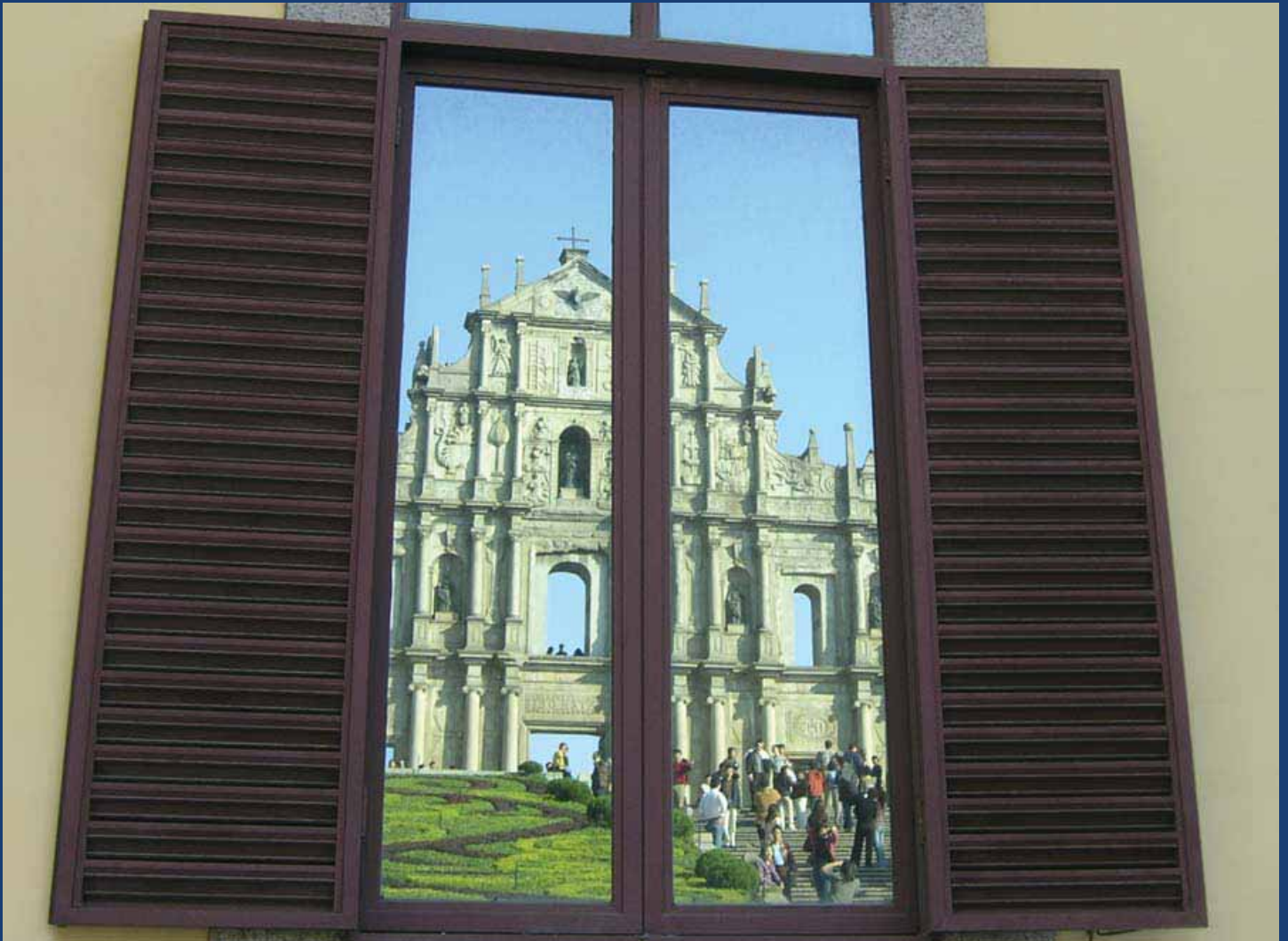


CEE-CIS Tax Notes

Working cross-border*

Issue No. 6/3

Second Quarter Electronic Update



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Editor's foreword

In the middle of the hot summer holiday period, we hope this second-quarter electronic update of CEE/CIS Tax Notes will give you a little mental stimulation. Although this period of the year is usually not very fruitful in terms of new legislation, readers will find some interesting articles as well as summaries of tax and legal changes.

Bosnia and Latvia describe their tax authorities' experiences in relation to some VAT issues, whereas Azerbaijan has a similar item on transfer pricing. Estonia

and Ukraine deal with the status of their current and future Double Tax Treaties, which influence international tax structuring opportunities. Croatia, Kazakhstan and Uzbekistan present changes in their tax incentive schemes.

Please note that this publication is designed solely for information purposes. The descriptions of rules and regulations are given in brief and general terms only and should not be regarded as a substitute for professional advice.



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Albania

Proposed changes to excise tax and custom duties

The excise tax on imported fuel has been increased with 6% for unleaded benzene and gasoline and 21% for the leaded gasoline and benzene. The new Law on excise tax was introduced to amortise the effect of a draft law on the exemption of the imported fuel from custom duties. The new law on excise tax has become effective from 5 July 2006.

According to a draft law proposed by the Albanian government the imported fuel will no longer be subject to custom duties. The purpose of the recent changes to the excise and custom duties is to harmonize the tax rates with the EU rates, and with the countries with which Albania has signed Free Trade Agreements as well as to promote fair competition in the fuel market.

There will also be a significant increase in the tobacco excise rate. However, to prevent an immediate negative effect on consumers, the increase will be gradual. The application of the increased excise tax will impact cigarette prices, which are expected to double by 2009. The Government will adopt this policy to reduce cigarette

consumption. – a measure based on the example of other EU countries. It will also increase revenue for the state budget.

Indirect taxation

VAT

- Interest payments on leasing transactions are no longer subject to the VAT. In addition, the lessee can credit the VAT paid on leased vehicles. These changes have been effective since 8 June 2006.

Individual taxation

Social security

- The payment of social and health contributions are made based on minimum and maximum salary levels that starting from 1 July 2006 are increased to ALL 13,140 (approx. EUR 107) and ALL 65,700 (approx. EUR 534), respectively.



Azerbaijan

Theory and practice of Transfer Pricing in Azerbaijan

The transfer pricing concept is relatively new to Azeri tax law and was introduced by the Tax Code effective from 1 January 2001. These rules very broadly follow the basic OECD transfer pricing principles and focus mainly on determining prices for sale of goods, work or services, and establish the principle of arm's length pricing for transactions between related parties and adjustments to transfer prices.

To date, tax authorities have had limited experience in dealing with this issue, mainly making adjustments to taxpayers' profits by disallowing certain deductible costs or challenging interest rates or mark-ups on services that were not, in their opinion, incurred or charged on an arm's length basis. However, in the past year we have witnessed an increased number of transfer pricing inquiries and disputes.

The key transactions scrutinised by the Azeri tax authorities in tax audits are:

- Sales and purchases of goods. The authorities have been paying special attention to purchase contracts where the supplier is an overseas entity, even if unrelated to the taxpayer.

- Provision of centralised head office services and technical/management fees. The tax authorities' approach has included examining the validity of charges, the basis of cost allocations and the mark-ups imposed.
- Import transactions and recovery of related input VAT.
- Interest rates on intercompany loans. In some cases, tax inspectors have challenged the high rates of interest charged on intercompany borrowings where they believe the counterparts have artificially inflated interest rates.

The Azeri tax authorities are currently undertaking extensive data-gathering from comparables to obtain an in-depth knowledge of industry practices and pricing policies. The data obtained from the comparables have been used in some cases to make transfer pricing adjustments on a single transaction basis without regard to overall company profitability or multi-year data.

In the absence of specific and detailed legislative instructions as to how arm's length prices may be determined, the method used by taxpayers varies from entity to entity. The most important element in determining the amount to be added to the cost in any recharge is documentary evidence that the entity has to support the mark-up. In these circumstances, the cost-plus method has appeared to be most favoured by taxpayers for controlled transactions, especially in shared services operations.



Future

It is not clear at the moment whether new, more detailed transfer pricing regulations will be introduced in the short-term. Azerbaijan is not a member of the OECD, but it seems likely that OECD guidelines and models will be implemented in Azerbaijan sooner or later and that further development of the transfer pricing rules will be in line with the OECD recommendations. International financial organisations, such as the World Bank and the IMF, have recommended Azerbaijan adopt comprehensive transfer pricing rules as soon as possible. We are not aware of any immediate plans of the Ministry of Taxes to adopt such rules.

Corporate taxation

Double Tax Treaties

- The Azerbaijan-Latvia income and capital tax convention will become into effective on 1 January 2007.
- Parliament has ratified the Double Tax Treaty and the Protocol to the Treaty between Azerbaijan and Finland, signed in Baku on 29 September 2005.
- The number of the treaties in force at 20 June 2006 is 18.

Indirect taxation

VAT

- According to the Decree of the Ministry of Cabinets issued on 27 March 2006, sales of goods and services to the following persons are exempt from VAT at the 0% rate:
 - diplomatic and council representatives;
 - representatives of international organisations (for goods and services for official use);
 - diplomatic and administrative-technical staff of the representatives and their family members living with them (for goods and services for personal use).

Individual taxation

- On 23 March 2006, the Social Insurance Fund issued new procedures for receiving social insurance payments from the Social Insurance Fund (e.g. sickness benefit, maternity allowance). According to the new procedures, employers must provide monthly information to the Social Insurance Fund on the amount of social insurance benefit payments that each employee is entitled to, as well as the tax on these payments. However, the Decree does not provide a formula for calculating the tax on benefit payments.

Legal and other developments

Labour code

- The Azeri Labour Code has been amended to prohibit employers from refusing to grant vacations to employees and now obliges employers to compensate employees in cash for unused vacations.

Environmental law

- On 4 April 2006, the Azerbaijan Parliament ratified the Framework Convention for the Protection of the Marine Environment of the Caspian Sea. The convention was signed in November 2003.

Other

- On 15 May 2006, the President of Azerbaijan issued a decree approving the Regulations of the Ministry of Industry and Energy. These regulations give the Ministry the right to draft agreements on the exploitation of hydrocarbon reserves (e.g. production sharing agreements), to enter into negotiations on such agreements, to sign them and monitor their fulfilment. These powers were previously exercised by the Azerbaijan State Oil Company.



Bosnia and Herzegovina

Approach of the Indirect Tax Authorities to some VAT issues

The introduction of VAT in Bosnia and Herzegovina is proving to be interesting when one compares the approach of the Indirect Tax Authorities (the ITA) to the prevailing approach of countries in the European Union and the region. In terms of the Reverse Charge Mechanism and the Place of Supply Rules, the ITA has taken a rather non-standard position. Firstly, they insist that the VAT relating to a service provided without foreign VAT under the place of supply rules, is to be immediately paid over to the authorities on receipt of the invoice. This may be seen as having both advantages and disadvantages. The advantage is that, under the previous system any input tax deduction would be entered in the following month's VAT return because, prior to obtaining a deduction, there needed to be evidence of a payment being made. Under this regime, an input tax deduction for the VAT paid can be obtained in the same month.

The disadvantage is that for many businesses there may be daily transactions of this type necessitating daily VAT

calculations and payments. Furthermore, the key question is how the payment to the VAT authorities is to be recorded. In theory, it is shown as VAT payable in the VAT return, but we understand that this is not permitted under current ITA guidance. We are currently seeking to meet with the ITA to open a dialogue from which we might gain a better understanding of their approach.

Individual taxation

Social security

- Social Security Contributions from salary (i.e. employee contributions), are approximately 28% of gross salary (of which approximately 15% relates to pensions). Gross salary is defined as net salary plus employer contributions, plus employee contributions, plus salary tax.
- The employer contributions are approximately 10% (of which 6% relates to pensions) of gross salary.



Bulgaria

Regulation on electronic and electrical equipment

A new Ordinance on the requirements for the release for circulation of electrical and electronic equipment (EEE), and the treatment and transportation of EEE waste came into force on 1 July 2006.

The Ordinance will affect a large number of producers and importers of EEE, as well as distributors and retailers.

Main obligations under the Ordinance

The Ordinance has been introduced to implement Directives 2002/05 EU and 2002/96 EU, the purpose of which is to prevent the harmful effects of waste electrical and electronic equipment (WEEE) on the environment. In this regard, the Ordinance introduces the principle that responsibility lies with producers and importers.

In addition:

- The Ordinance prohibits the release for circulation of EEE which does not meet the explicit requirements on harmful substances.
- The Ordinance obliges producers and importers of EEE to achieve certain quantity levels for the separate collection, recycling, re-use and disposal of WEEE. This could be fulfilled individually or through collective schemes. If producers and importers fail to meet the targets, they will be obliged to pay product fees, calculated in accordance with the weight and type of the EEE they release for circulation.
- Producers and importers are obliged to mark the EEE and to provide certain information with regard to the products released for circulation.
- The Ordinance introduces taking-back and collection obligations for distributors and retailers of EEE.



Croatia

Investment incentives

It has been announced that, as of 1 January 2007, the new Corporate Tax Act will no longer include incentives for newly-employed employees, the employment of disabled persons, Research and Development (R&D) costs or the costs of professional education. This means that companies will no longer be able to deduct these costs twice for Corporate Income Tax purposes.

Furthermore, the Croatian Corporate Tax Act will no longer include tax incentives for greenfield investments that can reduce the Standard Corporate Income tax rate of 20% to 10%, 7%, 3% or 0%, for a period of ten years, depending on the amount of the investment and the number of employees.

It is expected that these incentives will be included in other legislation and transferred from the jurisdiction of the Ministry of Finance to another Ministry (Science, Economy, Labour and Entrepreneurship), as was the case with incentives for business activities in Areas of Special State Care and Free Zones. However, at the moment no new provisions in this regard have been announced.

Legal and other developments

Foreign currency regime

- In 2005, the Croatian National Bank passed several regulations which detail the conditions for, and method of, carrying out payment transactions with foreign countries, including (amongst others) the Decision on Terms and Conditions for Performing International Payment Transactions, and Instructions for Implementing the Decision. The date when these regulations become effective has been deferred from 1 April 2006 to 1 June 2006, due to lack of preparation by banks.
- The Instructions for Implementing the Decision specify the conditions and technical details related to payment transactions with foreign countries, such as the mandatory use of the International Bank Account Number (IBAN).



Czech Republic

Changes in the Czech social security system

On 1 January 2007, the new Act on Sickness Insurance and the Act changing the related legislation will become effective.

The changes relate to the following areas in particular:

Salary compensation during sickness leave

Sickness benefits for employees for the first 14 days of illness will not be paid by the state (as it is now). Instead, the employer will become responsible for paying salary compensation to the employee during this period.

The salary compensation for the first three workdays will amount to 30% of the modified average daily salary and to 69% for the period beginning on the fourth day. The state will be responsible for paying sickness benefits from the fifteenth day of illness.

While the employer will become responsible for sickness payments, the employer's part of sickness insurance contributions will decrease from the current 3.3% to 1.4%.

Salary compensation during sickness leave is exempt from personal income tax and is not a part of the assessment base for social security and health insurance contributions.

Individuals covered by the Czech social security scheme

The new Act on Sickness Insurance amends the group of individuals covered by the Czech social security scheme.

The Act introduces the term 'Contract Employee'. A contract employee is an individual who is not covered by the EU Regulations on social security, where the employer has its seat neither in the EU nor in a state with which the Czech Republic has concluded a Social Security Agreement and the individual works in the Czech Republic at a Czech company (which in this case becomes the so-called 'contract employer').

According to current legislation, an employee fulfilling the conditions stated in the previous paragraph is not required to pay social security contributions in the Czech Republic. According to the new Act, however, the contract employee will be required to participate in the Czech social security scheme after 270 calendar days of 'employment' in the Czech Republic if he/she is insured in the state where his/her employer has its seat. If such an employee is not insured in the employer's state, this requirement arises immediately upon commencement of 'employment' in the Czech Republic.

Czech companies that employ contract employees will have the status of employers with respect to such employees for social security purposes. This means that

these companies will contribute to the Czech social security scheme on behalf of these contract employees as if they were regular employees.

Furthermore, the Act introduces the term 'Foreign Employee'. Foreign employees will not be obliged to contribute to the Czech social security system. According to the new Act, a foreign employee is deemed to be a person who is not covered by the EU Regulations on social security, the employer has its seat neither in the EU nor in a state with which the Czech Republic has concluded a Social Security Agreement, and the individual works in the Czech Republic for the benefit of a foreign company. Unfortunately, the law does not clearly specify the difference between "contract" and "foreign" employee. Therefore, in some cases, there will probably be uncertainty regarding the liability of such employees to contribute to the Czech social security scheme.

Change in the penalty rates for late payments

With effect from 1 January 2007, penalty rates for late payments of health insurance and social security contributions will be decreased to half compared to the current rates. However, the penalty for the insurance for the period before 1 January 2007 will be calculated according to current rates (current rate is 0.1% of the due amount for each day of delay, or 0.05% in certain cases).

Maximum assessment base

A maximum assessment base for social security and health insurance contributions was an important change originally proposed in the new Act. However, this was excluded from the Act during the last stages of the legislative process.

Corporate taxation

Corporate tax

- New rules regarding the taxation of dividends have reduced the required ownership interest in the paying company and also reduced the time period which the ownership must be held in order to exempt dividend payments from withholding tax. For dividend payments decided from 1 January 2006, the ownership interest is reduced from 20% to 10%. Payments made to shareholders meeting these requirements are exempt from withholding tax.
- Czech tax law now implements the agreement between the EU and Switzerland, which in general allows Swiss tax residents to be treated in the same manner as EU residents regarding tax exemptions on dividends, interest and royalty payments.

- From the beginning of the year, partners of general partnerships and limited partnerships are entitled to an additional deduction of 100% of costs related to the research and development activities of the partnership. The 100% R&D costs deduction was first available to limited liability companies in 2005.
- To help increase the mobility of the labour force, new rules are in place that enable employers to deduct costs related to transportation for employees to and from the workplace. Costs incurred for temporary housing can be deducted up to CZK 3,500 (approx. EUR 120) per employee per month.
- To simplify the taxation of securities and derivatives, their value for tax purposes is now ascertained by accounting standards. This change applies from the 2005 tax period.
- The Ministry of Finance has recently indicated that it plans to introduce a completely new Income Tax Act, which will expand on the positive changes brought by the amendment from the beginning of next year.



Estonia

Progress on Double Tax Treaties

The treaty between Estonia and the Slovak Republic for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income will be effective from 1 January 2007.

Estonia and Greece signed a treaty for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income on 4 April 2006. The treaty will enter into force on the date when the later of the two countries notifies the other that the internal procedures required by the laws of that country to enter into force have been complied with.

Estonia and Luxembourg signed a treaty for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income on 23 May 2006. The treaty will enter into force on the date when the later of the two countries notifies the other that the internal procedures required by the laws of that country to enter into force have been complied with.

The Estonia-Netherlands income tax treaty protocol has activated the most-favoured nation clauses in the tax treaties Estonia has signed with Switzerland, France, Spain, and the United Kingdom. The protocol came into force on 21 May 2006 and is effective retroactively from 1 January 2005. It amends the tax treaty signed in 1997. Under the protocol, interest arising in a contracting state on a loan granted to a state enterprise by a bank of the other contracting state is only taxable in the other state.



Georgia

Law on state support of investments

According to a new law, a State Investment Agency will be established. The Agency will represent the state to investors and will assist investors in their negotiations with local Government authorities to obtain appropriate licenses and permits.

The State Investment Agency will monitor the state control bodies (e.g. the tax authorities) in their relationships with investors that have been granted 'Special Investment' status. This status should be granted to entities that invest more than GEL 8 million (approx. EUR 3.5 million), or GEL 2 million (approx. EUR 0.8 million) in mountain regions.

The law is effective from 1 August 2006.

Indirect taxation

VAT

- A new law provides mandatory preliminary registration for a VAT payer if a planned one-time transaction exceeds GEL 100,000 (approx. EUR 44,000). This change came into force on 1 June 2006.



- According to the recent changes, leasing is defined as a supply of goods for corporate income tax and property tax purposes, while under the VAT regulations leasing is treated as a supply of services. Previously it was not clear whether the supply of assets through leasing was to be treated as supply of goods or services. These changes became effective on 15 June 2006.

Excise duties

- Recent changes reduced the excise rates for tobacco products. Imported tobacco products are now taxed at the following rates:
 - Cigars: GEL 0.90 (approx. EUR 0.4) per unit;
 - Cigarillos: GEL 1 (approx. EUR 0.44) per unit;
 - Filter cigarettes: GEL 0.60 (approx. EUR 0.27) per 20 units;
 - Non-filter cigarettes: GEL 0.15 (approx. EUR 0.07) per 20 units;
 - Tobacco materials: GEL 20 (approx. EUR 9) per kg.
- Domestically produced tobacco products are subject to taxation at the following rates:
 - Cigars: GEL 0.70 (approx. EUR 0.3) per unit;
 - Cigarillos: GEL 0.80 (approx. EUR 0.35) per unit;
 - Filter cigarettes: GEL 0.40 (approx. EUR 0.18) per 20 units;
 - Non-filter cigarettes: GEL 0.10 (approx. EUR 0.04) per 20 units;
 - Tobacco materials: GEL 20 (approx. EUR 9) per kg.
- The new excise rates for tobacco products came into force on 1 June 2006.

Legal and other developments

Labour code

- A new Labour code was introduced.
- The new Code removes the limit on the amount of overtime that can be worked. Now the duration of and remuneration for overtime is subject to agreement between parties.
- Annual leave remains at 24 working days, and paid maternity leave remains at 126 days.
- In cases of employment termination, an employer is still obliged to give an employee 30 days' notice of termination and to make a severance payment of not less than one month's salary.
- The new Labour code is in force from 3 July 2006.

Hungary

The new Companies Act

The new Act on Economic Associations came into effect on 1 July 2006 and replaces Act CXLIV of 1997. This is Hungary's third revision of the Companies Act. Its objective is to provide updated rules and regulations that reflect the evolution of the Hungarian economy and are better harmonised with the regulations of the European Union. The new Companies Act clearly aims to simplify corporate law, reduce formal requirements, and streamline company registration procedures.

The following is a list of some of the more important modifications and amendments:

- Companies with a single member or shareholder are no longer prohibited from being the single member or shareholder of another company.
- Members and shareholders can exercise their rights using electronic telecommunications devices at meetings of the company's main decision-making body.
- The rules on the liability of executive officers are more stringent, but the Act also allows limitations of liability in certain cases.



- The obligation to elect a Supervisory Board has been eased and no Supervisory Board has to be elected for companies under a certain equity capital limit.
- After a period of grace ending in 2009, public service companies will have to be dissolved, but the new Companies Act allows the establishment of non-profit companies.
- The concept of 'recognised' company group and 'actual' company group, adopted from the German 'Konzern' concept, has been introduced in Hungary.
- Joint ventures and 'cooperation companies' (egyesülés) are no longer recognised as company forms.
- Limited and unlimited partnerships can elect legal entities as executive officers.
- The terms and conditions that must be included in the Deed of Foundation or Articles of Association of a company have changed with respect to all company forms.

As different company forms are subject to a new and different set of rules, and a number of existing rules that have a profound impact on the daily operation of companies have also been amended, a legal review of your company documents and drafting practices is now essential.

Legal and other developments

Insolvency law

- The following amendments to the Bankruptcy Act came into force on 1 July 2006:
 - Regulations on voluntary liquidation have become part of the Act on the Publication of Company Information, the Court of Registration and Voluntary Liquidation.
 - The authority and qualifications of temporary asset managers and liquidators have been modified.
 - There are new provisions regarding the commencement of liquidation procedures; for example, the starting date of bankruptcy procedures will be the day on which the court's final declaration is published in the Companies Gazette.
 - There has also been a change in the requirements concerning written warnings sent by creditors before starting insolvency proceedings against debtors.
 - Executive officers and persons with dominant influence on a business's decisions have greater liability if their company is in imminent danger of insolvency.

Kazakhstan

Tax incentives

In an effort to promote the development of the non-oil and gas sectors of the economy, the Kazakhstan Government has been introducing legislative changes to improve the investment climate both generally and for certain priority sectors.

Licensing rules are being simplified; the currency regime is being liberalised and work permit rules have improved (to attract specialists from developed countries). These developments are supported by tailored tax preferences.

Currently three types of tax incentives are available:

- investment tax incentives – include an exemption from corporate income tax (for up to ten years) or the right to additional tax deductions for the creation and expansion of production, and exemption from property tax, land tax and customs duties (for up to five years);
- qualifying high value-adding taxpayers are taxed at reduced corporate income tax rates. Furthermore, qualifying manufacturers of certified goods may enjoy a 100% reduction in corporate income tax;
- special economic zones carry full exemption from corporate income tax plus certain VAT privileges.



The recent trend of reducing the tax burden for companies doing business in certain priority sectors of the Kazakhstan economy has recently been augmented. Following the establishment of a zero VAT rate for certain goods sold in special economic zones, a VAT exemption has been granted on the import and turnover of goods sold in relation to infrastructure projects. The latter generally refers to construction and assembly work under contracts with the Government.

It is also anticipated that the VAT rate, which is currently 15%, will be decreased to 14% starting from 2007, and then down to 13% and 12% in 2008 and 2009 respectively.

Finally, the Government has announced that certain tax privileges will be granted to participants in the financial sector in Almaty in connection with its plans to promote the city as a regional financial centre.

Corporate taxation

Corporate tax

- Draft Tax Code Amendments were officially submitted for consideration by the Majilis (lower house of Parliament) on 11 May 2006. The amendments include:
 - the elimination of double taxation for dividend income within Kazakhstan (outbound dividends would still be taxable at 15% subject to reduction by Double Tax Treaties);
 - increased deductible per diems for business trips in Kazakhstan from three to six MCI (Monthly Calculating Index) – approximately from USD 25 to USD 50;
 - corporate income tax deductibility of visa and obligatory insurance-related expenses associated with an employee's business trip.

Double Tax Treaties

- Kazakhstan currently has Double Tax Treaties with 37 countries, with Austria recently added to the list.

Transfer pricing

- The draft Transfer Pricing Law was officially submitted for consideration by the Majilis on 24 April 2006.

Individual taxation

Personal income tax

- On 1 March 2006, in a speech to the Kazakhstan nation, President Nazarbayev outlined a number of priorities in the state's fiscal policy for the next several years, including the following tax reductions:

- the introduction of a single flat rate of individual income tax at 10% starting from 2007;
- a 30% decrease in the current social tax rates, starting from 2008;
- the replacement of the MCI (Monthly Calculating Index) deduction with a minimum monthly salary deduction for individual income tax purposes.

All these amendments were submitted to the Majilis for consideration and are expected to be signed into law.

Indirect taxation

VAT

- On 1 March 2006, President Nazarbayev announced a proposed reduction in the VAT rate from 15% to 14% in 2007 and to 13% and then 12% in 2008 and 2009 respectively.
- The draft Indirect Tax Treaty between the member-states of the Agreement on the Formation of a Single Economic Area (Belarus, Kazakhstan, Russia and Ukraine) has recently been approved by the Government. The draft Indirect Tax Treaty confirms the 'destination' principle with respect to indirect taxes, whereby exports from one member state to the other would be subject to the zero rate, while imports should be assessed for indirect taxes according to the legislation of the importing country.

Other taxes

Environmental tax

- New base rates for the environment pollution fee for 2006 have recently come into force with retroactive effect from 1 January 2006.

Legal and other developments

Labour code

- The Government has twice increased the 2006 quota for employing foreign labor in Kazakhstan, from 0.45% to 0.55% and from 0.55% to 0.70% of Kazakhstan's economically active population. Currently, approximately 55,200 work permits are available.

Other

- The National Bank of Kazakhstan raised the official refinancing rate from 8% to 8.5% per annum, effective from 1 April 2006. For tax purposes, the official refinancing rate of the National Bank of Kazakhstan is used, for instance in calculating interest penalties for late tax payments.



Latvian VAT officers to check deals in the EU

In May 2006, the Director General of the State Revenue Service (SRS), Mr Jakans, set out the SRS's list of priorities for the second half of 2006. These include VAT monitoring, with a focus on traders doing business across the EU. The following are the types of transactions that Mr Jakans stated were likely to come under scrutiny and the associated VAT risks:

Intra-community supplies of goods

The key task for the Latvian trader in intra-community supply transactions is to provide evidence that the goods have left Latvia and that the customer is VAT registered in another Member State. This is so that they can claim 0% VAT. To find out whether a customer is VAT registered, you can check the database of taxable persons established in other Member States available on the SRS website. This only helps verify that the VAT number quoted by the customer is valid. It does not verify the taxable person's name. Names can be obtained by phoning the SRS, which holds information on taxable persons established in other Member States. It is advisable for anyone who does not have a stable EU customer base and know their customers well, to check that a particular VAT number belongs to a particular customer. Dutch legislation now makes a VAT number check mandatory – this is just one example.

Intra-community acquisitions of goods

In intra-community acquisition transactions VAT should be accounted for when goods and an invoice have been received. No formal evidence of receipt is necessary: the recipient's note on the invoice is sufficient. Companies should calculate the VAT due on the goods within 15 days of receipt. Depending on the extent to which the goods are used to make taxable supplies, the input VAT is recoverable in the same month, either in full or according to the ratio of taxable supplies to total (i.e. including exempt) supplies.

The SRS is able to compare its information on intra-community supplies and acquisitions with that held by the tax authorities of other Member States, according to the list of intra-community supplies of goods, an appendix

to the VAT return. It is likely that the SRS will scrutinise these transactions rigorously, comparing the taxable amounts declared and analysing any deviations in time, which may be a few weeks or even several months. Of course, in this situation account is taken of a permissible percentage deviation for taxable amounts, which may be explained by exchange rate fluctuations and the application of different principles in determining the taxable amount of a supply or acquisition.

Triangular and chain transactions

The list of intra-community supplies of goods should contain a special note to indicate if any intra community supplies have been made as triangular transactions. The SRS is likely to pay special attention to these to identify fictitious transactions and potential VAT fraud.

For example, where chain transactions involve four different companies with a single physical movement of goods, the SRS might analyse the link between each supply and transport in order to determine whether it qualifies as a domestic or intra community transaction for each of the parties involved.

Services involving non-residents

For these transactions the SRS is likely to check their timing as well as whether VAT has been charged on all taxable services and whether the correct rate has been applied to services rendered to non-residents. With regard to acquired services, it is worth remembering that fees paid on licences, trademarks, management consulting services, equipment (including transport) leases, etc. are subject to Latvian withholding tax. In certain instances Latvia's double tax treaties allow a reduced rate of withholding tax, provided that the Latvian company holds the payee's properly validated tax residency certificate prior to its making the payment.

Lithuania

Increase of minimum salary

As of 1 July 2006, the following increases have come into effect:

- the minimum hourly rate has been increased from LTL 3.28 (approx. EUR 0.95) to LTL 3.65 (approx. EUR 1.06),
- the minimum monthly salary has been increased from LTL 550 (approx. EUR 159.29) to LTL 600 (approx. EUR 173.77),
- the minimum hourly rate for politicians, judges, officers and soldiers has been increased from LTL 2.57 (approx. EUR 0.74) to LTL 2.62 (approx. EUR 0.76) although their minimum monthly salary remains at LTL 430 (approx. EUR 124.5).

Other taxes

Real estate and land tax

- Real estate tax at the rate of 1% is levied on the value of immovable property owned by entities. Immovable property owned by individuals and used for commercial purposes also became subject to real estate tax at the rate of 1% from 1 January 2006. The real estate tax rate will be from 0.3% to 1% from 1 January 2007. The effective tax rate will be established by the municipalities.

Legal and other developments

Labour code

- The amount of the monthly gross salary must reach the minimum threshold set by the legislation in force. As noted above, from 1 July 2006 it is LTL 600 (approx. EUR 173.77).



Macedonia

Legal changes

A number of new laws have been adopted to initiate an extensive reform of the Macedonian legal and judicial systems. These laws will come into effect between June 2006 and January 2007. The main aims are:

- to restructure the court system;
- to strengthen the independence of the judiciary;
- to ensure that only properly qualified attorneys can practise.

In addition to these changes, two of the new laws will be of particular interest to Tax Notes readers.

One introduces out-of-court mediation procedures for settling disputes between individuals and legal entities. Mediators will be neutral third parties, and will have to be properly qualified and recognised either as mediators or as attorneys. The mediator's role will be to help the parties reach, but will not be empowered to impose, settlements. Both parties in a dispute will have to agree to mediation rather than court action. The new Law on Mediation should come into effect on 1 November 2006.

The second concerns debt execution. Instead of creditors starting debt execution proceedings through the courts, they will now use the services of court-appointed bailiffs. The new Law on Execution took effect in May this year. The first forty-one bailiffs were nominated in late May 2006 and should be ready to take up their duties from June 2006.



Moldova

The privatisation program for 2006-2007

The Moldovan Government approved in first reading the extension of the 1996–1997 privatisation programme by an additional two years. This established the main principles of the 2006–2007 privatisation programme by including about 330 enterprises with state participation in the privatisation list.

During the first stage of the privatisation programme, it is envisaged that the state shares in 32 enterprises will be offered for privatisation. Another 70 joint stock companies are planned to be privatised by the end of the year.

Strategic Moldovan Enterprises such as 'Moldtelecom', 'Tutun CTC', and wineries are also included in the privatisation list.

Additionally, a bill on the denationalisation and administration of state property is currently being drafted by the Ministry of the Economy and Commerce. This will be submitted for Parliamentary approval in September.

Corporate taxation

Double Tax Treaties

- The double tax treaty between Moldova and Macedonia has been ratified.

Legal and other developments

Labour code

- New amendments to the Labour Code have been introduced. They introduce additional clauses to be included in individual labour agreements (e.g. reimbursement of transport and lodging expenses). The list of circumstances in which the employer is allowed to dismiss an employee for breach of discipline has also been extended.

Other

- Amendments to the Law on the licensing of certain types of activity introduce new licensing conditions as well as a list of additional documents to be attached to license applications. Grain storage and the issuing of warehouse certificates have become subject to licensing.
- The regulations on the sale of state-owned shares on the Stock Exchange have been approved. They relate how the procedure and conditions for the sale of state-owned shares should be organised, as well as to the selection of brokerage companies.
- Amendments to the Law on the sale and purchase and standard prices of land have been approved which provide that only the State, citizens of the Republic of Moldova and legal entities with 100% local capital have the right to purchase and sell agricultural land, thus preventing domestic companies with foreign investment from purchasing agricultural land.



Montenegro

Tax consequences of the separation

Montenegro became an independent state in the referendum held on 21 May 2006, with a 55.5% majority vote for independence from the State Union of Serbia and Montenegro. Montenegro will therefore start the process of applying for membership of the United Nations and other international organisations.

The major tax changes anticipated following the separation include:

- the validity of Double Taxation Treaties that were formerly valid in the State Union of Serbia and Montenegro; and
- matters related to the customs regime between the two newly-established countries.

Corporate taxation

Double Tax Treaties

- As a result of its separation, Montenegro is expected to renegotiate all the Double Taxation Treaties that previously applied to the State Union.

Indirect taxation

Customs duties

- Until the separation of Montenegro, the movement of goods from one member state to another was not subject to customs duties if the goods originated from Serbia and Montenegro. We expect that the two independent countries will execute a free trade agreement as is the case with other countries in the region.
- We anticipate the introduction of customs duties on some specific goods as a protection measure.

Legal and other developments

Labour code

- The Labour Law was amended recently but no major changes were introduced.

Other

- The Law on Securities was amended recently, and several changes were introduced concerning closed offers, share issues to known acquirers, the issuing of short-term securities, the founding of subsidiaries by companies dealing with securities in Montenegro and abroad, and business transactions abroad.



Poland

Wind of change in Polish tax legislation

In previous Tax Notes we noted that there have been no significant changes in Polish tax legislation since Poland joined the EU on 1 May 2004. Now it seems that the period of legislative inactivity will soon be over. The Polish Government has approved a package of draft amendments to every major piece of tax legislation, prepared by the Ministry of Finance.

This package has been expected for a long time. However, contrary to initial expectations, it cannot be called a 'tax reform'. Most of the proposed amendments aim at clarifying and improving particular provisions and will have no direct economic impact. In many cases the amendments will make the interpretation of tax provisions easier, but will not introduce significant changes. Nevertheless, some elements of the proposed amendments may change the tax environment considerably and the most important are discussed below.

Social security

High social security contributions are perceived as an important factor leading to high unemployment, which is currently 18%. In most cases the employer pays social security contributions ranging between 17.16% and 19.86% of the employee's gross salary (the employer's contribution rate includes an accident insurance element that varies according to the business sector). Apart from the above, the employee pays his/her own share, which is 18.71% of gross salary. These rates apply up to a cap of approximately EUR 19,500. When the gross salary exceeds this cap, the rate falls to 0.90% – 3.60% paid by the employer and 2.45% paid by the employee.

The draft amendment aims to modestly decrease the burden on the employer by 0.2 percentage points. Thus the employer's burden (before the cap) would be in the range of 16.96% - 19.66%. The decrease in the employee's burden would be more significant: 4.45 percentage points. Therefore, the employee's burden (before the cap) would be 14.26%.

Personal income tax

The draft amendment to the Personal Income Tax Law does not change the current set of rates, including the rates of 19%, 30% and 40%. However, the Government has proposed a general increase of the tax thresholds. The new scale that will apply from 1 January 2007 is as follows:

| Income brackets (in PLN*) | Income tax |
|---------------------------|---|
| up to 43,405 | 19% minus 572.54 |
| 43,405 – 85,528 | 7,674.41 + 30% for the amount above 43,405 |
| above 85,528 | 20,311.31 + 40% for the amount above 85,528 |

*as of the end of June 2006, 1 EUR = approx. 4.1 PLN

As compared to the current scale, the above would result in significant tax savings. For example, an individual earning PLN 85,528 (the equivalent of the second threshold) would save approximately PLN 1,900, i.e., 8.5% of the personal income tax liabilities payable in 2006.

Another important change is the introduction of a 'pro-family allowance', i.e., the right to decrease the personal income tax liability by PLN 572.54 (approx. EUR 140) for each child, provided that a couple has at least three children.

The third idea that is worth noting concerns tax-deductible costs related to income derived from intellectual property. Currently, such income is subject to extremely favourable treatment as the taxpayer can make a standard deduction of 50% of gross revenue, which means that only 50% of the revenue is taxed. These rules, among others, apply to journalists, writers, university professors and many others. Originally, the Ministry of Finance proposed (and the Government agreed) to gradually abolish this favourable treatment. This has resulted in lively public discussion that may convince the Government to withdraw this idea.

Ecological tax on cars

The draft laws include a new Ecological Tax Law, which would be imposed on cars and would be collected on their first registration in Poland. For cars, the ecological tax would replace the excise tax.

It should be noted that formula for calculating the new tax is completely different from the formula for calculating the excise tax. The latter is calculated on a car's value, whilst the ecological tax liability would first and foremost depend on engine capacity and the EU norms for exhaust emissions. There will probably be extensive changes to this draft before it becomes law. However, it seems that, from the business point of view, the new tax (if introduced) could significantly decrease imports of used cars and in turn reduce competition for manufacturers and importers of new cars.

Romania

Latest news on Romania's path to EU accession

Before Romania and Bulgaria become EU members, their Accession Treaties must be ratified by all member states. To date, Romania's treaty has been ratified by 21 countries. Signatories in the last quarter included Austria, Finland, Holland, Ireland, Luxembourg and Sweden.

However, the definitive factor regarding EU accession is the Commission report. In the last monitoring report on Bulgaria and Romania's readiness for EU membership, published on 16 May, the Commission assessed Romania showed significant improvement since October 2005. The Commission acknowledged that Romania fulfils the political criteria for EU membership, that it has a functioning market economy and that it has reached a high degree of compliance with the European Acquis. The best news is that the number of areas of 'serious concern' (the so-called 'red flags') dropped from 14 (in October 2005) to four (to date). These consisted of two concerning agriculture (paying agency, integrated administration and control system), the collection of animal by-products and material infected with BSE or other similar transmissible animal diseases (TSEs), and IT systems for VAT collection.

The Commission expressed the view that the two countries could join at the beginning of 2007, provided they took the urgent measures highlighted in its reports. Although somewhat disappointing because no definite date for EU accession was given, this latest report brought good news regarding the two countries' readiness to join the Union at the beginning of 2007.

Starting on 1 July 2006, the EU presidency was taken over by Finland, which stated from the beginning that a clear answer to the EU accession issue will be given during its mandate. Furthermore, during a recent interview, the Finnish Prime Minister expressed the hope that Romania would continue its reforms to be ready to join the EU at the beginning of 2007.

The next monitoring report, expected to be published in mid-September or early October, will finally assess whether the EU accession date for Romania and Bulgaria will be 1 January 2007.

Corporate taxation

Corporate tax

- The cap on the tax deductibility of interest payable on loans denominated in foreign currency has been reduced from 7% to 6%. The reduced interest rate will apply to profit tax calculations for the year 2006. There is no cap on interest deductibility if loans have been obtained from banks and other recognised financial institutions.

Indirect taxation

Customs duties

- Since 23 April 2006, Romania has no longer been applying Decision 4.1. of the GATT Valuation Technical Committee. Therefore the customs value of imported carrier media bearing data or instructions (e.g. software CDs) has to include both the value of the carrier medium and the value of the data or instructions it contains.
- A new Customs Code came into force on 18 June 2006. The main changes include:
 - The concepts of Binding Tariff Information (BTI) and Binding Origin Information (BOI) were introduced. BTIs and BOIs will be valid for six years and three years respectively from the date of issue;
 - A new customs destination, the free warehouse, was introduced;
 - The deadline for attributing a customs destination to goods presented to Customs for clearance purposes was modified and the existing 30-day deadline will be replaced by 45 days for goods transported by marine traffic, and 20 days for other forms of transport;
 - A new 24-month deadline was introduced for goods placed under the temporary admission customs regime (there was no time limit set in the former legislation);
 - The concept of compensatory interest was introduced. This will be due when the temporary admission and inward processing customs regimes are closed by the release of the goods for free circulation.
- Also, new Customs Code Implementation Regulations came into force at the same time as the new Customs Code. The main new provisions include:
 - Waste, technological scrap and rejects resulting from the processing of raw materials under an inward processing regime are deemed secondary compensating products. If these products are not exported, import duties and, in certain cases, compensatory interest may be due;
 - Customs values can be amended within 12 months from the date the customs declaration for release for free circulation has been accepted, in certain specific cases (e.g. if the price of the goods is amended by the seller);
 - If certain conditions are met, the definitive customs value can be determined (based on estimated value) in cases where there are elements (e.g. royalties, license fees) which cannot be quantified when the customs debt arises and which have to be added to the effective price;
 - At the request of the titleholder, the customs declaration may be invalidated in certain circumstances, within 90 days of the date the customs clearance was granted. Also, the customs declaration can be amended by the customs authority, on its own initiative or at the request of the titleholder, up to five years from the date customs clearance was granted;

- Customs operations initiated before 18 June 2006 will run their course and will be concluded based on the provisions in force at the time they were initiated. Authorisations granted before 18 June 2006 will also remain valid.

Excise duties

- The excise duty rates for ethyl alcohol and tobacco products were increased as of 2 May to contribute to the financing of certain healthcare expenses.
- The minimum excise rate for cigarettes was also increased as of 2 May, from EUR 19.92 /1,000 cigarettes to EUR 30.38 /1,000 cigarettes.
- New (increased) excise duty rates applies as of 1 July 2006 for harmonised excisable products (i.e. cigarettes, ethyl alcohol, leaded gasoline, natural gas used as fuel and electricity).
- As of 1 July, tax warehouse keepers cannot operate unless registered in the national database for tax warehouses and warehouse keepers.

Other

Environmental taxes

- Several amendments were made to the Environmental Fund legislation.
 - The contribution payable on the sale of standing wood or timber from it was reduced from 3% to 1%, and has to be paid by companies that buy such products for processing;
 - The contribution for wood processing has been eliminated;
 - The tax for air-polluting emissions from mobile sources will be declared and paid half-yearly instead of monthly;
 - Companies that use new areas of land for the storage of recyclable waste must declare and pay taxes annually, instead of monthly.
- Guidance has been published on how the contributions to the Environmental Fund should be calculated.

Legal and other developments

Labour code

- Based on an Amendment to the National Collective Bargaining Agreement between the Companies Association and the trade unions for the years 2005-2006, the minimum wage (applicable to all Romanian employers and their employees) was set as at RON 370 per month (approximately EUR 105 per month). The recent amendments to the Collective Bargaining Agreement set out the mandatory procedure that has to be followed by all employers prior to dismissing an employee for lack of qualifications or ability. Failure to observe this mandatory procedure may result in the dismissal decision being annulled by the courts.

- In March 2006, the law on the protection of employees' rights in transfers of undertakings was enacted. This law elaborates on the framework provisions of the Romanian Labour Code in this respect and incorporates EU Directive 2001/23/CE. The law will come into force with Romania's accession to the EU.

Competition law

- The Romanian Competition Council has approved instructions that incorporate the European Commission's notice on access to files in merger and antitrust procedures. The new legislation represents the incorporation of EU recommendations into Romanian law.
- The Romanian Government has issued its decision on establishing Romania's 2006–2013 state aid policy, which includes the requirement to obtain European Commission approval for state aid following Romania's EU accession.

Intellectual property

- The Romanian Copyright Office has issued new regulations on the conditions for the authorisation and registration of economic agents that are required to register with the National Registry of reproducers of digital video discs, audio and video tapes. These regulations allow some exemptions from the registration requirement.
- With a view to harmonising Romanian laws with the EU legislation in the field of new plant varieties, new regulations have been enacted to amend and complete the protection granted to new plant varieties. The regulations, which become effective on 11 August 2006, also include references to the procedure for the registration and protection of new plant varieties within the European Community.

Environmental law

- The incorporation into Romanian legislation of the obligations resulting from the Aarhus Convention on Access to Information, Public Participation in Decision Making and Access to Justice in Environmental Matters (reiterated in European Directive 2003/35/EC) has been accomplished by the passing of Government Decision no. 564/2006.
- A few amendments have been made to the regulations on the environmental fund, and also to the method for calculating contributions due to the environmental fund.
- As regards waste management, new regulations on surface deposits of radioactive waste have

been enacted, together with the rules on the functioning of the commission entrusted with the evaluation and authorisation of entities engaged in accomplishing annual objectives for the collection and recycling of packaging waste.

- The legal framework for pollution control was enhanced by the passing of a new governmental decision on the prevention, reduction and control of asbestos pollution.

Concessions / Public procurement

- A new law incorporating the relevant EU directives was recently published, to regulate the award of public procurement and concession contracts. The new law came into force on 30 June 2006, when all former laws and regulations governing public procurement, public-private partnerships and concession agreements were repealed in their entirety.
- The new law covers contracts concerning activities/sectors previously exempt from public procurement procedures (such as legal services, hotels and restaurants, water and railway transport, health and social assistance). Such contracts must now be awarded further to the completion of tender procedures, if their value exceeds certain thresholds.
- Additionally, from 1 January 2007 tender notices for contracts exceeding specific value thresholds (e.g. EUR 125,000/EUR 420,000 for services and supply contracts and EUR 5 million for works contracts) must be published in the European Union Official Journal.
- Particular tender procedures are also prescribed for the award of public works and service concession contracts by central or local contracting authorities. Private undertakings that have entered into concession contracts must also observe strict transparency rules (including the publication of a tender notice in the European Union Official Journal) when awarding contracts exceeding EUR 5 million in value.
- The new public procurement national authority (ANRMAP) has been given extensive inspection and monitoring powers, with the authority to conduct ex-ante checks on the accuracy and legality of tender procedures for awarding contracts of significant value.

Other

New insolvency legislation

- The Romanian Parliament has enacted a new insolvency law, effective from 20 July 2006. The new law establishes a simplified procedure whereby the debtor enters into insolvency proceedings immediately after the initiation of the proceedings or after a maximum of 60 days. The new law also recognises the 'netting' concept in relation to financial derivative transactions and removes the bankruptcy officer's right to 'cherry-pick' such derivative transactions. In addition, the new law

regulates the liability of the persons responsible for the insolvency of the debtor (e.g. managers, directors) who can be held liable jointly and severally and whose assets can be seized.

Securitisation of receivables

- The Parliament has recently passed new laws aimed at establishing the legal framework for the securitisation of receivables and the issuing of mortgage bonds in Romania.
- The new securitisation law is aimed at establishing the legal framework for the use of receivables with a view to obtaining financing through securitisation. Securitisation is defined as the financial operation for the realisation of receivables by a special purpose vehicle that acquires, collects and uses such receivables to secure issue of securities. The law also includes provisions on the establishment of the SPVs that can issue the securities, the rules applicable to the issuing of securities, the rights of the security holders, etc.
- The new law on mortgage bonds establishes the legal framework for the issuing of mortgage bonds and regulates the rights and obligations of mortgage bondholders. The law prescribes the eligibility criteria to be observed for mortgage loans to be structured into portfolios, with a view to securing mortgage bond issues. Provisions on the records to be kept by the mortgage bond issuers and the information to be entered into such records are also laid down.

Non-banking financial institutions

- Governmental Ordinance no. 28/2006 carries provisions relevant to the lending activity of non-banking financial activities. Under the ordinance, professional lending activities can only be conducted by credit institutions established in accordance with the Banking Law, and by non-banking financial institutions duly registered with the National Bank of Romania, on the terms prescribed by the Ordinance. Non-banking financial institutions are companies engaged in lending (consumer credit, mortgage credit, financial leasing, etc.) or in activities specific to pawnshops or mutual savings banks.
- The Ordinance sets out a number of specific requirements that must be satisfied by non-banking financial institutions (e.g. not less than EUR 200,000 in share capital, statement of objectives only including credit activities, internal regulations, financial statements audited by independent auditors, reporting the structure of the credit portfolio to the National Bank of Romania). These requirements do not apply to pawnshops and mutual savings banks.

Russia

Advertising law revamped

Russia has adopted a new version of the Federal Act 'On Advertising'.

This law sets general advertising requirements and describes special provisions for different methods of advertising distribution. It sets the requirements for advertising certain kinds of goods, provides for self-regulation by advertisers and state control over compliance with advertising law.

Unfair advertising will include advertising of goods subject to special requirements or limitations (e.g. alcoholic beverage) advertised under the guise of other goods (e.g. mineral water).

The law prohibits advertising that refers to goods being approved by the state.

For the first time, the law sets requirements for advertising goods sold by distance-selling procedures (catalogue-order, over the Internet, etc.), as well as promotional events.

The law changes advertising requirements on radio and TV programs and advertising time on air.

The law elaborates the requirements for advertising weapons, armaments and military equipment, financial services and securities, alcoholic beverages, beer, tobacco and tobacco products. It also considerably extends the requirements for advertising pharmaceuticals, medical equipment, medical products and services.

The federal law took effect on 1 July 2006; some provisions will take effect at later dates.

Corporate taxation

Corporate tax

- The Russian Government has chosen six regions for establishing special economic areas (SEAs). Four SEAs for technical research and implementation will be located in Zelenograd (Moscow), Dubna (Moscow region), Saint Petersburg and Tomsk, and two SEAs for industrial production will be created in the Lipetsk region and Yelabuga (Tatarstan).
- In addition to certain benefits established by the Russian Tax Code (e.g. property and land tax exemptions), under laws adopted by regional authorities, the residents of almost all SEAs are eligible for a transport tax exemption and a decreased profits tax rate of 20%. These local tax benefits will apply for between five to twenty years, as established in a regional law.

Indirect taxation

Customs duties

- The Russian Government reduced import duty for approximately 700 types of technological equipment (e.g. personal computers, air conditioners, brewing equipment) to 0%. Previously this equipment was subject to import duty between 5% and 15%. The reduced rates will be effective for nine months starting from 29 April 2006. In practice, reduced rates are usually prolonged after the initial period expires.

Legal and other developments

Foreign currency regime

- The Bank of Russia abolished requirements that Russian residents sell part of their foreign-currency revenue received from non-residents under foreign trade agreements (Bank of Russia Regulation #1676-U of 29 March 2006). These amendments came into force on 7 May 2006.



- The Bank of Russia reduced by half the currency reserve amounts required for operations on special bank accounts (Bank of Russia Regulation # 1674-U of 29 March 2006). These amendments came into force on 1 May 2006.
- The reduction applies to all currency operations that must be carried out on special bank accounts. The main transactions that are subject to currency control restrictions are:
 - payment for purchase by a resident of foreign securities from non-residents (special resident account 'R2', reserve of 12.5% of transaction amount for 15 days);
 - transfers between residents and non-residents related to a foreign-currency loan from a non-resident to a resident (special resident account 'R1', reserve of 1% of the loan amount for 365 days);
 - transfers between residents and non-residents under a foreign currency loan from a resident to a non-resident (special resident account 'R2', reserve of 12.5% of the loan amount for 15 days).

Labour code

- Starting from 1 May 2006, the minimum monthly salary is equal to RUB 1,100 (approx. EUR 32), an increase of 37.5% from the previous amount of RUB 800 (approx. EUR 23).

Intellectual property

- The Code of Administrative Offences of the Russian Federation has been amended. The fine for illegal use of trademark for company executives was increased to RUB 20,000 (approx. EUR 585).
- Documents confirming legitimate use of trademark on alcohol products were introduced as the requirement that must be met to obtain excise duty stamps for marking alcohol products.

Environmental law

- The Russian Minister for Natural Resources adopted Order No 58 dated 13 March 2006, on documenting results of state geological audits. Under this Order, state geological authorities are required to prepare an audit report upon auditing subsoil users and, in particular, evaluate their compliance with the law and subsoil use licence terms. If the audit report reveals or mentions any breach, the head of the relevant state geological authority must issue a notice to the subsoil user requesting it to resolve the identified breaches. The subsoil user must, in turn, notify the state geological authority of the measures it has taken to comply with the notice.



Serbia

Serbian Government proposes several laws

The Ministry of Finance announced that the Serbian Government approved several tax laws and amendments to laws, which were to be discussed in the Serbian Parliament from June 2006. The proposed changes regulate foreign currency transactions and free zones, as well as contributions for compulsory social insurance and personal income tax.

The objectives of the proposals are to stimulate the employment of young people and the elderly. The proposed amendments on free customs zones are expected to boost and liberalise Serbia's exports.

Corporate taxation

Corporate tax

- No significant changes occurred in the second quarter of 2006, with the exception of opinions issued by the Ministry of Finance which aimed to clarify certain corporate tax law provisions. They regulate the following issues more precisely:

- interest payable by the lessee under financial leasing: it should be recognised as deductible without limitations;
- capital gains on sale of real estate: this opinion defines capital gains in great detail, and the purchase and selling price according to IFRS;
- issues related to the thin capitalisation threshold calculation.

Double Tax Treaties

- Serbia ratified double tax treaties (May 2006) with Latvia, Moldova and Turkey. The agreements will come into force on the day the treaty implementation process is finalised by the signatories, and will apply from 1 January of the following year.

Indirect taxation

Customs duties

- The Serbian Government closed 11 Free Zones, largely because they failed to meet the conditions required to remain operational. Three Free Zones remain fully



operational: Pirot, Subotica and Zrenjanin. There are no indications that these Free Zones will be closed. However, they will have to apply to the Government for consent to remain operational in accordance with the new Free Zones Law.

- Amendments to the existing regime include the following:
 - the share of a foreign entity in the share capital of the zone will not be limited to 49%;
 - a registration charge of 0.5% of the value of goods is abolished;
 - the requirement that at least 50% of goods produced and services performed in the Free Zone are exported is abolished.
- The Government expects that the new Free Zones system will encourage direct foreign investment, the development of underdeveloped regions and industries, and decrease the foreign trade deficit. These changes will also increase customs duty.
- A new Free Trade Agreement with Macedonia came into effect on 1 June 2006. The preferential regime is now fully applicable on imports of certain previously excluded agricultural products originating in one of the signatory parties.
- The Serbian Government is actively preparing for the introduction of the Harmonising System, 2007 version, which will apply from 1 January 2007.
- In April 2006, Serbia and Montenegro ratified agreements on mutual assistance and cooperation in resolving customs issues between themselves and Iran and also Croatia.

Individual taxation

Personal income tax

- The Serbian Ministry of Finance has proposed changes to the Personal Income Tax Law. It is not expected that they will be enacted by the Serbian Parliament until later in the year and most of the changes are likely to take effect from 1 January 2007. The main proposals are:
 - withholding salary tax rate to be reduced from 14% to 12%;
 - introduction of non taxable salary cap of CSD 5,000 (approx. EUR 57);
 - tax exemption on revenue from agriculture and forestry (cadastral revenue) for 2006 and 2007;
 - employers to be relieved from withholding tax on the salaries of employees younger than 30 who are either trainees or who have registered as being unemployed with the National Employment Service for at least three months prior to employment;
 - if employing individuals older than 45, the employer will be tax-exempt in respect of their salary tax, and their contributions liability will be reduced by 80%;

- in the case of individuals older than 50, the employer will be fully exempt from all tax and contributions;
- an incentive for employing workers with disabilities;
- the annual income tax threshold is to be decreased for local and foreign citizens.
- a dual annual income tax rate, depending on income level (10% and 15%) is anticipated.

Social security

- Amendments to the Social Security Contributions Law propose partial and complete personal income tax exemption in certain situations. The incentives include:
 - trainees younger than 30 are exempt from contributions for three years;
 - unemployed individuals younger than 30 are exempt from contributions for two years (the unemployed individual must be registered with the National Employment Service for at least three months prior to employment);
 - 80% of contributions are to be reduced when employing individuals older than 45;
 - 100% of contributions will be exempt when employing individuals older than 50.

Legal and other developments

Competition law

- On 4 April 2006, the Serbian Parliament elected members of the Competition Protection Council, which is the main body in charge of the Serbian Commission for the Protection of Competition (the Commission). The Commission has replaced the interim authority (the Antimonopoly Department of the Serbian Ministry of Trade, Tourism and Services). The Statutes of the Commission were adopted and approved by the Government, thus making the Commission fully operative. The employees of the former Antimonopoly Department are now engaged by the Commission.

Intellectual property

- Previously, IP rights were regulated and protected by the State Union of Serbia and Montenegro (the Union). With the dissolution of the Union, the Republic of Serbia has become responsible for regulating and protecting IP rights. The Authority in charge remains the same, i.e. the Intellectual Property Office, based in Belgrade.
- The Law on Special Powers for Effective IP Rights Protection was adopted at the end of

May 2006. The Law includes provisions adopted from the TRIPS Agreement with the objective of securing effective protection of IP rights. The competent authorities have acquired the right to exercise various measures on the spot, in order to restrict abuse of IP rights.

Environmental law

- There are no major legislative changes in Serbia. The draft dealing with waste management is complete, but it is not known when Parliament will discuss the draft.

Other

- In June 2006, several new laws were adopted: the Law on Investment Funds, the Law on Arbitration, the Law on Takeover of Companies and the Law on Securities.
- The Law on Investment Funds is the first law in Serbia to regulate issues concerning investment funds, and in particular: companies for managing investment funds, investment funds (open, closed and private), the activities of custody banks and the supervisory role of the Securities Exchange Commission. The Law comes into effect in December 2006.
- The Law on Arbitration is the first piece of legislation in Serbia to fully regulate the field of arbitration. This Law is based on the UNCITRAL Model Law, and incorporates internationally recognised rules and principles in this field.



- The new Law on Takeovers of Joint Stock Companies has to be applied when a natural person or a business entity intends to acquire 25% or more shares with voting rights in a joint stock company in Serbia. A major change introduced by the Law is a rule that minority shareholders have to be treated in the same way as majority shareowners (in terms of voting rights), and the Board of Directors has been made responsible for protecting minority shareholders' rights during a takeover. The competent authority and supervisory body for implementation of the Law is the Securities Exchange Commission.

- The new Law on the Market of Securities and Other Financial Instruments will come into effect on 10 December 2006. In the transitional period of six months, from the day of its adoption until the day of its implementation, joint stock companies are obliged to submit information to the Central Securities Registry on shareholders from the Shareholders Book, and a request for the registration of issued shares that have not been withdrawn.

The Law makes a distinction between organised markets and over-the-counter markets. An organised market is managed by a market organiser: a legal entity that has received appropriate approval by the Securities Exchange Commission. Stock exchanges and over-the-counter markets are identically organised, with the exception that only securities that meet the prescribed conditions are listed on stock exchange markets whilst over-the-counter markets include securities that only fulfil the conditions of their issue by public offer.

The Law also introduces the concept of qualified participation in an entity, which needs to be previously approved by the Securities Exchange Commission. This obligation does not apply to shareholders that have acquired the shares of broker-dealer companies or a stock exchange before the day when this Law came into force. The concept of privileged information is defined in detail, and complies with the Directive on preventing market manipulation.

- Montenegro voted for independence in a referendum held on 21 May 2006, with a 55.5% majority vote. According to the Constitutional Charter of the dissolved State Union of Serbia and Montenegro, Serbia is the successor state and Montenegro will need to apply for membership of the United Nations and other international institutions.

Slovakia

Slovakia and IFRS

With effect from 1 January 2006, the Slovak Republic extended the use of the International Financial Reporting Standards ('IFRS') to stand-alone accounts for companies whose securities are admitted to trading on a regulated market in the EU as of their balance sheet date. Other entities, such as banks, security dealers, asset management companies, pension management companies, insurance companies, the Stock Exchange, and the Fund for the Protection of Deposits, are also obliged to prepare their stand-alone accounts in accordance with IFRS principles. In addition, other companies that meet at least two of the following criteria for at least two consecutive accounting periods also have to report stand-alone statements in accordance with the IFRS:

- Total assets exceeding SKK 5 billion (approx. EUR 132 million, not adjusted by provisions, reserves and depreciation).
- Net revenues exceeding SKK 5 billion (approx. EUR 132 million).
- Average number of employees in the accounting period over 2,000.

Companies that have to prepare their financial statements in accordance with the IFRS from 1 January 2006 will have to use an IFRS transitional formula published by the Slovak Ministry of Finance to convert their accounting profit to the tax base. The IFRS transitional formula provides general guidance and specific recommendations on how to convert the accounting profit for Slovak tax purposes, but there is no experience in Slovakia yet of the use of the IFRS transitional formula, and unfortunately some of its provisions are not worded clearly. There are no official standpoints or explanations available as yet.

For the future, one of the proposed scenarios being publicly discussed would oblige all companies in Slovakia to prepare their stand-alone financial statements according to the IFRS. The Slovak GAAP would then serve only as the basis for determining the company's tax base.

As of 1 January 2007, a Slovak Office for Financial Reporting should be established. When it starts operating, we expect that more information will become available on implementing the IFRS.

Individual taxation

Social security

- From 1 January 2007, the injury insurance rates will increase from 0.3% to 2.1% of total monthly salary costs, depending on the employer's safety classification as determined by law.
- The new monthly assessment base for the period from 1 July 2006 to 30 June 2007 will be SKK 51,822 (approx. EUR 1,364). However, the maximum monthly contribution base for health insurance will remain SKK 47,475 until the end of 2006 (unless there is a change in the current law).

Pensions

- Obligatory pension contributions are included in social security contributions (see above). The employee's contributions (called retirement insurance) are 4% of his remuneration, with a maximum contribution of SKK 1,899 up to 30 June 2006 and SKK 2,073 from 1 July 2006 (approx. EUR 50 and EUR 55) a month. The employer's contributions are 14% of the employee's remuneration, up to a maximum contribution of SKK 6,647 up to 30 June 2006 and SKK 7,256 from 1 July 2006 (approx. EUR 175 and EUR 191) a month.

Slovenia

Severance payment for termination of employment contract

Under the Labour Relations Act, an employer that terminates an employment contract for business reasons or incapability is obliged to pay the employee a severance payment. The base for calculating this payment is the average monthly salary that the employee received or would receive in the last three months of employment. The payment may not exceed ten times this base unless a Collective Agreement states otherwise.

The Personal Income Tax Act exempts severance payments from taxation on up to ten times the average monthly salary in Slovenia as published by the Statistical bureau of Republic of Slovenia. If the severance payment exceeds this amount, the part that exceeds the tax-exempt figure must be included in tax base.

If a severance payment is made in accordance with the Labour Relations Act, social security contributions must be withheld and paid in cases when the employment contract is terminated for reasons of incapability, while the termination of an employment contract for business reasons is exempt.



Ukraine

Abrogation of the double taxation treaty between the former USSR and Cyprus

On 12 July 2006, the Ukrainian Government approved the bill on abrogating the double taxation treaty between the former USSR and Cyprus of 29 October 1982. This bill will be submitted to Parliament for approval and the treaty will then be abrogated.

According to a Government statement, the current treaty enables resident businesses to relocate funds outside Ukraine tax-free and is used by many local enterprises in various tax-avoidance schemes. The Government believes that the abrogation of the current treaty will be an additional incentive for the Cypriot Government to expedite the conclusion of the new treaty for the avoidance of double taxation.



Uzbekistan

Abolition of tax incentives

On 1 May 2006 Uzbekistan's Cabinet of Ministers issued a Resolution 'On additional measures for increasing the stimulating role of incentives provided to enterprises with foreign investment'. The Resolution abolished certain tax and customs incentives effective from 1 June 2006.

The Resolution contains a number of important provisions concerning enterprises with foreign investments, as follows:

- “The taxation of enterprises with foreign investments registered in Uzbekistan is executed in accordance with the legislation effective at the time of taxation.
- Enterprises with foreign investments registered in Uzbekistan are subject to all general tax and customs incentives established by legislation, as well as additional incentives that may be granted only in accordance with procedures and conditions set by the legislation (including investment agreements and production-sharing agreements).

- Additional incentives with respect to the payment of taxes, customs duties and other mandatory payments are provided to enterprises with foreign investments only for a certain period and cannot be permanent.
- Effective 1 June 2006, all permanent incentives concerning the payment of taxes, customs duties and other mandatory payments, which are not readily available in the legislation and were previously provided by Government decision to enterprises with foreign investments, are abolished.”

This is the unofficial translation of the original text.

The Resolution further states that enterprises with foreign investments that have already been granted permanent incentives may apply to the Cabinet of Ministers, which will consider granting tax and customs duty incentives for a certain period of time. In this case, investment agreements will have to be concluded between the foreign investor and the Government of Uzbekistan (Ministry of Foreign Economic Relations, Investments and Trade).



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