 7% is applicable for instance to healthcare-related goods and catering services. Supplies of certain agricultural products are subject to VAT at 3%. Under certain conditions, the VAT rate of 0% applies to exports of goods outside the EU and EU supplies.

According to the Polish VAT Law, a number of supplies of goods and services are exempt without the right to deduct input VAT. Financial, insurance, health, social and cultural services are the most common services exempt from VAT.

4. VAT calculation

As a rule, VAT returns are submitted on a monthly basis. VAT returns and full payment of the VAT due must be made by the 25th of the month following the month in which the tax point arose.

The amount to be paid to the tax office is basically the surplus of VAT on sales (output VAT) over VAT on purchases (input VAT). However, there is a list of goods and services, e.g. fuel for passenger cars or services provided by tax haven residents, which do not give the right to deduct input VAT on supplies. It is worth noting that such regulations do not necessarily mirror EU standards.

The excess input VAT over output VAT may be carried forward to the next month or refunded by the tax office as a rule within 60 days.

Polish VAT Law envisages VAT refunds for foreign taxable persons who are not established in Poland and who incur Polish VAT on business expenditure in Poland. These persons are eligible to claim VAT refunds provided that certain conditions specified in the VAT Law are fulfilled. The above conditions are: (i) they are registered for VAT purposes or a similar tax in their home country, (ii) they are not registered for VAT purposes in Poland, (iii) they do not make taxable supplies in Poland (subject to certain exceptions), and (iv) VAT refunds are available for Polish residents in their home country (the reciprocity rule). Claims must be submitted by 30 June of the year following the year in which the VAT being claimed was paid to the relevant tax office. VAT should be refunded within six months from the date on which the application is filed. However, in practice the whole procedure takes up to two years.

5. Expected VAT amendments

The major amendments to the VAT Law are connected with the transposition of the so-called "VAT Package", i.e. EC Directive 2008/8, Directive 2008/9 and Directive 2008/17. Most of the amendments are expected to come into force on 1 January 2010. The legislation implementing the Directives is currently at the parliamentary stage. According to a new rule regarding the place of taxation for the provision of services, the place of taxation for any provision of services should, in principle, be the place where the customer as VAT payer has its seat. As present, this rule applies in principle only to intangible services.

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Russia

The tax system in Russia

First, according to the Russian Tax Code, there are three levels of taxes in the Russian Federation: 1) federal taxes (VAT, corporate income tax, excise taxes, personal income tax, mineral resources extraction tax); 2) regional taxes (company property tax, transport tax, gambling tax); 3) local taxes (land tax, individual property tax).

Corporate Tax

The taxpayers of corporate income tax are

1) Russian legal entities (worldwide income)

2) foreign legal entities doing business in Russia through a permanent establishment and/or receiving Russian source income.

The general corporate income tax rate is 20% (2% for the federal budget and 18% for the regional budget that may be reduced to 13.5%).

Expenses are deductible if they are related to the taxpayer’s business, economically justified and properly supported with documentation. These criteria are generally applied very strictly by the tax authorities. Some expenses are non-deductible or partially deductible (e.g. penalties paid to the budget, some advertising expenses). Tax treaties may help in deducting these expenses.

There is no group taxation under the provisions of the Russian tax law (a bill of law has been discussed for many years at the Ministry of Finance).

Transfer pricing rules are currently almost inexistent. Russian Tax Code only states that Russian tax authorities are entitled to challenge the prices of some transactions if the price deviates from the market level by more than 20%.

The tax authorities have to prove that the prices do not comply with arm's length principles. In general, the comparable uncontrolled price method, the cost-plus method or the resale method are used.

A bill of law relating to transfer pricing has been under discussion at the Ministry of Finance for several months. It is expected to be adopted by autumn 2009.

“The tax system in Russia”

1. Participation-exemption regime

Dividends received by a Russian company at a 9% flat rate (even if received from a foreign entity).

A participation exemption may apply if the following conditions are met:

- participation of at least 50% in the distributing company (or depositary receipts giving right to more than 50% of the financials rights)
- one-year minimum holding
- minimal participation value of RUR 500,000,000.

However, the exemption does not apply to dividends received from companies residing in low-tax jurisdictions (the list of these jurisdictions has been established by the Ministry of Finance).

2. Thin-capitalisation regime

Thin capitalisation rules may apply where the following conditions are met:

- a Russian company has an outstanding debt ("a controlled debt"):
- to a foreign company that holds (directly or indirectly) more than 20% of the Russian company's share capital, or
- to a Russian company that is an affiliate of the aforementioned foreign company, or
- in respect of which the above affiliated person and/or the foreign company itself act as a guarantor, surety or otherwise guarantee repayment of the debt by the Russian debtor company, and
- the debt-to-equity ratio exceeds 3 (12.5 times for banks and leasing companies).

According to Russian thin capitalisation rules, interest payments which exceed the threshold are non-deductible, are qualified as dividends and are subject to withholding tax.

3. Corporate Property Tax

In general, Corporate Property Tax applies to the value of the fixed assets held by Russian companies or foreign companies located in Russia at the rate set at regional level which cannot exceed 2.2%.

VAT

The standard VAT rate is 18%. A reduced 10% rate applies to books, periodicals, medical goods, some foods and children clothes.

The 0% VAT rate applies to the following transactions:

- Exports of goods outside of Russia;
- Works and services related to the transportation of goods in transit;
- Some services and goods supplied to foreign diplomatic missions etc.

Personal Income Tax

Tax residents (persons staying at least 183 calendar days during a 12-month rolling period) are taxed on their worldwide income at the following rates: 1) 13% for most types of income; 2) 9% for dividends received from Russian or foreign companies; 3) 35% with regard to prizes, insurance receipts and interest from bank deposits in excess of specific limits.

Non-residents are liable for tax on their Russian-source income, irrespective of the type of income at the rate of 30% (dividends are subject to a withholding tax of 15%). It may be possible to apply the relevant provisions of a tax treaty to exempt certain types of income from Russian non-resident taxation.

As from January 2010, the Unified Social Tax (UST) will be substituted by the so-called "insurance contributions". The overall rate of payable burden will be increased in 2011 from 26% to 34% and will only apply to the part of the remuneration below RUR 415,000.

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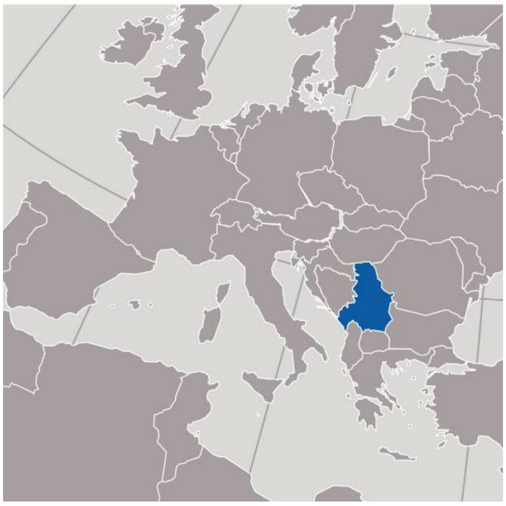

Serbia

The tax system in the Republic of Serbia

The tax system in the Republic of Serbia is mainly centralised. Therefore, most taxes are collected at national level. An exception is the property tax, for which the tax rate and scope depends on the municipality. The property taxes collected are usually used to finance municipalities.

Most important taxes:

- Value added tax (0%, 8% and 18%)
- Corporate income tax (10%)
- Personal income tax (divided into personal income tax and special features of personal income tax: 12%). For the annual income exceeding the threshold laid down by the Ministry of Finance, additional annual income tax is levied (10% and 15%)
- Property tax (0.4% to 3%)
- Real estate transfer tax (5%)
- Excise duties (on oil derivatives, tobacco products, alcoholic beverages, imported non-alcoholic beverages and powders, syrups and coffee)

Due to recent economic changes, the Serbian Parliament introduced the so-called "crisis tax". However, this tax was only in force for a very limited period. A charge on service delivery in mobile communication networks at 10% has recently been introduced.

The tax system in the Republic of Serbia

Corporate tax

Taxpayers are resident legal entities and non-resident entrepreneurs generating profit through permanent operating units (branch, plant, representative office, place of production, factory, workshop, etc.). The taxable base shall be the profit determined by adjusting the accounting profit as stated in the profit and loss statement, in accordance with IFRS, accounting legislation and the provisions of the corporate profit tax law. Capital gains are recognised for the purpose of corporate profit tax assessment. Capital gains are generated by the sale or transfer of real estate, rights related to industrial property, as well as shares, stocks, securities and certain bonds. The tax rate is 10%.

1. Tax consolidation

Tax consolidation is allowed for a group of companies where all members are Serbian residents and one company directly or indirectly controls at least 75% of the shares in another company. Tax consolidation must continue for at least five years. Otherwise each company will have to pay all taxes that it would have paid if there had not been any consolidation.

2. Tax loss carried forward

Any tax losses incurred in the conduct of commercial, financial and non-commercial transactions declared in the tax return, with the exception of capital gains and losses incurred (capital gains are treated separately, although they are included in the return) may be carried forward by reducing the taxable base but not for longer than ten years.

3. Thin capitalisation

A thin capitalisation mechanism is in force. Except for loan recipients that are banks or other financial institutions, interest paid on loans received from an associated person is not recognised as expenses, if the loans exceed four times the amount of the shareholder's taxpayer equity (4:1 debt-to-equity ratio).

If the interest rate on a loan exceeds 110% the interest rate applied by the Central Bank for the country whose currency is involved in loan transaction charges to commercial banks, such interest shall not be tax recognised (arm's reach principle).

4. Withholding tax

The tax base is income gained by a non-resident taxpayer. The tax is withheld by the local entity at the time of payment abroad. Dividends and shares in the profit of a legal entity, copyright fees, interest, capital gains and compensation for the lease of real estate and movables are taxed at the rate of 20%, unless otherwise provided by a DTT, where applicable.

VAT

A taxable person is any person who independently carries out any economic activity at any place, whatever the purpose or result of such activity. VAT is payable on all supplies of goods and services carried out by a taxable person acting as such for consideration in Serbia and on imports of goods. The applicable tax rates are 0%, 8% and 18%.

Personal income tax and other taxes

1. Personal income tax

Personal income tax applies to an individual's income. Residents are liable to income tax on their worldwide income (i.e., income derived in Serbia as well as abroad). Non-residents are liable to income tax on income derived in Serbia. The taxable (worldwide) income includes salaries, income from agriculture and forestry, income from self-employment, income from royalties and industrial property rights, income from capital, income from real estate and other income. The personal income tax rate is 12% for salaries. Income from self-employment, agriculture and forestry is taxed at rate of 10%, while other types of personal income (royalties, capital, rent, etc.) are taxed at the rate of 20%.

In addition, annual income tax applies on the income exceeding the amount of three times the average annual salary for Serbian citizens. Non-Serbian citizens' annual income is taxed if it exceeds five times the average annual salary in Serbia. The average annual salary in Serbia is determined by the National Statistics Office.

Annual income tax is progressive. The tax rates are:

- Residents: for income up to six times the average annual salary – 10%, for income higher than six times the average annual salary – 15%;
- Tax resident foreigners: for income up to eight times the average annual salary – 10%, for income higher than the eight times the average annual salary – 15%.

2. Real estate transfer tax

The taxpayer is the seller of the property. The tax base is market value of the property. The tax rate is 2.5%.

3. Property tax

The taxpayer is the individual who is the actual or beneficial owner of the property (business premises). The taxable base for premises is the value ascertained according to special criteria issued by the government and local communities (0.4% to 3%)

4. Charge for service delivery in mobile communication networks

The taxpayer is the end-user of the mobile services. The tax base is sales price for SMS, MMS and voice services. The tax rate is 10%.

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Slovakia

The tax system in the Slovak Republic

The fundamental tax reform in 2004 had a significant impact on the Slovak Republic's tax system. It involved considerable structural changes to the Slovak tax system. The most important reason for the tax reform was the introduction of a flat tax rate for personal income tax, corporate income tax and VAT.

The Slovak tax system now includes the following taxes:

- personal income tax (19% tax rate),
- corporate income tax (19% tax rate),
- VAT (19% standard tax rate, 10% for special scope of goods and services)
- consumption taxes,
- a real estate tax, a motor vehicle tax and other municipal taxes.

The specific rules in the Slovak tax system include the thin capitalisation rule, transfer pricing, tax loss deduction, tax exemption, investment incentives, consequences of the introduction of the Euro and VAT registration for a group.

"The tax system in the Slovak Republic"

Corporate tax

1. Thin capitalisation rules

The thin capitalisation rule ("thin-cap rule") affects Slovak companies funded by a credit or a loan provided by entity which is directly or indirectly interconnected to this particular debtor. The interest incurred on the loan granted by a related entity, will not be a tax deductible expense for the debtor, provided that:

- the average balance of the loan granted by a related entity exceeds EUR 3,319,400,
- the share represents at least 25%,
- the average balance of the loan exceeds over six times of the debtor's equity (debt-to-equity ratio 6:1).

The average balance of the loan means the amount of the loan borrowed in the relevant tax period determined by the end of each calendar month or quarter. The equity is always reported at the end of the tax period prior to the tax period in which the thin-cap rule is applied. The rule is applicable regardless of whether local or foreign related parties are involved. Direct ownership means the close percentage relationship between the parent company and its subsidiary. Therefore, indirect ownership is calculated via a couple of related entities interconnected by multiplying the percentages of direct holdings. The rule is legally effective as from 1 January 2010.

2. Transfer pricing

Under the Slovak Income Tax Act with effect from 1 January 2009, it is necessary that Slovak taxpayers, who transact with foreign affiliated entities, review the scope and prices of such transactions. This review should be based on the principles of the Transfer Pricing Guidelines for international companies issued by the OECD. The methods for determining the arm's length principle between affiliated parties are laid down separately by the Slovak Income Tax Act. The act states which methods are to be applied by taxpayers to prove that the prices charged between affiliated parties are arm's length prices.

Transfer pricing is currently considered to be a high priority issue in Slovakia. Slovak companies must keep written records of all controlled transactions entered into with related parties outside of Slovakia. A controlled transaction means any transaction realised between a foreign related person and a local person. The same applies to transactions between tax residents and their permanent establishments located in Slovakia or abroad.

The contents of the documents required to be kept are specified by the guidelines issued by the Finance Ministry of the Slovak Republic. To prove the correct application of the arm's length principle, tax inspectors will at least require simple documentation with basic information about the group and the scope of activities of companies within the group. This documentation must include detailed information on intra-group transactions relating to assets, goods or services within multinationals where one of the companies is from Slovakia. Slovak person must submit the required documentation to the tax inspector , to obtain its approval, or to make sure they apply properly the transfer pricing method issued by the tax inspector or due to the introduction of the mutual agreement procedure preceding the pricing (APA) in line with the OECD Guidelines for international companies.

The required documentation is not expected to be significantly different from that required in previous studies involving transfers between related parties. Holding companies which have already kept documentation relating to intercompany transfers are not obliged to prepare new documentation for the related Slovak company whenever it is involved in such transfers. However, it will require some additional work in order to satisfy the Slovak tax authorities in the future.

3. Tax losses

It is possible to deduct the tax loss from the tax basis over at most five consecutive tax periods. In relation to mergers, this rule allows the successor company to deduct the tax loss which was recorded by the dissolved company if the purpose of the merger was not solely to reduce the tax basis by the legal successor.

4. Group regime

The Slovak tax regime does not allow any tax consolidation for a group of companies. Every legal entity which is a part of a holding is treated as a separate, standalone entity subject to tax with its own rights and liabilities with regard to the tax authorities and proceedings. It is not possible to deduct tax losses generated by one company and offset them against another company in the same group. Furthermore, we assume that limited progress can be expected with regard to this regime. Nevertheless, a new law on structuring holdings and understanding groups is going to be launched, even though tax consolidation is not be the main topic of the forthcoming legislation.

5. Participation-exemption regime

As Slovakia is member of the European Union, the country is obliged to harmonise its law with European legislation. For this reason, Slovakia transposed the directives relating to exemption of interests or royalties as from 2004. In the event of such income generated by one company based on business relations with another company in the same group, where the share of the holding company is at least 25% or the companies under the control of parent company have a holding of at least 25% in affiliated companies, such income is exempt from tax regardless of the provisions of the relevant double tax treaty concluded between resident states.

The Slovak tax regime does not impose income tax on dividends paid to a holding company with its seat in another member state. Dividends are not subject to income tax regardless of the level of the holding in an affiliated company.

6. Investment incentives

The Slovak Republic has adapted a special law to encourage investment, which grants tax incentives in the form of exemption from taxation for a period of five years and also grants subsidies (e.g., construction of workplaces and retraining). The general conditions subsidising the investments are for example establishing a new local company. The European Committee's approval, and then the Slovak authorities' approval will be required for incentives to be granted because there is no general requirements for the incentives or grants.

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VAT

VAT registration for a group

Businesses wishing to create a VAT tax group in Slovakia from 1 January 2010 must submit their applications before 31 October 2009. The possibility to create a tax group for VAT purposes was created further to a change to the VAT Act that came into force on 1 April 2009.

This allows several businesses with a financial, economic and organisational relationship to register as a group under a single identification number. They must each be a taxable entity and may not be a branch or division of a taxable entity in a foreign country. The VAT group must appoint a representative who acts on behalf of all group members for VAT purposes and whose role is limited to ensuring compliance with the VAT Act. Groups whose applications satisfy the conditions will be registered by the tax office, assigned one identification number and issued with a Certificate of VAT Registration for each member. The group becomes a taxpayer as from the registration date, at which point their individual Certificates of VAT Registration and identification numbers cease to be valid.

As soon as group registration begins, the individual rights and obligations of each group member under the VAT Act are transferred to the group.

Slovenia

The tax system in the Republic of Slovenia

The Republic of Slovenia is considered as a country with a low degree of decentralisation. Therefore, funds are mainly collected at national level.

The Tax Authorities of the Republic of Slovenia collect all taxes, except for customs duties, excise duties and value added tax on imports, which are collected by the Customs Authorities of the Republic of Slovenia.

Most important taxes:

- Value added tax (20% standard rate and 8.5 % reduced rate)
- Corporate income tax (21% for 2009 and 20% as from 2010)
- Personal income tax (progressive rates: 16%, 21% and 47%)
- Property tax (0.1% to 1.5 %)
- Real estate transfer tax (2%)
- Excise duties (on alcohol and alcoholic beverages, tobacco products, and energy products and electricity)

The tax system in the Republic of Slovenia

Corporate tax

1. Corporate tax

Taxpayers are all legal entities carrying out commercial activities and having their head offices or place of effective management in Slovenia (residents). Non-residents are only subject to corporate income tax if the profit is sourced in Slovenia. The tax base is the accounting profit, adjusted in accordance with the provisions of the corporate profit tax (CPT) Law. The CPT is levied on the taxable profit of companies at a rate of 21% for 2009 (the corporate profit tax rate is set at 20% as from 2010).

Various tax incentives are applicable under certain conditions (a reduced tax rate of 10% to companies performing business activities in special economic zones, a special rate of 0% which applies to investment funds, pension funds, venture capital, etc.).

Dividend distributions or other shares in the profit are exempted from the tax base if received from a Slovenian taxpayer or EU subsidiary.

The Corporate Income Tax Act (CITA-2) was amended with effect from February 2009 mainly to harmonise its provisions with the EU Treaty and EEA Agreements. Tax relief is now available on donations made in cash and, in certain cases, in kind, for specific purposes, not only to residents of Slovenia and EU Member States but also to Member States of the EEA.

As an alternative to standard corporate income tax, a tonnage tax regime is available to resident shipping companies on their income from operating ships in international traffic.

2. Tax loss carried forward

A taxpayer can cover a tax loss in a tax period by reducing the tax base in subsequent tax periods. If there is a change of ownership, some restrictions may apply. Losses can be offset against taxable profits indefinitely in following years.

3. Thin capitalisation

A thin capitalisation mechanism is in force. Except for loan recipients that are banks or insurance companies, the interest paid on loans received from a shareholder or partner who at any time during the tax period directly or indirectly own(ed) at least 25% of the shares in the equity capital or voting rights of the taxpayer, are not recognised as expenses, if at any time during the tax period, the loans exceed four times the amount of the shareholder's taxpayer equity (loan surplus).

4. Withholding tax

The tax base is the income gained by a non-resident taxpayer from a resident taxpayer. The tax is withheld by the local entity at the time of payment abroad. WHT applies to a number of payments, including dividends, interest, royalties and payments for services to certain countries.

Withholding tax has recently been abolished for some interest payments made by banks. WHT rate is 15%, unless otherwise provided by a DTT.

VAT

A taxable person is any person who independently carries out any economic activity at any place, whatever the purpose or result of such activity. VAT is payable on all supplies of goods and services carried out by a taxable person acting as such for consideration in Slovenia and EU purchases, including EU purchases of new means of transport and on imports of goods. The applicable VAT rates are: 20% (standard rate) and 8.5 % (reduced rate).

Personal income tax and other taxes

1. Personal income tax

Personal income tax applies to an individual's income. Residents are liable to income tax on their worldwide income (i.e., income derived in Slovenia and abroad). Non-residents are liable to income tax on income derived in Slovenia. There are six categories of income: income from employment, business income, income from basic agriculture and forestry, income from rental income and royalties, income from capital (interest, dividends and capital gains) and other income. Tax rates are progressive: 16%, 21% and 47%.

2. Property tax

The taxpayer is the individual who is the actual or beneficial owner of the property. Property tax is levied on property such as buildings and parts of buildings, including apartments, garages and second homes. The taxable base for property is the value ascertained according to special criteria issued by the government and local communities (0.1% to 1.5 %)

3. Real estate transfer tax

The taxable person is the seller of the real estate. The tax is payable at a rate of 2% of the tax base. The tax base is the selling/market value of the real estate.

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Ukraine

The Tax System in Ukraine

The Tax System in Ukraine

The Ukrainian tax system has more than 40 state and local taxes. Ukrainian tax legislation is generally complicated and changes rapidly (for example, Ukrainian VAT law has been amended more than 130 times since it was introduced in 1997).

Ukraine is trying to improve its tax legislation and model it on tax legislation of more developed countries, although many key issues still need to be resolved.

The main taxes and duties include corporate income tax, value added tax and personal income tax. Social security contributions, land tax, excise duty and other taxes may also constitute significant costs for taxpayers.

Corporate tax

A Ukrainian company is subject to corporate income tax on its worldwide income. A foreign company is only taxed on income originating from Ukraine. This includes income earned through a permanent establishment in Ukraine.

Ukrainian companies and foreign companies carrying on business in Ukraine through a permanent establishment are subject to corporate income tax at a standard 25% rate. Qualifying businesses (for example, insurance) may benefit from reduced rates (e.g. 0% for long-term life insurance and 3% for other insurance) and simplified taxation (e.g., unified tax, fixed agricultural tax).

The tax year is from 1 January to 31 December. Tax liabilities are self-assessed by taxpayers and tax is paid and reported on a quarterly basis (an 11-month tax return and the relevant tax payment are also required).

The taxable base is the taxable profit (the difference between the gross income and tax deductible expenses plus depreciation charges). Gross income is worldwide income received in any form from any business activities, except those specifically exempt by law, and tax deductible expenses are reasonable business expenses, except for those expressly prohibited or limited by law.

Losses can be carried forward indefinitely, but loss carry-backs are not allowed. Tax groupings between separate Ukrainian companies (even between a parent and its subsidiary) are not allowed.

Transfer pricing rules apply to transactions between related companies (and, arguably, to transactions between Ukrainian companies and their foreign counterparts). For such transactions, the taxable base is the fair market price rather than the contractual price.

Although Ukraine is not an OECD member, its definition of a permanent establishment for tax purposes is based on the OECD Model Tax Convention. In Ukraine, a foreign company creates a permanent establishment either through an agent or a fixed place of business through which it carries out all or some of its business activities in Ukraine. Exemptions are only available under double tax treaties.

A foreign company and its permanent establishment in Ukraine are treated as separate taxpayers for Ukrainian tax purposes.

A foreign company that does not carry out its activities in Ukraine through a permanent establishment but derives income from Ukraine is generally subject to Ukrainian withholding tax. A withholding tax is deducted from dividends, interest, royalties, freight fees, lease fees, capital gains, broker and agency fees, and other income, etc.

Payments for goods (works and most services) are not subject to withholding tax. A Ukrainian company paying a foreign company is obliged to withhold tax, where applicable.

Generally, a 15% withholding tax applies to most income originating from Ukraine (for example, dividends, interest, royalties and lease fees), whereas 6% applies to freight and 0% or 12% applies to some insurance related payments (depending on the foreign insurer's financial reliability).

Withholding tax may be reduced to zero in some circumstances by application of double tax treaties, but foreign recipients should confirm their entitlement to such tax relief by providing tax residence certificates in accordance with the relevant procedures.

Ukraine has concluded double tax treaties with over 60 countries. Most of these closely follow the OECD model. Where there is a conflict between a tax treaty and Ukrainian law, the treaty will take precedence over Ukrainian law to the extent that it provides for more beneficial tax treatment.

VAT

VAT contributes significantly to the Ukrainian budget. Ukraine uses the input-output model, which is very similar to the system used in the EU, where the government is paid the difference between VAT collected from buyers and VAT paid to suppliers.

Transactions subject to VAT generally include supplies of goods or services in Ukraine (including those supplied free of charge), and imports and exports of goods, including ancillary services.

Non-taxable transactions include financial services transactions, insurance and reinsurance transactions, sales of shares, monetary contributions to charter capital, dividend distributions, royalty payments and supplies of land plots (except those whose value includes buildings built on them).

The standard tax rate of 20% applies to all taxable transactions. Some transactions are zero-rated, such as exports of goods, including ancillary services.

The taxable base is generally the contractual price for supplies of goods or services but it cannot be less than the fair market price.

A taxpayer is generally entitled to a VAT refund where its VAT output exceeds its input, but a number of limitations and conditions apply to obtaining a refund.

Personal Income Tax

Ukrainian tax residents are subject to tax on their worldwide income, whereas non-residents are only taxed on their income originating from Ukraine.

A residency test (based on the one used in the OECD Model Tax Convention) is used to determine a particular individual's permanent place of residence and whether or not he/she is a Ukrainian tax resident.

Generally, a 15% flat tax rate applies to a resident's income. Certain types of income are subject to reduced tax rates (1% or 5%) or even tax exempt, whereas prizes and winnings are subject to 30% tax.

Income originating from Ukraine received by non-residents is subject to 30% tax with the exception of dividends, interest, royalties and salaries paid by a Ukrainian employer which are all subject to 15% tax. However, tax benefits could be sought in Ukrainian double tax treaties.

Ukrainian law establishes special procedures for the taxation of transactions relating to immovable and movable property, inheritance of property, donations, etc.

Ukrainian residents are entitled to limited deductions from their taxable income, such as interest under a loan secured by a mortgage, donations to charities and professional or higher education fees.

The tax year is from 1 January to 31 December. Tax returns are generally filed annually.

Tax Trends and Expected Amendments

In recent years, a number of innovative tax proposals have been introduced in draft form before the Ukrainian Parliament, such as a Tax Code, a tax on immovable property and a single social tax. These proposals are still under review.

Ukraine is expected to conclude a new double tax treaty with Cyprus to replace the previous treaty with the USSR which is still in force.

An increase in excise duties levied on alcohol, tobacco and imported cars is expected this year. In addition, the Ukrainian government plans to limit the volume of losses that can be carried forward by taxpayers.

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Tax at a glance

Bosnia and Herzegovina

- Corporate income tax rate: 10%.
- VAT rate: 17%.
- Participation-exemption regime: No.
- Group regime: Yes – different conditions in FBiH and RS.
- Exemption on dividends: Yes.
- Thin capitalisation regime: No.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Bulgaria

- Corporate income tax rate: 10% flat rate.
- VAT rates: standard rate - 20%; reduced rate – 7%.
- Participation-exemption regime: dividends received by Bulgarian corporate shareholders from EU/EEA or Bulgarian subsidiaries are exempt from corporate tax. No minimum holding is required for the exemption to apply. Dividends distributed by special investment companies are subject to tax at shareholder level.
- Group regime: None.
- Deduction of foreign losses: Foreign-source losses may be offset against same-source income. Such losses may be carried forward for five years. No carry-back.
- Exemption on dividends: No withholding tax levied on dividends distributed to Bulgarian or EU/EEA parent companies regardless of the amount of the participation. 5% withholding tax on dividends distributed to non-EU/EEA parent companies and individuals regardless of their residency. Percentage of holding required: None.
- Thin capitalisation regime: Thin capitalisation rules apply where the borrowed capital exceeds the equity by a factor of three.
- Transfer pricing regime: Yes. Is it a major topic in your country? Not yet.

Croatia

- Corporate income tax rate: 20%.
- VAT rates: 23%, 10% and 0%.
- Participation-exemption regime: No.
- Group regime: No.
- Exemption on dividends: Yes and no (Special tax is paid only by residents).
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Czech Republic

- Corporate income tax rate: 20% in 2009 – 19% in 2010 and subsequent years.
- VAT rates: Basic rate – 19%, reduced rate - 9%.
- Participation-exemption regime: Yes (holding of 10% for at least 12 month).
- Group regime: No.
- Exemption on dividends: Yes, percentage of holding – 10% for at least 12 months.
- Thin capitalization regime: Yes.
- Transfer pricing regime: Yes, currently it is not a major topic.

Hungary

As of 2010

- Corporate income tax rate: 19%.
- VAT rates: 5% / 18% / 25%.
- Participation-exemption regime: Yes.
- Group regime: No.
- Exemption on dividends: Yes. If yes, percentage of holding required : irrespective of the percentage of the holding.
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Poland

- CIT rate: 19%.
- VAT rates: 22%, 7%, 3% and 0%.
- Participation-exemption regime: Yes.
- Group regime: Yes. It is unpopular in the market due to several restrictions.
- Exemption on dividends: Yes. The EU or EEA beneficiary has to hold not less than 10% of the shares in the Polish company for at least two years (with respect to the Swiss shareholders, the minimum shareholding is 25%).
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes, it is a sensitive issue.

Russia

- Corporate income tax: 20%.
- VAT rates: 0%; 10% (medicines, food, children clothes): 18%.
- Participation-exemption regime: Yes (dividends only): 50% of share capital + RUR 500,000,000 + one year holding.
- Group regime: No.
- Thin capitalisation regime: Yes, debt-to-equity ratio: 3/1.
- Transfer pricing regime: Yes, not a major topic (but bill of law).

Serbia

- Corporate income tax rate: 10%.
- VAT rates: 0%, 8% and 18%.
- Participation-exemption regime: No.
- Group regime: Yes.
- Exemption on dividends: Domestic dividends: yes; foreign: some tax credit rules.
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Slovakia

- Corporate income tax rate: 19%.
- VAT rates: 19% (10% for books and some kinds of medical products).
- Participation-exemption regime: Yes.
- Group regime: No.
- Exemption on dividends: Yes.
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Slovenia

- Corporate income tax rate: 21% (2009) 20% (2010 and later).
- VAT rates: 20% and 8.5%.
- Participation-exemption regime: No.
- Group regime: No.
- Exemption on dividends: Yes.
- Thin capitalisation regime: Yes.
- Transfer pricing regime: Yes. Is it a major topic in your country? Yes.

Ukraine

- Corporate profit tax rate: 25%.
- VAT rate: 20% or 0%.
- Participation-exemption regime: No.
- Group regime: No.
- Exemption on dividends: No (however, a double tax treaty, where applicable, may provide for a dividend exemption).
- Thin capitalisation regime: No (but there is somewhat similar rule which limits the amount of allowed deductible expenses as to the interest paid to a related party).
- Transfer pricing regime: Yes (but it is not a major issue in Ukraine).

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