

# CEE Tax Notes

Working cross-border\*

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Second Electronic Update

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# PricewaterhouseCoopers Tax Contacts for CEE:

## CEE Tax and Legal Services Leader

### Russia (Moscow)

Steven Snaith

Tel: + 7 495 232 5524

Fax: + 7 495 967 6001

Email: steven.snaith@ru.pwc.com

## CEE Tax and Legal Services Markets Partner

### Ukraine (Kiev)

Ron Barden

Tel: + 380 44 490 6777

Fax: + 380 44 484 0966

Email: ron.j.barden@ua.pwc.com

## CEE Tax Notes Editor

### Hungary (Budapest)

Tibor Torok

Tel: + 36 1 461 9371

Fax: + 36 1 461 9559

Email: tibor.torok@hu.pwc.com

## Albania (Tirana)

### C/O Rene Bijvoet (Serbia)

Loreta Peci

Tel: + 355 4 242 254

Fax: + 355 4 241 639

Email: loreta.peci@al.pwc.com

## Armenia (Yerevan)

### C/O Courtney Fowler (Kazakhstan)

Paul Cooper

Tel: + 374 10 592 150

Fax: + 374 10 501 341

Email: paul.cooper@am.pwc.com

## Azerbaijan (Baku)

### C/O Courtney Fowler (Kazakhstan)

Movlan Pashayev

Tel: + 994 12 497 7405

Fax: + 994 12 497 7411

Email: movlan.pashayev@az.pwc.com

## Bosnia and Herzegovina (Sarajevo)

Janos Kelemen

Tel: + 386 1 5836 058

Fax: + 386 1 5836 098

Email: janos.kelemen@si.pwc.com

## Bulgaria (Sofia)

Irina Tsvetkova

Tel: + 359 2 9355 126

Fax: + 359 2 9803 228

Email: irina.tsvetkova@bg.pwc.com

## Croatia (Zagreb)

Janos Kelemen

Tel: + 385 1 6328 880

Fax: + 385 1 6111 556

Email: janos.kelemen@hr.pwc.com

## Czech Republic (Prague)

Paul Stewart

Tel: + 420 2 5115 2711

Fax: + 420 2 5115 7711

Email: paul.stewart@cz.pwc.com

## Estonia (Tallinn)

### C/O Mike Ahern (Poland)

Villi Tõntson

Tel: + 372 614 1970

Fax: + 372 614 1980

Email: villi.tontson@ee.pwc.com

## Georgia (Tbilisi)

### C/O Courtney Fowler (Kazakhstan)

Matthew Tallarovic

Tel: + 995 32 508 050

Fax: + 995 32 508 060

Email: matthew.tallarovic@ge.pwc.com

## Hungary (Budapest)

Russell Lambert

Tel: + 36 1 461 9223

Fax: + 36 1 461 9115

Email: russell.w.lambert@hu.pwc.com

# PricewaterhouseCoopers Tax Contacts for CEE:

## Kazakhstan (Almaty)

Courtney Fowler

Tel: + 7 727 298 0615

Fax: + 7 727 298 0252

Email: courtney.fowler@kz.pwc.com

## Latvia (Riga)

C/O Mike Ahern (Poland)

Zlata Elksnina

Tel: + 371 709 4514

Fax: + 371 783 0055

Email: zlata.elksnina@lv.pwc.com

## Lithuania (Vilnius)

C/O Mike Ahern (Poland)

Kristina Bartuseviciene

Tel: + 370 5 239 2365

Fax: + 370 5 239 2301

Email: kristina.bartuseviciene@lt.pwc.com

## Macedonia (Skopje)

C/O Irina Tsvetkova (Bulgaria)

Bob Savic

Tel: + 389 71 232 710

Fax: + 389 2 311 6525

Email: bob.savic@mk.pwc.com

## Moldova (Chisinau)

C/O Mihaela Mitroi (Romania)

Andrian Candu

Tel: + 373 22 238 122

Fax: + 373 22 238 120

Email: andrian.candu@ro.pwc.com

## Montenegro (Podgorica)

Rene Bijvoet

Tel: + 381 11 3302 100

Fax: + 381 11 3302 101

Email: rene.bijvoet@rs.pwc.com

## Poland (Warsaw)

Iwona Smith

Tel: + 48 22 523 4853

Fax: + 48 22 508 4853

Email: iwona.smith@pl.pwc.com

## Romania (Bucharest)

Peter de Ruiters

Tel: + 40 21 202 8670

Fax: + 40 21 202 8600

Email: Peter.deRuiters@ro.pwc.com

## Russia (Moscow)

Bill Henry

Tel: + 7 495 967 6023

Fax: + 7 495 967 6001

Email: bill.henry@ru.pwc.com

## Serbia (Belgrade)

Rene Bijvoet

Tel: + 381 11 3302 100

Fax: + 381 11 3302 101

Email: rene.bijvoet@rs.pwc.com

## Slovakia (Bratislava)

Todd Bradshaw

Tel: + 421 2 5935 0600

Fax: + 421 2 5935 0222

Email: todd.bradshaw@sk.pwc.com

## Slovenia (Ljubljana)

Janos Kelemen

Tel: + 386 1 5836 058

Fax: + 386 1 5836 098

Email: janos.kelemen@si.pwc.com

## Ukraine (Kiev)

Ron Barden

Tel: + 380 44 490 6777

Fax: + 380 44 484 0966

Email: ron.j.barden@ua.pwc.com

## Uzbekistan (Tashkent)

Abdulhamid Muminov

Tel: + 998 71 1206 101

Fax: + 998 71 1206 645

Email: abdulhamid.muminov@uz.pwc.com

## German Desk

Christian Ziegler

Moscow, Russia

Tel: + 7 495 232 5461

Fax: + 7 495 967 6001

Email: christian.ziegler@ru.pwc.com

## Japanese Business Practice

Belgium (Brussels)

Steve Moriyama

Tel: + 32 2 710 7432

Fax: + 32 2 710 4299

Email: steve.moriyama@be.pwc.com

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# Editor's foreword

As this edition of Tax Notes goes to press, the impact of the global credit crunch continues to reverberate around the world.

The effects of these unprecedented events are being felt throughout the CEE region and will be felt for some time to come.

If you would like to learn more about managing your business in a downturn please get in touch with your usual PwC contact or [martin.scott@ru.pwc.com](mailto:martin.scott@ru.pwc.com).

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



# Albania

## Tax administration

The tax authorities will classify a taxpayer as a non-operating entity if, for 12 consecutive months:

- The taxpayer does not perform any economic activities;
- The taxpayer does not submit any tax returns; or
- The taxpayer declares the termination of its economic activities.

Transfer to the 'non-operating' category does not remove a taxpayer's existing tax liabilities that arose while it was active. This amendment entered into force on 25 June 2008.

Large taxpayers can declare and pay Value Added Tax, personal income tax, social insurance and health contributions, and annual profit tax electronically.

In October 2008 the government granted a fiscal amnesty from which the following cases will benefit:

- Taxpayers whose debt has been assessed and accounted by the tax authorities in a tax inspection, but about which the taxpayer has not been notified within the legal deadline, are exempted from tax and customs liabilities, including penalties and interest.
- Taxpayers whose debt is assessed and accounted by the tax authorities in a tax inspection and about which the taxpayer has been notified within the legal deadline, are forgiven penalties and interest as long as the principal is paid within six months of this law's entering into force.
- Taxpayers that are prosecuted and found guilty will not benefit from the amnesty.

## Indirect taxation

### VAT

- Services performed in connection with immovable property are treated as carried out in the country where the immovable property is located. Therefore, services such as, but not limited to, the following will be treated as being performed in Albania, and will therefore be subject to VAT:
  - design;
  - construction, installation, reconstruction and maintenance;
  - supervision, any type of expertise; and
  - leasing.
- When a foreign entity whose usual place of activity is not Albania (i.e. a non-registered foreign entity) provides services to an Albanian registered entity, the Albanian entity should issue a VAT invoice to itself and record it as both a sale and a purchase (reverse-charge mechanism). VAT is charged on the consideration for the service.
- The amendment entered into force on 16 May 2008.

## Individual taxation

### Social security

- Starting from 1 July 2008, the minimum and maximum salary levels for the purpose of calculating social security and health contributions have increased to ALL 14,830 (approx. EUR 122) and ALL 74,150 (approx. EUR 609), respectively.



# Armenia

## Tax administration reform

A Tax Administration Strategy Programme for 2008-2011 has been unveiled, with the aim of creating a more efficient and transparent tax administration. The seven goals of the initiative are to:

- Ensure complete, consistent and timely taxation of large taxpayers;
- Establish a low but fair tax burden for small businesses, with minimised reporting and filing requirements;
- Address corruption in the State Tax Service;
- Fully introduce the principle of voluntary compliance (self-assessment), minimising contacts between taxpayers and tax officials. This will include a transition to mail or electronic submission of reports to the tax authorities;
- Introduce risk-based selection of taxpayers for audit;
- Create an efficient management scheme for the State Tax Service; and
- Create efficient management of tax administration IT flows.

In the initial stages, government representatives have initiated discussions with private sector groups to explain the purpose of the Programme and to obtain input on problem areas of tax administration. There are good indications that taxpayer concerns will be taken on board. For example, untimely VAT refunds have been a perennial problem, but senior officials have indicated that serious efforts are underway to try to clear up the problem by the end of 2009, and that consideration is being given to paying taxpayers interest for late refunds from 2010. The State Revenue Committee has also established a small team to examine tax policy issues, such as what reforms might be useful for improving the competitiveness of the Armenian tax system.

It will be some time before the effects of the Programme can be seen, but there are some encouraging early signs.

## Corporate taxation

### Corporate tax

- From 1 January 2009, taxpayers who are not VAT payers may immediately claim a deduction for the cost of improving any capital assets.
- Currently, qualifying small legal entities and private entrepreneurs may use a simplified taxation system if their gross turnover for the previous year does not exceed AMD 50 million (approx. EUR 120,000). The simplified taxation system has been repealed with effect from 1 January 2009. The profits tax liability of taxpayers moving from simplified tax to profits tax may not be less than 2% of revenues or more than 10% of revenues for the 2009 calendar year.

### Double Tax Treaties

- Armenia currently has 28 tax treaties in force. A new treaty with Italy will take effect from 1 January 2009.

## Indirect taxation

### VAT

- Several changes in VAT will take effect from 1 January 2009.
- The annual revenue threshold requiring monthly VAT reporting will increase from AMD 60 million (approx. EUR 140,000) to AMD 100 million (approx. EUR 240,000) per year.
- Businesses with sales exceeding AMD 58.35 million (approx. EUR 140,000) in the preceding calendar year are required to account for VAT on their sales in the subsequent calendar year. Businesses that require a license costing more than AMD 100,000 (approx. EUR 240) to operate and businesses producing excisable goods must also account for VAT on their sales.
- Other businesses will be required to account for VAT on sales in excess of AMD 58.35 million (approx. EUR 140,000) in a calendar year.
- Input tax credits may arise for cash purchases of up to AMD 300,000 (approx. EUR 700) per transaction up to a maximum of AMD 3 million (approx. EUR 7,100) per month, provided all the required VAT information is included on the sales receipt. Currently, an input tax credit for the purchase of goods or services arises only if payment is remitted through a bank.

## Individual taxation

### Personal income tax

- From 1 January 2009, the date for paying personal withholding taxes to the Budget will change from the 5th to the 20th of the following month.

### Withholding tax

- Currently, commercial organisations are required to withhold 3% and non-commercial organisations are required to withhold 15% tax from payments to individual entrepreneurs, unless the parties have signed a contract that indicates the individual's tax identification number, passport data, domicile in Armenia and the number of the state registration certificate issued when business activity commenced. From 1 January 2009, there will be a single, unified rate of 11%.

## Other taxes

### Administrative requirements

- Businesses that fail to display their tax registration details will be subject to a penalty of AMD 50,000 (approx. EUR 120) for a first offence, and AMD 500,000 (approx. EUR 1,200) for a subsequent offence.

# Azerbaijan

## 'One-window' state registration

The 'one-window' concept was introduced into legislation and practice with the aim of simplifying the procedure of the state registration of commercial entities and entrepreneurs in Azerbaijan.

Thanks to this reform, effective from 1 January 2008, the state registration of commercial entities is now carried out by one authority – the Ministry of Taxes. Commercial entities are no longer required to undergo registration procedures separately at each of the several Governmental Bodies (Ministry of Justice, Ministry of Taxes, State Social Insurance Fund and State Statistics Committee). Non-commercial entities (such as NGOs, political parties) still have to be registered by the Ministry of Justice.

Under the new system, state registration now takes only three business days rather than the previous two or three months.

Under the 'one-window' rules, entities should notify the Tax Office within 40 days of any change of legal details (e.g. change of legal address, general manager). Such changes no longer have to be registered with each of the above-mentioned governmental bodies, but only with the Tax Office. This rule also applies to companies whose state registration was done by the Ministry of Justice.

The legislative requirement regarding the time of registration is unchanged. Specifically, under the Law on the State Registration of Legal entities, any legal entity (including commercial structures or their branches / representative offices) can only operate in Azerbaijan after state registration.

The removal of commercial entities from the state register (including entities which were registered by the Ministry of Justice) in the de-registration process has also been delegated to the Ministry of Taxes.

State registration and de-registration are carried out by newly established departments for the State Registration of Commercial Legal entities within the Ministry of Taxes. In total, there are 14 departments all over Azerbaijan, including one in Baku.

The Tax Office has also created an electronic information database with the addresses of the registration departments, details of contact officers, a list and templates of required documents, instructions for their completion, and other information. The database can be accessed through the website [www.taxes.gov.az](http://www.taxes.gov.az) (only in Azeri).

In a departure from the previous rules, companies can now have their registration and de-registration documents reviewed by officers of the Ministry of Taxes by sending the documents to their publicly available e-mail addresses.

Adoption of the 'one-window principle' has helped Azerbaijan to significantly improve the ranking of the country in the recently published 2008 Doing Business report by the World Bank: the country has jumped to 33rd place in the ranking (compared with 99th place in the 2007 report).

## Indirect taxation

### VAT

- As of 30 April 2008, imports of rice, and wheat and rye flour are exempt from VAT.

## Individual taxation

### Social security

- The amount of state social allowances (e.g. the childbirth allowance, disability allowances) have been increased effective from 1 September 2008 by about 20% in average.

### Pensions

- Effective from 1 September 2008, the base part of employment pensions was increased by 25% to AZN 75 (approx. EUR 66).

## Legal and other developments

### Labour code

- The July 2008 change to the Labour Code stipulates the procedures for obtaining a trade union's consent of for the termination of an employee's employment contract in the following cases, if the employee is a member of that trade union:
  - Reduction of staff numbers; or
  - The employee's failure to fulfil employment functions or obligations under the employment contract.
- An employer wishing to terminate an employment contract as stated above should apply to the trade union in writing stating valid grounds for dismissal. Subsequently, the trade union should issue its decision to the employer within 10 days.

## Immigration legislation

- There have been a number of additions to the immigration legislation in the last three months.
- The duration of a foreigner's temporary stay in Azerbaijan is determined by the period indicated in his/her visa. If no visa is required for entering Azerbaijan, a foreigner cannot stay in Azerbaijan for more than 90 days unless the State Migration Service has extended the duration of his/her stay, granted the foreign individual permission to live in the country temporarily, or accepted an application for such permission. Otherwise, a foreigner should leave the country.
- Additionally, the President of Azerbaijan has issued a decree aimed at developing the migration administration. In the decree, the President instructs the State Migration Service:
  - To organise the analysis, forecasting and monitoring of migration processes;
  - To finalise the establishment of a single information system on migration;
  - To continue to improve international cooperation on migration, the analysis of the practices of foreign countries, and to develop its activity.

- The President has also instructed Cabinet of Ministers to submit a proposal regarding types of visas for foreigners.

## Other

- The Parliament of Azerbaijan has approved the agreement on financial cooperation (for 2006 and 2007) between Azerbaijan and Germany signed on April 2008.
- In July 2008, Parliament approved the Agreement between the Azerbaijan Republic and Moldova on cooperation in combating and exchanging information about tax evasion.
- Effective from 1 September 2008, the minimum monthly salary was increased by 25% to AZN 75 (approx. EUR 66).
- The financial threshold for the evasion of taxes and social insurance contributions to qualify as a criminal offense has slightly decreased with effect from May 2008 to AZN 2,000 (approx. EUR 1,770) and AZN 50,000 (approx. EUR 44,220). Evasion involving amounts between AZN 2,000 and AZN 50,000 is subject to one level of penalty under the Criminal Code while evasion involving amounts above AZN 50,000 incurs a higher level of penalty.



# Bosnia and Herzegovina

## Stabilisation and Association Agreement

Bosnia and Herzegovina (BiH) signed a Stabilisation and Association Agreement (SAA) with the European Union (EU), applicable as of July 2008. The SAA is an international agreement under which candidate countries prepare for EU membership, and which takes precedence over national legislation. The framework agreement for Bosnia and Herzegovina follows the examples of the countries in the region which signed it earlier.

The Stabilisation and Association Agreement regulates regional cooperation, the free movement of goods, the movement of workers, the provision of services, legal harmonisation, the implementation of the market competition rules, and financial and other forms of cooperation.

The customs tariff has been changed for products from EU countries. The ultimate goal is to create a free trade zone between BiH and the EU.

## Indirect taxation

### VAT

- New amendments to the VAT Rulebook have introduced changes in the place-of-supply rules. In order to prevent tax evasion and double taxation, a new amendment has been introduced which stipulates that the place of supply of the services in the existing list, as well as vehicle rental services, is the actual place of the use and enjoyment of the service when the service provider's and/or service recipient's headquarters are outside BiH. If the service is used both inside and outside BiH, the place of supply of the service is the place where the service is mostly used and enjoyed.
- Changes in the VAT treatment of financial services also had to be made. The definition of financial services has been expanded to all loans given. Loans are exempt from VAT. This exemption applies only to the lender. The tax exemption also relates to intermediates' support services, but only if those services have the characteristics of a financial service in favour of the final user of the financial service. VAT exemption also applies to all services provided by the securities registration agency in accordance with the securities law.



# Bulgaria

## EU/EFTA dividends tax-exempt without special conditions

Under recent amendments to the Corporate Income Tax Act, the tax exemption of dividend flows between Bulgarian companies and EU companies will no longer be subject to special conditions. The legislative changes will be effective from 1 January 2009.

From 1 January 2009, dividends payable to or by an EU/EFTA-based company will be unconditionally tax-exempt.

Under the tax legislation currently in force, EU cross-border dividends are exempt subject to certain conditions, including a minimum shareholding of 15% for at least two years. On the other hand, the exemption of internal dividend payments is not subject to any conditions.

The amendments will put an end to the existing discriminatory tax treatment between local and EU/EFTA cross-border dividend distributions.

## Individual taxation

### Personal income tax

- A recent interpretation letter of the tax authorities confirms that when a foreign company seconded personnel to a Bulgarian company under a staff leasing agreement, the Bulgarian company qualifies as the 'economic employer' of the foreign personnel for Bulgarian tax purposes.
- As a result, the Bulgarian company has monthly tax withholding and reporting obligations for the foreign staff, even if the salaries and other benefits are paid by the foreign employer through a foreign payroll.
- Leasing staff means that:
  - The accepting Bulgarian company should have direct control over the employees' day-to-day work;
  - The direct result of the employees' work should be for the benefit of the Bulgarian company; and
  - The employees' activities should contribute to the Bulgarian company's own regular business activity and should not be provided on an ad hoc or one-off basis.



# Croatia

## Modified Free Zone Act

The Free Zone Act has been amended with effect from 21 July 2008. This Act regulates the establishment of free zones, the control of free zones and the conditions for commercial activity. A Free Zone is a specially designated part of the territory of the Republic of Croatia, in which the commercial activities are performed under special conditions.

One of the most important provisions enables Free Zone users (domestic and foreign natural and legal entities) to perform commercial activities within the zone provided that they are registered in the Republic of Croatia and that they fulfil the conditions set by this Act.

If Free Zone users have not yet established a branch office, the deadline for doing so is 31 December 2008.

## Individual taxation

### Personal income tax

- On 1 July 2008, the basic personal tax allowance increased to HRK 1,800 (approx. EUR 250) per month, from the previous figure of HRK 1,600 (approx. EUR 225).
- Due to a mid-year change in the personal allowance, the progressive taxation of individual annual income for 2008 has also changed, as shown in the following table (EUR 1 = HRK 7.1):

Income brackets (in HRK)	Income tax
up to 40,800	15%
40,800-102,000	6,120 + 25% for the amount above 40,800
102,001-285,600	21,420 + 35% for the amount above 102,000
above 285,600	85,680 + 45% for the amount above 285,600



# Czech Republic

## Future changes in value added tax

Extensive amendments to the VAT Act were published in the Collection of Laws during the second half of August 2008. The amendments will take effect on 1 January 2009. They clarify some legal issues, implement new definitions, confirm the conclusions reached in meetings of the Czech Chamber of Tax Advisors' steering committee with the Ministry of Finance, and introduce a number of other interesting developments which, in matters of principle, change some important provisions of the VAT Act. The most interesting coming changes relate to the following areas:

- New definition of 'turnover' and the duty to register for VAT;
- VAT registration of branches;
- Place of supply of services;
- Re-invoicing of services;
- Samples and promotional articles;
- Call-off warehouses;
- Financial leasing;
- Immovable property;
- Technical appreciation;
- Sale and contribution of an enterprise;
- Eligibility for VAT deduction;
- Tax documents; and
- VAT refunds due to persons registered for VAT in another EU Member State or to foreign persons.

These changes in the VAT legislation make it more specific in some cases, but also introduce completely new rules. Overall, these changes reflect a move towards harmonisation with EU legislation.

## Corporate taxation

### Corporate tax

- Certain changes have been made in the Income Taxes Act with respect to the restructuring of foreign entities; these took effect on 1 July 2008. As a consequence of this amendment, the Income Taxes Act now regulates the tax implications of contributions of business made by companies from abroad, cross-border mergers and other business transfers from abroad.
- If the foreign subject in the foreign transactions is a company from an EU Member State, it will be possible to assume the foreign company's tax loss, adopt and continue the way in which the foreign company created provisions and reserves, and assume the tax-deductible items created by the foreign company (always up to the amount created in accordance with the Income Taxes Act). The converted foreign price when acquiring tangible and intangible assets through foreign transactions will be taken into account as a base for tax depreciation. Straight-line depreciation will be used to

calculate the depreciation of tangible assets, while intangible assets will be depreciated for the number of months remaining of the standard period stipulated in the Income Taxes Act.

### Double Tax Treaties

- The Czech Republic has concluded a Double Tax Treaty with Ethiopia.

## Individual taxation

### Social security

- Changes with respect to paying out sickness benefit took effect on 30 June 2008. Benefit must now be provided from the very first day of sick leave at the rate of 60% of the assessment base. For the period between 1 September and 31 December 2008, sickness benefit is provided at the rate of 25% of the assessment base for the first three days of sickness. From the fourth day, the benefit rate increases to 60% of the assessment base.
- A new Act on Sickness Insurance is to take effect on 1 January 2009 under which sickness benefit will be paid from the fifteenth day of sick leave, but for the first fourteen days the employer will have to pay it. However, there will be no benefit (from either the state or the employer) for the first three days of sickness.
- The changes in the sickness benefit system are intended to prevent abuse of the system by 'false patients'.

## Other taxes

### Road tax

- The Act on Road Tax has been amended with effect from 2009. Certain changes will already apply to the 2008 taxation period. The amendment brings the following changes:
  - Road tax now also applies to vehicles with a maximum weight over 3.5 tonnes (until 2008 it was above 12 tonnes) that are used to transport cargo and are registered in the Czech Republic, regardless of whether or not they are used for business purposes.
  - A new system for decreasing the tax rate was introduced, starting in 2008. The previous system, which was based on meeting emissions limits (EURO 2 and higher), has been replaced by a new system where the tax rate decrease starts from the first registration of a vehicle. The tax rate decrease is 48% for the first three years, 40% for the next three

years and 25% for the following three years. After this nine-year period has elapsed, the full tax rate applies. The new rate decrease system also applies to passenger cars.

- The range of environmentally friendly vehicles that are exempt from tax has been extended. Starting from 2009, in addition to electrically powered vehicles, hybrid-powered vehicles and vehicles that use LPG, CNG or a blend known as E85 will also be exempt from tax (provided their maximum weight is less than 12 tonnes).
- The 15% tax rate increase applicable to vehicles registered prior to 1989 has been replaced by a 25% increase starting from 2009.

## Legal and other developments

### Concession

- On 1 July 2008, the amendment of the Trade Licensing Act became effective. The aim of this amendment is to make the legal regulation more transparent and simple and to simplify setting up a business.
- There are three important changes: The first is that trade licences and concessions are now replaced by a record from the Trade Licence Register. The second is a substantial modification of a certain category of trades called non-regulated notified trades. The modification consists of the transfer of 125 previous trades into a single category called 'Production, trade and services not included in appendixes 1-3 of the Act on Trading'. This one trade category covers 80 types of business activity. The advantage for entrepreneurs is that they are able to do business in all 80 types of activity without undergoing additional administrative

proceedings if they only had a trade licence for one of 125 non-regulated trades before 1 July 2008. The third change is that the local competence of the Trade Licensing Offices has been extended to cover the whole country.

### Capital market

- On 1 July 2008, the amendment of the Act on Trading in the Capital Market became effective. This amendment represents the implementation of European directives and should improve conditions in the Czech financial market. The amendment makes investment consulting a principal investment service for the first time, and also makes the rules for client negotiations more concrete. Finally, the amendment also brings quite substantial changes in the area of organised markets for investment instruments by introducing a unified regime for the regulated market for investment instruments and for its organizer, i.e., the exchange market and the OTC market are now subject to the same regulatory regime.

### Transformation of companies

- On 1 July 2008, the new Act on Transformations of Companies became effective. This takes the current legal regulations on transformations of companies and co-operatives (i.e., the legal regulations on mergers, de-mergers, transfers of assets to shareholders and changes of legal form) contained in the Commercial Code and makes them into a special act, making the regulations more transparent. In particular, this removes the need for the previous practice of legislative references, where, if necessary, the legal regulations on the transformation of a joint-stock company were applied to transformations of all company types, which often caused problems when interpreting the text of the act and led to illogical or inappropriate results for the participants in the transformation. Among the most important changes is the possibility of restructuring a group's activities by means of a cross-border merger.



# Estonia

## Proposed tax developments

### Corporate tax

In connection with preparing the draft state budget for 2009, the Estonian Government has proposed to Parliament that the reduction of corporate income tax rates should be postponed from 1 January 2009 until 1 January 2010.

On 14 June 2007, Parliament adopted a law amendment in which the flat rate of income tax was expected to be reduced by 1 percentage point per annum until it reaches 18% in 2011. Thus, the existing 21% income tax was due to be reduced to 20% from 1 January 2009. If Parliament approves the proposal made by the Government, the profit distributions made by companies will still be subject to 21/79 corporate tax in 2009.

In addition, due to recent positive developments in case no. C-284/06 (Burda) at the European Court of Justice, the Estonian Government proposed that the introduction of advance corporate tax payments and changing the tax period and corporate tax reporting from the current monthly basis to the tax year should both be postponed until 1 January 2010, which is the date that Parliament approved as part of the package of income tax changes on 26 March 2008.

The Government has also proposed that the withholding tax on dividends paid to non-resident corporate shareholders that have a shareholding or voting rights in the Estonian company distributing the dividends of less than 10%, should not be abolished with effect from 1 January 2009.

Thus, undistributed corporate profits will remain tax-exempt and the tax base for corporations will generally remain the same, except that liquidation proceeds, share buy-backs and capital reductions will become subject to monthly distribution tax for the Estonian company from 1 January 2009.

### VAT

In connection with preparing the draft state budget for 2009, the Estonian Government has proposed to Parliament that the list of supplies subject to reduced VAT should be limited and that the rate of reduced VAT should be increased from 5% to 9% from 1 January 2009.

With respect to VAT, the Government continues to hold the view that 'the fewer exceptions the better'. Currently, the standard VAT rate is 18%, but the reduced rate of 5% applies to the following:

- books;
- listed pharmaceuticals and certain medical appliances;

- the treatment of dangerous waste;
- funeral items and services;
- certain theatrical performances and concerts (partly state subsidized);
- hotel accommodation services; and
- periodicals (with some exceptions).

Due to budget constraints, the Government's proposal is that a reduced rate of 9% would apply from 2009 only to books, listed pharmaceuticals and medical appliances, hotel accommodation services and periodicals. All other supplies that are currently subject to the reduced 5% rate (i.e. the treatment of dangerous waste, funeral items and services, theatrical performances and concerts) will be taxed at the standard VAT rate of 18% from 1 January 2009.

### Personal income tax

On 14 June 2007, Parliament adopted the law amendment in which the flat rate of income tax was expected to be reduced by 1 percentage point per annum until it reaches 18% in 2011. Thus, the existing 21% income tax was due to be reduced to 20% from 1 January 2009. If Parliament approves the Government's proposal, the income earned by individuals will also remain subject to income tax at the 2008 flat rate of 21% in 2009.

The Government has also proposed that the increase in the annual tax-exempt basic allowance of resident individuals should be postponed. This is currently EEK 27,000 (approx. EUR 1,726) and was expected to increase to EEK 30,000 (approx. EUR 1,917) from 2009.

In addition, the Government has proposed that the tax-exempt basic allowance (EEK 27,000, approx. EUR 1,726) for the first child should be temporarily abolished from 1 January 2009. As a result, the allowance would be granted to families with two or more children, where one tax-resident parent may claim an additional personal allowance for the second and each additional child. The Government has proposed that the basic allowance should be reintroduced for the first child from 1 January 2010.

### Social security

The Government is considering increasing the unemployment insurance contribution rates for 2009 and is expected to introduce a regulation to this effect by 1 December 2008 at the latest. This regulation is expected to implement the new rates for unemployment insurance contributions for both employees and employers from 1 January 2009.

Thus, the employee's unemployment insurance contribution rate is expected to be 1% (withheld from the

employee's gross salary by the employer) and the employer's rate is expected to be 0.5% (payable by the employer on the employee's gross salary).

From 2006 to 2008, the employee's rate has been 0.6% and the employer's rate 0.3%. Between 2002 and 2005, the employee's rate was 1% and the employer's rate 0.5%. Under the law, the Government may set the employee's rate in the range of 0.5%-2% and the employer's rate in the range of 0.25%-1%.

Unemployment insurance contributions are not due on the business income of individuals engaged in business, directors' fees or certain payments made under the government service legislation.

## Other

The Government has submitted draft law amendments to the general Law on Taxation to Parliament. The purpose of the draft is to facilitate and simplify the system of tax payment and refunds for the taxpayer. The main change concerns the bank account for tax prepayments,

as the draft law replaces the existing tax-related accounts with a single account for prepayments of all types of tax. Currently, there are almost 100 accounts for prepayments of different taxes.

In the proposed new system, the taxpayer will settle various obligations with a single payment order. The main aim of the amendment is to make the payment of taxes as simple and convenient as possible for both the taxpayer and the tax administrator.

If the draft amendments to the Law on Taxation are adopted by Parliament, they will become effective from 1 January 2009.

## Corporate taxation

### Double Tax Treaties

- The Double Tax Treaty between Estonia and Greece will come into effect on 1 January 2009.
- On 18 September 2008, the Estonian Government approved the text of the Double Tax Treaty with Bulgaria, which was signed later on 13 October 2008 and will become applicable when both countries have completed the required legal procedures.



# Georgia

## Elimination of tax on outbound interest and dividends

To further encourage inward investment, the Georgian Parliament has passed a law that will eliminate Georgian taxes on interest and dividends paid to non-residents from 2011. The rates will gradually reduce over the next three years until the tax is eliminated: 10% in 2008, 7.5% in 2009, 5% in 2010 and 0% from 2011.

Georgia had already eliminated social taxes from the start of 2008. The recent law will also reduce personal income tax from the current 25% rate down to 15% by 2013 in the following stages: 25% in 2008, 24% in 2009, 22% in 2010, 20% in 2011, 18% in 2012 and 15% in 2013.

Income received by Georgian residents from non-Georgian sources will be exempt from personal income tax from 1 January 2009.

Despite the recent crisis in Georgia, it is pleasing to see the government follow through with plans to amend the tax laws to promote Georgia as an attractive investment location.

## Corporate taxation

### Corporate tax

- Beginning in 2010, businesses will be entitled to extend the period for carrying losses forward from five to ten years. To take advantage of this privilege, taxpayers should apply to the tax authorities at their place of registration. However, this will result in an extension of the period in which the authorities may assess tax from six to 11 years.
- Businesses may revert to the five-year carry loss forward period once the losses have been utilised. The statutory assessment period would then also be reduced to six years.

## Double Tax Treaties

- Georgia has ratified treaties with several European countries. Treaties with Denmark, Finland, Luxemburg and Turkey are expected to become effective within the next few years.

## Investment incentives

- The Georgian Parliament has enacted new Free Industrial Zone (FIZ) legislation. Enterprises operating in a FIZ will be subject to simplified procedures for obtaining a license or permission to conduct activities in the zone. However, imports of goods to Georgia proper (outside the FIZ) are still subject to VAT. In turn, entities will be entitled to concessions, including:
  - Operations carried out in a FIZ will be VAT-exempt; and
  - Foreign goods imported into a FIZ will be exempt from VAT and customs duties.
- The transfer of goods produced in a FIZ to other parts of Georgia (outside the FIZ) will be exempt from custom duties.
- Entities located in a FIZ would also not be required act as tax agents, so would not withhold salary taxes from employees' wages. The liability for paying personal income tax on income received from FIZ entities would rest with the employees.
- A resident or non-resident person may apply to the Georgian Government to create a FIZ. The land where the FIZ is to be located must be at least 10 hectares, and must be owned, partially-owned or leased by the applicant. The application must also indicate the intended time that the FIZ will be used.
- At this stage, implementation details for the new rules are still vague, and it is unclear where the government is likely to permit FIZs to be established and the types of activities that will be permitted to be undertaken in a FIZ. The requirements and opportunities for investors should be clearer once implementation rules have been developed.

# Hungary

## Film incentive scheme amended

On 9 June 2008, the Hungarian Parliament approved amendments to the provisions of the Motion Picture Act and the Corporate Income Tax Act regarding tax allowances for film production in order to comply with the Community regulations. The amendments entered into force on 2 July 2008.

A producer may significantly reduce its overall production costs by receiving financial support from Hungarian tax resident corporate sponsor(s) of up to 20% of the direct production costs if certain criteria are met. The new provisions will allow not only Hungarian direct costs, as was previously the case, but all direct costs including foreign costs in certain circumstances, to be taken into account using a special calculation method. The higher the amount of direct production costs incurred in Hungary, the higher the amount of foreign direct production costs that can be taken into account.

The sponsors providing the financial support can utilise both a tax incentive and a tax base allowance related to the support provided, resulting in a tax saving of up to 23.2% of the direct production costs if certain criteria are met.

The tax base allowance is the amount indicated in the sponsorship certificate issued by the Film Office, which is a deductible expense for corporate tax purposes.

The tax incentive means that a sponsor can claim a reduction of payable tax by the amount indicated in the sponsorship certificate from tax due in the tax year of the financial support and the three following years (based on the taxpayer's choice).

In line with the new provisions, corporate income tax and tax base allowances can only be obtained in respect of 'films produced to order' (service production – films produced in Hungary to the order of a foreign producer) and 'films not produced to order' (co-productions – films produced in Hungary to the order of a Hungarian producer). The production should also fulfill the newly introduced 'cultural test', which consists of 14 criteria with different weights (1-6). A film has to score 16 points to qualify.

## Indirect taxation

### VAT

- The new VAT Act has extended the application of the reverse-charge mechanism to a variety of activities in addition to the sale of waste materials, including: construction and assembly, and services related to real property (repair, maintenance and cleaning). However, with effect from 1 May 2008, the scope of real estate-related services subject to domestic reverse-charge has been significantly limited due to the practical difficulties arising in the first four months of the year. According to the amended rules, the reverse-charge mechanism can only be used if the provision of certain services (construction, adaptation, enlargement or demolition of a property) is subject to official permission.

### Excise duties

The excise duty rates have been amended with effect from 1 September 2008:

- Tobacco products: HUF 8,050 (approx. EUR 33,5) per thousand cigarettes plus 28.3% of the retail sale price, but a minimum of HUF 14,875 (approx. EUR 62) per thousand cigarettes;
- 28.5% of the retail price for cigars and cigarillos;
- 52% of the retail price, but a minimum of HUF 5,545 (approx. EUR 23) per kilogram for fine-cut tobacco; and
- 32.5% of the retail price, but a minimum of HUF 5,545 (approx. EUR 23) per kilogram for other tobacco.
- The tax base per cigarette also depends on the length of the cigarette: it is double if the length of the cigarette is 9-18 cm, triple if the length is 18-27 cm, and so on.

## Legal and other developments

### Company law

- A HUF 100,000 (approx. EUR 400) cash contribution is sufficient to establish a single-member limited liability company (Kft.), with the remainder of the registered capital to be paid within one year of foundation.
- The submission and publication of companies' financial statements for the 2008 business year (including business years commencing during the course of 2008) will only be possible in electronic format. If the deadline for submission of the financial statements is missed, the Court of Registration initiates a legal review procedure against the company to restore the company's lawful operation.

## Competition and consumer law

- The Hungarian regulatory environment has been extensively affected by the implementation of Directive 2005/29/EC of the European Parliament and of the Council concerning unfair business-to-consumer commercial practices in the internal market. As a consequence, the regulations concerning unfair competition in the B2B and B2C segments have been put into separate acts.
- Unfair competition in the B2C segment (especially misleading and/or aggressive commercial practices) is covered by the provisions of the new legislation, the Unfair Commercial Practices Act, which entered into force on 1 September 2008. The B2B segment is regulated by the New Act on Business Advertising Activity and the amended provisions of the Competition Act.
- The regulatory changes taking place in the field of unfair competition also imply changes in public enforcement. Under the new regulations, the Hungarian Competition Authority, the National Consumer Protection Authority, and Hungarian Financial Supervisory Authority have to cooperate according to rather difficult procedural rules. Complaints against certain forms of unfair B2B practice (e.g. disparagement, imitation, and boycott) have to be filed in the courts.
- The public enforcement of antitrust cases is under the Hungarian Competition Authority's jurisdiction, but the legal framework also allows private enforcement.



# Kazakhstan

## Oil export duty increased

On 29 August 2008, the Government issued a decree introducing an increase in the export customs duty on crude oil, petroleum coke, and bitumen. Starting from 12 October, the new export duty rates are as follows:

- Crude oil – USD 203.08 per tonne (based on Q2 2008 average world oil prices);
- Crude oil – USD 121.32 per tonne for payers of rent tax on oil exports; and
- Petroleum coke and bitumen – USD 112.5 per tonne.

Because the rate is set by reference to the previous quarter's average prices, the increased rate will have a particularly debilitating effect on the current cash flow of oil producers as a result of the recent decline in world prices and hence decline in the current period revenues (while the duty will be paid currently at rates based on the previous quarter's high prices).

Importantly, the export customs duty does not apply to subsurface users whose contracts contain stability clauses covering export customs duties. In this regard, the government has issued a list of subsurface companies which are liable to pay the oil export duty. Currently, the list includes 39 oil producers.

It is rumoured that the export customs duty will be abolished from 2009 in line with the overhaul of fiscal regime for oil and gas companies set out in the Tax Code. These Tax Code changes are generally expected to lead to an increase in the overall tax burden for most oil and gas companies, thus making the export customs duty superfluous.

## Corporate taxation

### Corporate tax

- The State Tax Committee has issued a letter concerning the taxation of income resulting from asset revaluations. The letter confirms that this income should be included in aggregate taxable income of a taxpayer at the time of the asset's disposal.

### Double Tax Treaties

- Kazakhstan has recently ratified Double Tax Treaties with Slovakia and Armenia but they have not come into effect yet.
- Earlier in 2008, Kazakhstan announced its intention to sign a Double Tax Treaty with the United Arab Emirates, and signed the Memorandum to the draft Double Tax

Treaty between Kazakhstan and Japan. A draft Double Tax Treaty between Kazakhstan and Luxembourg was approved by the Kazakhstan Government.

## Transfer pricing

- The long-awaited new Transfer Pricing Law was signed by the Kazakhstan president on 9 July 2008 and will come into force on 1 January 2009. The following concepts are included in the new Law:
  - Introduction of the arms' length principle;
  - Revocation of the 10% safe harbour for independent party transactions;
  - Introduction of price ranges instead of single benchmark prices;
  - Application to cross-border and certain limited domestic transactions, including transactions by subsurface users whose products are intended for export;
  - Advance pricing agreements (the APA system);
  - List of supporting documents and information required for transfer prices; and
  - Additional methods for determining market prices – 'profit split' method and 'transactional net margin' method.
- While the new Transfer Pricing Law retains the notion that certain transactions between unrelated parties may be subject to transfer pricing control, it appears that it is intended that this will only apply in rather limited cases.
- The new Transfer Pricing Law is still quite vague in a number of areas in terms of its practical application. As a result, the government has announced its intention to introduce detailed regulations to supplement the law.

## Investment incentives

- The President has issued a decree establishing a special economic zone, the 'Burabai' in the Akmola region, until 1 December 2017. Its purpose is the development of a tourism and entertainment area around Shchuchie lake near Astana. Transportation, hotel services and souvenir production will be the priority types of activities in this zone.

## Indirect taxation

### VAT

- In June 2008, the State Tax Committee issued a letter confirming that sales of land plots in civil law transactions are exempt from VAT.

## Customs duties

- The Government issued a decree introducing an increase in the export customs duties in relation to crude oil, petroleum coke, and bitumen with effect from 12 October 2008 (please refer to the opening article for further details).

## Individual taxation

### Social security

- The maximum monthly amount of sick leave benefit will be increased from 10 monthly computation index units to 15 monthly computation index units (approx. USD 147) as of 1 September 2008.

## Legal and other developments

### Foreign currency regime

- The Board of the National Bank decreased the refinancing rate from 11% to 10.5% with effect from 1 July 2008. For tax purposes, the refinancing rate is used when computing penalty interest on late tax payments.

### Labour code

- A decree containing new work permit rules was introduced on 1 June 2008. Notable changes include:
  - A scale system will be applied using a marginal rate established for each category; the scale will be based on (i) education, (ii) length of professional practice and (iii) local labour market demand.
  - Exemption from work permits for the heads of banks and insurance companies is abolished (instead, the exemption applies to managers and specialists working in the regional Almaty Financial Centre).
  - A simplified procedure for obtaining work permits will apply for CEOs of companies that are more than 50% owned by foreign shareholders (no data on the Kazakhstan labour market will be required).
  - An employer's representative may participate in meetings of a Commission which decides on the issuance of work permits.
  - Decisions to issue work permits will take into account employees' professional qualifications.
  - The duration of business visits by expatriate employees without a work permit being required is extended to 60 calendar days.

## Competition law

- The government approved a draft competition act and is forwarding it to the Parliament for review. The objectives of the law are to:
  - Protect competition;
  - Create a favourable environment for business growth and investment activities;
  - Prevent monopolies from abusing their power;
  - Protect companies from unfair competition; and
  - Safeguard consumer rights.
- The law describes when and how the government can participate in business activities. It is believed that the law will facilitate the development of small and medium-sized businesses and domestic manufacturers, and support the integration of the national economy into the global economic community.

## Other

- The draft budget code was presented to the Majilis at the beginning of September. A draft law has been prepared to make amendments to the civil code, public procurement act, administrative offenses code, joint stock companies act, accounting and financial reporting act, etc., to align the current legislation with the provisions of the new budget code.
- The Ministry of Finance will establish a financial reporting depository for companies of public interest, such as financial institutions, joint stock companies, subsurface users and companies wholly or partly owned by the government, as well as government-run enterprises. The system will consist of two sections: one will store statistical information which will help to identify entities, and the second will be used to store the entities' PDF financial statements and audit reports. The depository will be available online at [www.dfo.kz](http://www.dfo.kz).
- The government issued an ordinance which simplifies the procedure for the registration of businesses, and establishes model by-laws (articles of association) for the following six types of business organizations: joint-stock companies, limited liability companies, additional liability companies, production cooperatives, unlimited partnerships and limited partnerships. This will enable small, medium and larger businesses to register (incorporate) by filing an application form (memorandum of association) without the bylaws (articles of association).

## Tax treatment of interest payments

This article looks at an example of tax discrimination in Latvia, namely a corporate income tax deduction on interest payments to non-Latvian residents. Under the Corporate Income Tax (CIT) Act, the higher of the following amounts must be added back to taxable income:

- Excess over interest arrived at by applying to the debt 1.2 times the average short-term credit rate at lending institutions for the last month of the tax period as determined by the Central Statistical Office; or
- Interest in proportion to the excess of the average debt for the tax period over four times the equity figure reported in the taxpayer's annual accounts.

Exempt from this rule (and fully deductible for corporate income tax purposes) is any interest Latvian residents pay on credits, hire purchase and loans from Latvian- and EU-registered lending institutions, the Latvian State Treasury, the Nordic Investment Bank, the World Bank Group and any Latvian residents (latter since 1 January 2007).

Article 56 of the Treaty establishing the European Community ('EU Treaty') prohibits all restrictions on the movement of capital between member states. The EU Treaty makes certain exceptions which permit discrimination (e.g. if different provisions are applied to prevent tax evasion). We find that these exceptions do not cover the relevant section of the CIT Act.

Latvia's Double Tax Treaties all contain an anti-discrimination clause. Most of these clauses include a specific provision stating that interest that a Latvian company pays to residents of the other contracting state is deductible on the same terms as interest paid to Latvian residents. This provision of the treaty clearly shows that a restriction on the deductibility of interest paid to non-Latvian residents qualifies as discriminatory if it does not extend to Latvian residents.

Tax relief available under the treaties is applicable directly, i.e. the law of the contracting state need not be amended before its residents can claim treaty relief. Provisions of the EU Treaty, on the other hand, are afforded a different treatment. As the European Court of Justice has determined in several cases, member states (including Latvia) have autonomy in direct taxation, yet the law of a member state must not be contrary to EU law. Thus, Latvia ought to ensure that its tax laws do not impose less generous provisions on residents of other member states than those available to Latvian residents in the same circumstances.

The provisions of the CIT Act relating to tax deductions on interest payments have been amended in order to eliminate discrimination. Before 2005, the CIT Act stated that interest paid on credits and loans from Latvian-registered lending institutions was fully deductible. From 1 January 2005, the amended subsection states that interest payments to lending institutions registered in other member states are also fully deductible. Thus, the CIT Act was amended to extend the same treatment of interest to both non-Latvian and Latvian EU residents, i.e. to remove any advantage Latvian lending institutions had over lending institutions established elsewhere in the EU. However, following the amendments effective from 1 January 2007, the CIT Act states that interest payments on credits issued by any Latvian residents are also fully deductible. Thus, the CIT Act again contains a discriminatory provision in the light of Article 56 of the EU Treaty.

To avoid having to apply the discriminatory provisions of the CIT Act, a Latvian taxpayer may apply to the State Revenue Service or the Finance Ministry for written confirmation that interest payments to any EU residents are fully deductible. To eliminate the risk of additional assessment in a tax audit, an advance ruling concerning your rights may be sought under the Administrative Procedure Act.

## Individual taxation

### Social security

- On 9 July 2008 the President of Latvia approved amendments to the National Social Insurance Act. The main change is the abolition of the maximum annual limit for national social insurance contributions from 1 January 2009 to 31 December 2013 (the cap was LVL 29,600, approx. EUR 42,117 in 2008).
- Also important is the new definition of 'domestic employee with a foreign employer', which now also applies to individuals employed by an employer established in the Swiss Confederation. Thus, Swiss citizens can now enjoy the same terms as those available to EU citizens, e.g. they can continue to be covered by the Swiss social security system while working in Latvia. Reciprocally, Latvian citizens working in Switzerland can remain covered by the Latvian social security system.

# Lithuania

## Corporate tax changes from 1 January 2009

Important amendments to the Law on Corporate Income Tax were adopted and will be applied from 1 January 2009.

Permanency criteria will not be applied if the activities that foreign entities perform through a permanent establishment are carried out by a dependent agent, or if they consist of research or the extraction of natural resources.

A 0% corporate income tax rate will be applied to permanent establishments of foreign enterprises engaged in activities for the benefit of society if certain conditions are met.

Foreign entities that carry out their activities through a permanent establishment in Lithuania may reduce their taxable income by the amount of contributions paid for the benefit of their employees.

Annual payments received by foreign entities for the work of board members will be treated as income sourced in Lithuania and will be subject to 15% withholding tax.

The withholding tax rate applicable to foreign entities' income from the sale or renting of real estate, and income from sports and performance activities, will increase from 10% to 15%.

## Corporate taxation

### Double Tax Treaties

- Lithuania has now signed Double Tax Treaties with 46 countries. The latest treaty was concluded with Macedonia and will come into force on 1 January 2009.

## Legal and other developments

### Business transformations

- According to the amendments to the Law on Companies that are applicable from 1 July 2008, the requirement not to have any long-term liabilities is abolished when a decision to reduce the authorised capital is taken, provided that all long-term creditors have given their written approval.



# Macedonia

## Law on Technological Industrial Development Zones (TIDZ Law)

With the recent changes in the TIDZ law, adopted in August 2008, this law is now harmonised with the provisions of the State Aid Law. Regional state aid may be granted for initial investments in tangible and intangible assets (e.g. patents, licenses, know-how or non-patented technical knowledge). The maximum level of regional aid may be up to 50% of the investment, or up to 50% of employee wage costs of newly-created jobs, over an initial two-year period. Any companies in TIDZs that have already been granted some form of state aid are not eligible for regional aid.

Any user of a TIDZ that facilitates new employment is eligible for financial assistance for professional training and education.

The term for leasing a TIDZ site has been extended from 75 to 99 years. Any user of a TIDZ is required to commence construction within nine months of the conclusion of a lease contract and to complete the construction and start production within 30 months.

The Government can also provide financial support of up to EUR 500,000 for the construction of building facilities, depending on the level of investment or number of new employees:

- EUR 100,000 for investments of EUR 1 to 2 million or 20 new employees;
- EUR 200,000 for investments of EUR 2 to 5 million or 40 new employees;
- EUR 300,000 for investments of EUR 5 to 10 million or 60 new employees;
- EUR 400,000 for investments of EUR 10 to 15 million or 80 new employees; and
- EUR 500,000 for investments over EUR 15 million or over 100 new employees.

Other tax exemptions and incentives include: VAT exemption on products imported into a TIDZ and intended for export; VAT exemption on the supply of goods and services in a TIDZ, other than for final consumption; corporate income tax exemption for a period of ten years from the day of commencement of activities in a TIDZ; and a reduction of personal income tax on 50% of employment income earned within a TIDZ within five years from the date of commencement of activities in the TIDZ.

## Corporate taxation

### Double Tax Treaties

- The Macedonian Parliament has ratified two new Double Tax Treaties, with Qatar and Lithuania, both effective from 27 August 2008. This brings the total number of tax treaties concluded by Macedonia to 40.

## Individual taxation

### Social security

- From 1 January 2009 to 1 January 2011, social insurance contributions will be decreased, as follows:

Contributions	2008	2009	2010	2011
Pension Fund	21.2%	19%	16.5%	15%
Health Insurance Fund	9.2%	7.5%	7%	6%
Employment insurance	1.6%	1.4%	1.2%	1%

## Other taxes

### Tax procedure law

- The deadline for filing tax returns may be extended by submitting an application supported by evidence of the reasons for the required extension. A taxpayer that does not fulfil the requirements may be subject to a tax audit.
- The statute of limitation in relation to all tax liabilities has been extended from five to ten years.
- Interest on a taxpayer's late payment of taxes and a late refund of taxes by the tax authorities has been reduced from 0.05% to 0.03% per day.
- The tax authorities have introduced a new Commission for Tax Misdemeanours, which will govern most tax procedure litigation.

## Legal and other developments

### Labour code

- Recent changes to the Labour Law, effective from 4 September 2008, have introduced the following:
  - Electronic registration/de-registration of employees;
  - Paid annual leave of at least 20 days;
  - Fixed-term employment contracts of up to five years;
  - Changes in the provisions that regulate night work;
  - An employer is now entitled to terminate an employment contract when the employee reaches 64 years of age. At the employee's request, the employment contract may be extended until he/she reaches 65 years of age.

### Company law

- The Company law was amended in July 2008, as follows:
  - Company data can now be submitted through a one-stop-shop system for the purposes of incorporation and other organisational changes;
  - International standards for financial reporting are now fully implemented and the sources that can be used to cover a company's loss have been changed.
  - Changes have been introduced with regard to a liquidator's liability, which now extends to all his/her property for damage caused to creditors.



# Moldova

## Significant changes to the cash payment regulations

In mid-June 2008, significant changes were made to the cash payment regulations applicable in business to business (B2B) relationships.

In particular, the previous monthly cap of MDL 100,000 (approx. EUR 7,100) on cash payouts admissible in B2B relations has been abolished. The currently approved level of such cash payments is limited to only MDL 1,000 (approx. EUR 70) per transaction (i.e. per invoice).

Transactions exceeding the above threshold have to be performed by means of bank transfers. Failure to comply with this restriction incurs a fine for the buyer of 10% of the excess difference of the cash settlements involved.

## Corporate taxation

### Corporate tax

- Among other amendments approved during the same period, taxpayers incurring charity and sponsorship expenses that exceed 10% of their taxable income are liable to 15% corporate income tax on the excess part of these expenses.



## Withholding tax

- Certain changes to the withholding tax regulations have entered into force since 25 July 2008. In particular, in the absence of an effective Double Tax Treaty, a permanent establishment in Moldova that distributes its income to a non-resident is liable to apply 10% withholding tax on the amount.
- The tax law also specifically mentions that if a company makes donations for the benefit of individuals, a 15% withholding tax rate applies on the free-of-charge supply.

## Double Tax Treaties

- As at 1 January 2008, Moldova had 37 Double Tax Treaties in force.
- The Double Tax Treaties with Cyprus and Finland have been ratified by the Moldovan Parliament during this period, but have not yet come into force.

## Indirect taxation

### Customs duties

- According to the recent amendments to the customs law, companies are entitled to apply for Binding Tariff Information (BTI) statements. BTI statements will be issued free of charge by the Moldovan Customs Authority, within three months of the date when written applications are submitted. BTI statements are valid for six years and, in certain cases, they can still be applied for an additional six-month period, even if the BTI has become invalid. Obtaining a BTI requires the submission of specific documentation to the Moldovan Customs Authority, as well as compliance with a set of other requirements.
- The Authorised Economic Operator (AEO) concept has also been implemented recently. An AEO is defined in the local customs law as a legal entity benefiting from incentives and simplifications in some customs clearance procedures, subject to the decision of the customs authorities. The specific rules and criteria for applications for AEO status, as well as the simplifications provided, are expected to be issued soon by the Moldovan customs authorities.
- The Government Decision harmonising the Moldovan Nomenclature with HS 2007 was officially published on 27 June 2008. Its provisions are, however, applicable from 1 January 2008.

## Excise duties

- From 1 January 2009, excise duty rates will increase for a number of products, among which are included: malted beer; sparkling and certain other wines; cigars, cheroots and cigarillos, containing tobacco; cigarettes containing tobacco; some types of video equipment and motor cars; etc.
- At the same time, coffee, coffee extracts, essences and concentrates will not be subject to excise duty from 2009.

## Pollution tax

- The list of goods that are subject to pollution tax when imported into the country due to the environmental pollution caused by their use has been considerably extended.
- The following are some of the most important items which have become subject to pollution tax starting from 30 May 2008: fertilisers; plastics and plastic articles; rubber and rubber articles; paper and paperboard; glass and glassware; lead and lead articles; used motor vehicles for the transportation of people and goods; other manufactured tobacco and manufactured tobacco substitutes; asbestos; crude petroleum oils and oils obtained from bituminous minerals.
- The pollution tax rate on these goods is up to 5% of their customs value and is payable before the submission of the customs declaration. Exemptions and refund opportunities are available for a number of customs procedures involving such goods (e.g. transit, re-export).
- With effect from 29 July 2008, the above list was further extended by adding plastic containers and tetra-pack-type cartons with products (except for dairy products). The applicable tax rates differ depending on the type of container and its capacity.

## Legal and other developments

### Foreign currency regime

- The Law on currency regulation has been adopted. It provides the legal framework for current and capital currency operations, for the activity of exchange offices, the authorisation of currency operations, etc. The Law comes into force on 18 January 2009.

## Intellectual property

- The following new laws have been adopted to implement the Regulations and Directives of the Parliament and the Council of the European Union concerning intellectual property:
  - Law on the protection of trade marks;
  - Law on the protection of geographical indications, appellations of origin and guaranteed traditional specialties;
  - Law on the protection of inventions;
  - Law on the protection of plant varieties.

## Other

- Under the amendments to the regulatory framework for cash transactions, the following new provisions became applicable on 13 June 2008:
  - The introduction of a 30-day deadline from the date cash is received (e.g. to cover travel expenses) for submitting the report regarding its use, as well as a five-day limit from the expiry of this deadline for returning unused cash; and
  - The introduction of sanctions for the use of cash for purposes other than those for which it was intended and/or non-return to the cashier's office.
- Under the new provisions, the following are liable to install POS terminals and ensure payments through them:
  - Economic agents – wholesalers and/or providers of services whose turnover exceeded MDL 10 million (approx. EUR 717,000) in 2007 – by 1 January 2009;
  - Economic agents from Chisinau (i.e. hotels, restaurants, fuel retailers) whose turnover exceeded MDL 2 million (approx. EUR 143,000) in 2007 – by 1 January 2009; and
  - From 1 July 2009, economic agents – wholesalers and/or retailers and/or providers of services whose turnover exceeded MDL 2 million (approx. 143,000) in the previous year – by 1 July of the following year.
- Conducting business activity without installing POS terminals and ensuring that payments are made through them incurs a fine of MDL 6,000 (around EUR 430).
- In addition, from 1 January 2009, certain other economic agents will be liable to install POS terminals and ensure payments through them, e.g. wholesales and/or providers of services whose sales turnover exceeded MDL 10 million (approx. EUR 717,000) in the previous reporting period.

# Montenegro

## Proposed amendments to Corporate Profit Tax Law have come into effect

The Parliament of Montenegro has adopted recently proposed amendments to the Corporate Profit Tax Law (CPT Law). The CPT Law amendments came into effect on 27 June 2008.

The amendments are mainly intended to regulate in greater detail less developed tax areas such as withholding taxes, capital gains taxation and transfer pricing, and also introduce changes in adjustments to the tax base.

Additionally, the Government of Montenegro recently proposed draft amendments to the Excise Duty Law and the Law on Social Security contributions. We are expecting that these amendments will be discussed in the Parliament in near future.

## Corporate taxation

### Corporate tax

- Revenues from dividends and shares in other legal entities will not be included in the tax base if the payer of that income qualifies as a taxpayer under the Montenegrin CPT Law.
- Debt provisions in respect of parties that are creditors at the same time will not be regarded deductible.
- The threshold for recognition of fixed assets for tax depreciation purposes has been increased to EUR 300 from the previous threshold of EUR 200.
- Total expenses incurred for health, education, scientific, religious, cultural, sports and humanitarian purposes, as well as environmental protection will be recognised as expenses up to 3.5% of total revenue (instead of the current 3%).
- According to the amendments, a capital gain represents the positive difference between the sales price and acquisition price of a qualifying asset recorded in accounting records and adjusted for tax depreciation, i.e. the acquisition value can be recorded at cost value or fair value. Only 50% of the capital gain realised is included in the taxable base in the year in which it occurred.
- The taxation of capital gains realised in a transformation and distribution of share capital is deferred to the moment when the successor sells the property taken over. The deferral of the taxation of the capital gain realised in the transformation is allowed on condition that the owner of a transformed company receives shares or a share interest in a new company and cash receipts that do not exceed 10% of the value of shares or stakes received.
- A resident parent company has the right to decrease its tax liability by taking credit for the withholding tax paid by its foreign subsidiary on a distribution of dividends. The tax credit cannot exceed the amount of (corporate) tax that would have been paid in Montenegro. An unused tax credit can be carried over to the tax account of the parent enterprise for five years. The parent company is required to own 10% of the non-resident subsidiary for at least one year before filing the tax return.

### Withholding tax

- Most notably, the scope of withholding tax levied on dividends, interests, royalties and rental income from immovable property has been extended to include the income of non-residents realised through:
  - Consulting services, marketing services and audit services;
  - Other intellectual property rights; and
  - Rental income from movable property.
- The withholding obligation exists both for Montenegrin tax resident companies and permanent establishments of non-residents (excluding the distribution of dividends and share in profit by the permanent establishment).
- Dividends and shares in profits paid to residents and non-residents (both individuals and legal entities) will also be subject to withholding tax. The amendments decrease the withholding tax rate from 15 percent to nine percent. However, please note that withholding tax on interest will be 5% until 1 January 2010.
- Under the amendments, the withholding tax exemption on dividends and shares in profits used to increase a taxpayer's capital will be abolished.

- According to the amendments, double tax treaty provisions on withholding tax will continue to apply. However, in order to apply the preferential rate prescribed by a Double Tax Treaty, the non-resident must prove:
  - Beneficiary ownership of the income; and
  - Tax residence of a state covered by the relevant Double Tax Treaty, by submitting a tax residence certificate.

## Transfer pricing

- The CPT Law amendments replace the definition of related parties with the definition given in the Tax Administration Law. According to the amendments, related parties are entities that have a special connection which may have a direct influence on the terms or economic results of transactions between them.

## Individual taxation

### Personal income tax

- The Ministry of Finance has issued a new rule book which prescribes a new form for tax returns for calculated personal tax and mandatory social security contributions. According to the rule book which will be in force from 1 January 2009, instead of the current tax return, form OPD-1, taxpayers will have to submit form IOPD.

## Legal and other developments

### Labour code

- The new Labour Law came into force on 23 August 2008. Some of the major changes introduced include the regulation of harassment (for the first time in Montenegro), the removal of restrictions on fixed-term employment, the introduction of the possibility of resolving of labour disputes before arbitration, and regulation of a Service Agreement.

### Consumer protection

- The Law on the Safety of Commodities came into force on 19 August 2008. The Law imposes specific safety requirements for commodities placed on the market, and related obligations for producers and distributors. It also requires exchanges of information on risks related to products both within Montenegro, and between Montenegro and the European Community through the RAPEX system (Community Rapid Information System).

### Other

- The new Law on Torts and Contracts came into force on 15 August 2008 and applies to contractual relationships established after this date. The key change introduced by the new Law is more comprehensive regulation of the liability of legal entities.



# Poland

## In the right direction

After nearly a year in office, the current government at last has achievements to show in the area of tax legislation. The changes the new legislation brings about make a good impression. Furthermore, their effect will be enhanced by the reform of the personal income tax rates, which was drafted and enacted by the government's predecessors, but will not come into force until 1 January 2009. As a result, the current three-rate personal income tax scale with the rates of 19%, 30% and 40% will flatten to only two rates: 18% and 32%.

## Exemption method to avoid double taxation of personal income tax: the past and the future

Among the changes that can be fully attributed to the current government is the retroactive personal income tax exemption for Polish expatriates (Polish personal income tax residents who temporarily went abroad) covering the years 2002-2007. The relevant law came into force in August 2008. Its basic idea is to encourage disclosures of income earned abroad in the period of 2002-2007 that was taxable in Poland but the taxpayers failed to declare it at the right time. If a disclosure is made now, the tax office should issue a decision to tax such income based on new, very favourable rules. Namely, the personal income tax liability should be calculated in accordance with the

exemption method to avoid double taxation. Therefore, there will be no Polish personal income tax liability unless a taxpayer gained income in Poland. If he did, the foreign income will increase the overall Polish rate, but not the taxable base.

While working on the retroactive exemption the government also decided to change the rules on the avoidance of double taxation for the future. As a result, the exemption method of avoiding the double taxation of income gained by Polish personal income tax residents but sourced outside Poland will apply to tax settlements for 2008 and the following years as well.

## Excise duties: tax refunds and green light for small vineyards

In July 2008, a new law came into force which addresses the issue of the excise tax refunds related to intra-community acquisitions (i.e. imports from other EU countries) of used cars. The issue resulted from the European Court of Justice ruling of 18 January 2007 (C-313/05), in which the ECJ held that Polish excise provisions applicable in the period from 1 May 2004 until 30 November 2006 violated the EU rules as far as intra-community acquisitions of cars more than two years old were concerned. As a result of the above violation, a significant number of taxpayers overpaid their excise duties. The new law introduces uniform rules to refund these overpayments and goes further than the ECJ ruling by giving equal rights to claim overpayments to individuals and entities that imported the cars in question from non-EU countries.

Another piece of excise legislation applies to small vineyards, i.e. those that produce no more than 100,000 litres of wine per year using grapes from their own vineyards. Until now such vineyards were subject to general excise provisions, which imposed very demanding administrative requirements. Due to these requirements, running a small vineyard could not be a profitable business. The new legislation, which came into force in August 2008, changed the situation by establishing a new regime for this type of entity, which reduces the administrative requirements to a minimum. Thus Parliament has removed a great obstacle for the Polish wine industry.

## Expected changes in VAT

Parliament has nearly completed legislative procedures relating to a very important amendment to the VAT Law. The amendment includes numerous taxpayer-friendly elements that will significantly improve Polish VAT. Among the changes are the abolition of the 30% penalty for understating VAT, and making all taxpayers eligible to file quarterly VAT returns (currently, most businesses have to file monthly returns).



# Romania

## New state aid scheme for very large investments

A new state aid scheme to encourage regional development by providing incentives for investment was published in Official Gazette no. 637 of 4 September 2008. The aid scheme's provisions apply to companies registered in accordance with the Romanian Company Law, that have their head-offices and conduct business in Romania and, in addition, satisfy both of the following conditions:

- They make investments of more than the RON equivalent of EUR 100 million;
- They create at least 500 new jobs as a result of the initial investment.

If certain thresholds of the state aid are exceeded (e.g. for state aid exceeding EUR 30 million), this aid must be notified to the European Commission. The aid may account for up to 50% of the eligible costs, depending on the region where the project is implemented and the level of investment. Certain sectors are not covered by this state aid scheme, e.g. primary agricultural production, fisheries, shipbuilding, the coal industry, the steel industry, the synthetic fibres industry and the transportation industry.

In 2007, the Romanian Government introduced a similar state aid scheme, which is still in force, imposing less strict requirements (i.e. investments of more than the RON equivalent of EUR 30 million and the creation of at least 300 new jobs). The application procedure and content for both state aid schemes are largely the same.

The maximum estimated number of beneficiaries under the new scheme is 20, i.e. an average of four companies per year. As a rule, when analysing funding applications, the competent authorities take a 'first come, first served' approach. In submitting the application, both time and the quality of the documents supporting the application are essential factors.

## Corporate taxation

### Corporate tax

- In April 2008, the Minister of Economy and Finance issued an order regarding the establishment and powers of the Central Fiscal Commission. According to the Order, the Commission may issue decisions on:
  - Tax issues which require unitary solutions to eliminate contradictory interpretations in the application of legislation, by aligning specific legislation with auxiliary legislation, as appropriate; and
  - Issues of competency conflicts arising between tax authorities that are not subordinate to a common hierarchical authority.

- Commission decisions may be requested by directorates within the Ministry of Economy and Finance or by the fiscal procedure commission within the National Agency for Tax Administration. The decisions need to be approved by the Minister of Economy and Finance and are applicable from the date when the legislative act that they relate to came into force. However, they cannot supplant definitive and irrevocable court decisions, and any decision of the Commission, even if approved by the Ministry, may ultimately still be subject to a final test and ruling of the Romanian courts.
- The Commission is coordinated by the State Secretary responsible for tax policy and legislation, and is mainly formed from members of the Ministry of Economy and Finance and of the National Agency for Tax Administration. The Commission's sessions are also attended by two tax consultants, appointed by the Tax Consultants' Chamber, who have permanent seats but no voting rights.
- Starting with the 2009 tax year, accumulated fiscal losses, as declared in the annual profit tax return, can be carried forward for a period of up to seven years, as opposed to the present five years.

## Withholding tax

- The European Commission issued a press release on 6 May 2008 announcing that it had sent a formal notice letter to Romania. Formal notice letters represent the first step in an infringement procedure. This letter referred to Romania's regulations regarding dividends paid to non-resident companies, which are taxed more heavily than domestic ones. In response to Commission's notice, the Romanian Government issued an emergency ordinance on 24 June 2008, which amends the Fiscal code and from 1 January 2009 the following will apply:
  - The withholding tax rate on non-qualifying dividends paid to companies resident in both EU and EEA Member States is reduced from 16% to 10%; (non-qualifying dividends means that the company holds at least 15% of the shares, and at least 10% starting in 2009, for at least two years).
  - The nil withholding tax rate for qualifying dividends currently applicable to companies resident in EU Member States will also apply to companies resident in the EEA.
- The Ordinance also proactively introduces a reduced withholding tax rate of 10% (0% from 2011) on interest and royalties for companies resident in EEA member states. The provision currently applies to companies that are resident in EU Member States and which fulfil certain qualifying conditions.

## Double Tax Treaties

- The Double Tax Treaty between Romania and Iceland was ratified on 6 August 2008. Implementation is pending until the treaty has also been ratified by Iceland's legislative body.

## Indirect taxation

### Customs duties

- The rules on the right to be represented in dealings with the customs authorities have been amended. Legal entities not established in the EU can now declare goods through an indirect representative even if they perform continuous import/export operations. Previously, indirect customs representation for non-EU companies was only possible for operations performed occasionally.
- In September 2008, the rules on authorisation for an adjustment of the customs value of imported goods were published. Authorisation is granted by the National Customs Authority, based on a request submitted by interested companies, provided that certain conditions are fulfilled (i.e. no record of bad debts to the customs authority). Adjustment of the customs value refers to:
  - elements which are to be added to the customs value but are not quantifiable at the time of import (e.g. royalties, licence fees); and
  - elements which are not to be included in the customs value (e.g. interest, assembly charges) but are not shown separately from the goods price.

### Excise duties

- From 1 July 2008, the excise duty rate on cigarettes is EUR 27.31 per 1,000 cigarettes plus 25% levied on the maximum retail price. The minimum excise rate (i.e., the duty rate per 1,000 cigarettes plus the 25% levy) was set at EUR 45.50 per 1,000 cigarettes.
- From 16 July 2008, the movement of excisable products between Romanian companies under the excise duty suspension regime can be monitored electronically through a system called RO-AAD (Romanian-Administrative Accompanying Documents). Authorisation from the National Customs Authority is required to access the system.

- On 7 August 2008, the excise duty rate on diesel fuel acquired by Romanian farmers between August and December 2008 for agricultural use was reduced. Suppliers can submit applications for refunds of the difference between the reduced and standard excise duty on diesel fuel to their local tax authority.

## Environmental fund

- The tax for packaging waste has increased from RON 1/kg (approx. EUR 0.28) to RON 2/kg (approx. EUR 0.56).
- A new monthly tax (named 'ecotax') of RON 0.2/piece (approx. EUR 0.056) will be payable from 1 January 2009 by companies that provide non-biodegradable carrier bags to customers. In order to inform end-customers, the 'ecotax' must be shown separately on sale documents and should also be clearly displayed by retailers.

## Individual taxation

### Social security

- On 1 July 2008, the employee health fund contribution rate was decreased from 6.5% to 5.5%.
- On 1 October 2008, the minimum guaranteed gross wage will increase from RON 500 (approx. EUR 139) to RON 540 (approx. EUR 150).

## Legal and other developments

### Business transformations

- On 30 April 2008, an emergency ordinance to modify the Company Law was issued. The main objective of the ordinance was to implement the Cross-border Merger Directive and the EC Regulation on the Statute for a European company (Societas Europaea).
- The merger and spin-off procedure has been simplified for certain situations. It is not necessary for an expert appointed by the trade registry judge to examine a merger or spin-off project and draft a report informing the shareholders in accordance with the Company Law, if all the shareholders (or all the holders of voting rights) of each company involved in the merger or spin-off decide accordingly.

Under the Company Law, in the case of a spin-off it is not necessary for the company's directors to draft and make available to the shareholders a report explaining the spin-off project and stating its legal and economic foundation if all the shareholders (or all the holders of voting rights) decide accordingly, and neither is it necessary in such cases to make the financial statements of the company available to the shareholders.

- New provisions on Cross-Border Mergers have been introduced into the Company Law, transposing Directive 2005/56/EC of the European Parliament and of the Council on cross-border mergers of limited liability companies. Romanian law allows joint stock companies, limited partnerships (a specifically Romanian form of entity) and limited liability companies, all of which are Romanian legal persons, and European companies with their headquarters in Romania, to participate in cross-border mergers. The procedure for cross-border mergers is generally similar to that for mergers between Romanian companies.

Romanian companies and European companies with their headquarters in Romania that hold ownership rights to land in Romania can only participate in cross-border mergers after five years from the date of Romania's European Union accession, if the absorbing or newly-formed company is from another Member State. The period is seven years after the accession date for agricultural land.

- Provisions on European Companies have been introduced into the Company Law for the direct application of Council Regulation (EC) no. 2157/2001 on the Statute for a European company (*Societas Europaea*). European companies with their headquarters in Romania are governed by the provisions of Council Regulation (EC) no. 2157/2001, by the newly-introduced provisions in the Romanian Company Law, as well as by the provisions regarding joint stock companies that are compliant with the Council Regulation. European companies with their headquarters in Romania have legal personality from their registration by the trade registry.

European companies registered in Romania can transfer their registered office to another Member State, if the transfer is approved by the judge appointed to the trade registry office and by a general shareholders' meeting.

The creditors of European companies, whose receivables date from before the published date of the transfer and are not due at that date, can oppose the transfer. Such opposition suspends the transfer.

Shareholders who did not vote in favour of the general meeting decision approving the transfer of the headquarters to another Member State have the right to withdraw from the company and request the company to buy their shares. The withdrawal right can be exercised within 30 days of the decision of the general shareholders' meeting.

## Other

- On 27 July 2008, Emergency Government Ordinance no. 85/2008 on the encouragement of investments was published. The Ordinance establishes the general framework for state aid that can be granted for the encouragement of certain types of investment. The following types of incentives can be granted based on state aid schemes or on individual aid approved by legislation or administrative acts:
  - Non-refundable amounts for the acquisition of tangible or intangible assets;
  - Financial contributions from the state budget for newly created jobs;
  - Subsidised interest on contracted loans, as well as other types of incentives prescribed by the legislation in force.
- Additionally, the Ordinance allows the relevant authorities to run state aid schemes and also grant individual aid for investments consisting of:
  - The acquisition of tangible or intangible assets for setting up a new unit, expanding an existing unit, diversifying production, or making a fundamental change in the production process;
  - The acquisition of fixed assets directly linked to a unit that has been or is likely to be closed down;
  - The commencement of certain research and development projects;
  - The creation of new jobs;
  - The professional training of employees;
  - The commencement of projects that produce or use renewable energy, or engage in environmental protection and sustainable development.
- In order to obtain state aid under the Ordinance, investments should contribute to the achievement of one of the objectives set by the Ordinance and should be implemented in one of the areas designated by the Ordinance. Investments must also meet one of the following criteria:
  - They are to be implemented in regions with a low level of economic development;
  - They are implemented in regions with high unemployment rates;
  - They will provide new infrastructure or modernise existing infrastructure;
  - They will involve research and development, innovation activities, or the intensive use of technology;
  - They will result in improved energy efficiency and the use of renewable energy resources;
  - They will have a positive impact on the environment;
  - They will develop human resources, e.g. by facilitating professional improvement and enabling employees to attend training programmes.

- However, if an investment project can be supported by non-reimbursable funds obtained from the European Union or from other sources, it will not be eligible for state aid under the Ordinance.
- In order to benefit from state aid under the Ordinance, an investor must be a legal entity that makes investments in Romania and meets all the following criteria:
  - It does not have debts to the state budget;
  - It has not requested the Ministry of Economy and Finance to pay outstanding debts under the state guarantee for internal/external loans or from the risk fund;
  - It has not benefited from state guarantees;
  - It is not under compulsory execution for debt or insolvency or liquidation procedures or any other legal procedure;
  - It has not been subject to any state aid recovery decision or, if such a decision was issued, the entity has settled the debt in full and within the required deadline, in accordance with the law.
- Additionally under the Ordinance, the Romanian Agency for Foreign Investments has been restructured as the Romanian Agency for Investments. The agency is responsible for promoting investment, it publishes a list of state aid schemes on its website and, in response to investors' requests, provides them with technical assistance and guidance regarding existing schemes, based on which investors can request financing from the competent authority.



# Russia

## Significant Tax Code amendments

A number of amendments to the Tax Code were introduced in July 2008 and will take effect from 1 January 2009. The most significant amendments relate to the remuneration of individuals and amortisation:

- Uncertainty surrounding the deductibility of the remuneration of a Board of Directors has been removed. The amendments make such remuneration non-deductible.
- Employers will be able to deduct compensation related to educational programmes for potential employees if two requirements are met: a labour contract is concluded within three months after the end of the programmes; and the employee works for the employer for a period of not less than one year (if these requirements are not met, taxable income must be accrued). Compensation related to educational programmes will be exempt from personal income tax and unified social tax, with some limitations.
- Employees' compensation related to interest paid on mortgages will be deductible within a limit of 3% of general labour expenses. Such compensation within the deductibility limit will not be subject to personal income tax or unified social tax.
- Fixed assets amortised using the declining balance method are to be combined into groups and amortisation must be charged for each group, not for individual assets as was previously the case. The amortisation rates will be fixed for each group (previously, taxpayers could calculate the rates by using a potentially useful lifetime-range established by the Russian Government). The new rates are slightly higher than the previous ones.

## Corporate taxation

### Corporate tax

- The amendments described below will take effect from 1 January 2009.
- The limit for the deduction of expenses on employees' voluntary personal insurance has been increased from 3% to 6% of general labour expenses.
- Per diem expenses will be deductible in full.
- The application of declining coefficients to amortisation rates will be subject to a resolution from a company CEO (currently this only applies to luxury automobiles and mini-vans).
- Certain expenses related to research and development (R&D), including R&D with negative results, will be deducted using a coefficient of 1.5. The Government has still to establish a list of such types of R&D.

- Property constructed according to a concession agreement will be amortised by a concessionaire. Property received under the agreement will not be included in the taxable income of a concessionaire. Concession payments will be deductible as miscellaneous expenses.
- Expenses for natural resource development will be amortised over two years or, if a taxpayer so chooses, be recognised as intangible assets (the current version of the Tax Code only allows the second of these options).

### Property tax

- From 1 January 2009, concessionaires will be liable for the tax on property received or constructed under a concession agreement.

## Indirect taxation

### VAT

- Some amendments regarding concession agreements have been introduced and will come into effect from 1 January 2009. The principles established for taxing concession agreements are very close to the principles of taxing joint ventures. However, the taxation of concession agreements is a complex area that the newly introduced law may not yet address in full.

### Customs duties

- The Russian Government introduced a 0% import customs duty rate for the following products (the previous duty rates are given in brackets):
  - ethylene polymers (10%);
  - aluminium waste and scrap (10%);
  - unwrought aluminium (10%);
  - machinery for the medical industry (5%);
  - recycled cellulose products (10%);
  - spectacle frames (10%);
  - tanning extracts of vegetable origin; tannins and their salts, ethers, esters and other derivatives (5%);
  - synthetic organic tanning substances (5%);
  - acid dyes, whether or not pre-metallised, and preparations based thereon; mordant dyes and preparations based thereon (5%);
  - finishing agents, dye carriers and other products used in leather or similar industries (5%);
  - smoked sheets (kind of natural rubber) (5%);
  - civil aeroplanes of an unladen weight not exceeding 20,000 kg and with seats for not more than 19 persons (10%);

- veneer sheets of certain types of wood of a thickness not exceeding 1 mm (10%);
  - accumulators (nickel-hydride, lithium-ion) (5%);
  - some kinds of accumulators (10%); and
  - digital cameras (5%).
- The duty rate on video games of the sort used with a television receiver was decreased from 20% to 10%. At the same time, the duty rate on monolithic digital integrated circuits was increased from 0% to 10%.

## Excise duties

- The excise rates for almost all excisable products will increase from 1 January 2009. The duty rates for 2010 have been set.
- The basic principles for determining excise rates for gasoline and diesel fuel have changed. From 1 January 2010, the duty rates will decrease in relation to increases in the quality of these products.

## Mineral resources extraction tax

- The amendments described below will take effect from 1 January 2009.
- The volume of crude oil extracted must be calculated by a taxpayer using the net method of calculation (previously, the Russian tax authorities took the view that taxpayers should use the gross method).
- Companies that apply a 0% tax rate will be allowed not to maintain pump meters.
- The list of territories where a 0% rate applies has been extended. The continental shelf and certain other territories are now included in the list of regions released from mineral resources extraction tax (with some limitations regarding the accumulated volume of extraction, and some other limitations).
- The formula for calculating the tax rate for extracted crude oil has changed (the actual decrease in the tax rate is approximately 5%).

## Individual taxation

### Personal income tax

- The limit for calculating non-taxable imputed income as a result of obtaining interest-free loans will increase slightly from 1 January 2009 (the amount of taxable income will be reduced).

- From 1 January 2009, the limit for calculating taxable interest income on loans obtained in Russian roubles will increase by 5%. As a result, interest income exceeding a limit based on the official interest rate of the Central Bank of Russia + 5% will be taxed. The limit for loans in foreign currency has not changed, remaining at 9% per annum.

## Legal and other developments

### Labour code

- According to a resolution passed by the Russian Government, the increase in the hourly wage-rate for work performed at night (i.e., from 22:00 to 06:00) must be not less than 20%.
- The Labour Code has had provisions added to it that stipulate the delimitation of powers between the federal authorities and the authorities of Russia's constituent regions in the area of health and labour safety. In particular, the authorities of constituent regions can now implement state policy in the area of health and labour safety in the region at the expense of the regional budget.
- There have been a number of new regulations that make the process of obtaining work authorisation documents for foreign employees more complicated. In particular, there is a requirement to first look for a Russian national to fill the proposed position, and only if the Russian employment authorities cannot find a Russian national for such a position within a month can the work authorisation process for foreign employees then be initiated. The quota for Moscow is very low and usually expires within the first few months of the year. In order to be included in the quota, it is important to inform the Russian employment authorities about foreign worker requirements in advance.
- The administration of the Russian regions outside Moscow are allowed to have their own procedures for granting permission for foreign workers to be employed and for their inclusion in the quota. It is advisable to check the procedural requirements in advance.
- The Russian migration authorities who issue work authorisation documents are very strict regarding compliance between the purpose of a visit and the type visa issued for the visit. Business visas (traditionally used by multinational companies as a substitute for a work visa) are much easier to obtain and are now limited to 90 day stays within one 180-day period.
- The requirements regarding having employment contracts for expatriates with a Russian entity or a branch/representative office of a foreign entity have become more stringent. The lack of an employment contract may entail serious consequences for a company.

## Competition law

- According to amendments to the Law On the Protection of Competition, contracts for state or municipal property (except for cases when only the operational administration or economic management of a property are transferred) must be concluded on the basis of the results of a tender or an auction, unless otherwise provided by federal law, Presidential or Governmental decree or in accordance with a court decision. This ruling will apply to types of state property that can be transferred in accordance with the Land Code, Water Code, Forestry Code and mining laws.
- The Superior Commercial Court of the Russian Federation adopted the resolution on the interpretation of the provisions of the Law On the Protection of Competition. This document amends and clarifies certain provisions of the law mentioned (including determining the groups of entities and persons involved, responsibility for breaking anti-trust laws, etc.).
- The Russian Government has increased the two thresholds for transactions involving the shares, assets or property of credit institutions. In cases of transactions which involve exceeding the thresholds, prior consent for the transaction to go ahead must be obtained from the anti-trust authorities, or notification must be filed within 45 days after the transaction has taken place. The thresholds have increased from three to four billion roubles and from 10 to 14 billion roubles.

## Intellectual property

- The Russian Government has passed a resolution on Russia's accession to the World Intellectual Property Organization (WIPO) Performances and Phonograms Treaty, with a reservation clause. The Government has also passed a resolution on Russia's accession to the WIPO Copyright Treaty. Both WIPO treaties were originally adopted in Geneva on 20 December 1996. Russia will become bound by the WIPO treaties three months after the date on which Russia deposits its notice of acceptance with the Director General of WIPO.

## Concessions

- The Law on Concessions has been amended with a number of provisions specifying the procedures for concluding, implementing and terminating concession agreements. The most

significant amendments to the Law on Concessions took effect on 2 July 2008 and include:

- Regarding the conclusion of a concession agreement, the amendments expand the list of assets that may be the object of a concession agreement. The amendments also specify the compulsory decision criteria to be applied by the state body in charge when concluding a concession agreement, and the tender documentation requirements. A new rating system for assessing tender proposals has been introduced. The list of compulsory conditions of a concession agreement has expanded and now includes guarantee and cost provisions. The list of optional conditions has also been extended.
- The amendments have also introduced a new procedure defining the owner of any kinds of objects created in the process of implementing a concession agreement, but which are not the objects of the concession agreement itself and are not covered by it. The concessionaire has obtained the right to transfer the right to use the object of the concession agreement to third parties with the responsible state body's preliminary agreement. The amendments establish a new procedure for providing the land, wood and subsoil plots or water body to enable a concessionaire to implement a concession agreement. The law expressly confirms that the objects of a concession agreement or other such assets cannot be encumbered.
- Regarding the termination of a concession agreement, the amendments specify that the party which has broken the agreement should be notified of its non-compliance with the agreement before a claim is filed with a court, provided that the party concerned is granted a reasonable length of time to remedy the non-compliance.
- Under the amendments, any dispute in respect of a concession agreement can only be dealt with by Russian courts.

## Business transformations

- There have been no new laws regarding registration on a federal level, but the Russian regulatory authorities (in particular, the State Registration Chamber), which accredit and register the branch offices of foreign legal entities, have issued a new regulation tightening the requirements concerning corporate documentation to be provided by foreign legal entities for the accreditation and registration of branch offices. Currently, the State Registration Chamber is conducting a legal review of the application forms and is seeking to determine the power and authority of a foreign company's authorised representative to take the decision to open branch offices in Russia. In addition, the Chamber reserves the right to verify the translation of corporate documentation. The procedure may either delay applications or even result in their rejection if they are not prepared in a way that the authorities deem appropriate.

# Serbia

## Serbian Government announces comprehensive regulatory reform

The Serbian government has announced that a comprehensive regulatory reform will be carried out in the near future to simplify or even eliminate the rules and laws that have a negative influence on the establishment and management of business activities in Serbia.

The project is planned to last between 12 and 15 months, with the ultimate goal of enabling better business results and easier investment in Serbia by reducing the number of permits required and by simplifying administrative procedures.



## Indirect taxation

### Customs duties

- According to the Serbian Customs Tariff Law, Harmonised System Committee decisions and EU Commission Regulations concerning the classification of certain goods are binding. The Serbian Customs Tariff Law also provides that HS Committee Decisions and EU Commission Regulations concerning the classification of certain goods will be translated and published in the Official Gazette of the Republic of Serbia.
- Recently, for the first time, over twenty of the EU Commission Regulations, issued from 2007 onwards, as well as more than thirty HS Committee Decisions published by the World Customs Organisation (WCO) from October 2006 onwards, have been translated and published in Serbia. Currently, more than forty HS Committee Decisions are still waiting to be officially published in Serbia.

## Legal and other developments

### Foreign currency regime

- The National Bank of Serbia (NBS) passed a Decision governing transfers of money from abroad to Serbia and vice versa, according to which the threshold for physical transfers of money not requiring prior approval of the NBS is increased to EUR 10,000 per person.

### Labour code

- The General Collective Agreement, signed between the Serbian employers' association and Serbian trade unions, came into force in May 2008. It regulates in more detail specific labour-related matters and applies to all employers who are the members of the employers' association.

### Other

- The draft Law on Foreigners entered the parliamentary procedure on 5 September 2008. It regulates the terms and conditions associated with residence of foreigners and their work in Serbia. Once the Law has been passed, these matters will be comprehensively regulated for the first time in Serbia.
- The Serbian Government has adopted the draft Law on the Prevention of Money Laundering and Financing of Terrorism, which is in compliance with the standards set out in the Third EU Directive (2005/60/EC).

# Slovakia

## Taxation overview of Euro adoption

From 1 January 2009, the Euro will replace the Slovak crown as the legal currency. The final exchange rate for the conversion of the Slovak crown to the Euro was set by the Council of the European Union at EUR 1 = SKK 30.1260.

Under the Act on Adopting the Euro in the Slovak Republic, the Slovak Ministry of Finance has prepared a decree that sets out the rules for reporting, rounding and converting values into Euros for accounting, taxation and customs purposes.

### Payment and refund of taxes and tax inspections after Euro conversion

The taxpayer has to convert the tax liability stated in Slovak crowns into Euros in tax returns filed after the Euro has been introduced, for tax periods that ended before the Euro introduction date. This amount in Euros has to be rounded down to the nearest Euro cent.

The tax authorities will convert into Euros and round up to the nearest Euro cent any tax overpayment stated in Slovak crowns in a tax return filed after the Euro has been introduced, for a tax period that ended before the introduction of the Euro.

If the tax authorities carry out a tax inspection after the Euro conversion, of a tax period that ended before the Euro introduction date, the tax authorities will state any values in their report in Slovak crowns and then convert them into Euros. This principle also applies to amended tax returns for earlier periods that are filed after 1 January 2009.

### Share capital conversion due to Euro introduction

Under the Slovak Commercial Code and the Act on the Introduction of the Euro in Slovakia, all companies and cooperatives listed in the Slovak Commercial Register must arrange for the conversion of their share capital and other contributions by individual shareholders that are denominated in Slovak crowns into Euro amounts.

The statutory representatives of each entity have to issue a decision on conversion, but a shareholders' resolution is not required for this purpose. Generally, the decision should be made and all the necessary legal actions should be carried out no later than one year after the official change of currency. Share capital conversions should become effective as of 1 January 2009.

If an application to make this change in an entity's Commercial Register entry is filed before 31 December 2009, the regular court fee (SKK 2,000, approx. EUR 66) for this will be waived.

No other changes made to a company will be registered by the Registry Court after 1 January 2009 unless the share capital and the shareholder's contributions have been changed.

## Corporate taxation

### Double Tax Treaties

- On 21 March 2008, a Double Tax Treaty with Kazakhstan was signed and will be applicable from 1 January 2009.

## Legal and other developments

### Other

- The new Act on Protection against Legalization of Income from Criminal Sources and on Protection against Terrorist Financing ('The Act on Money Laundering') became effective on 1 September 2008. The Act on Money Laundering fully implements the related EU legislation into Slovak law. The Act on Money Laundering will replace the existing anti-money-laundering legislation in Slovakia, which does not fully comply with EU law.



# Slovenia

## Pronouncements on tax matters

The tax system and legislation in the Republic of Slovenia are still relatively new and therefore the understanding of the law is continuously being updated as the Tax Authorities, businesses and advisers come into contact with real-life situations where the application of the law is not completely clear.

Some of the most valuable tools available in applying the law are the opinions and explanations issued by the Tax Authorities. There have been two announcements in recent months which may be of general interest:

### Corporate taxation of pre-acquisition dividends

In July, the Slovene Tax Authorities issued an explanation regarding the treatment of pre-acquisition dividends. Company A, a Slovenian resident which accounts under IFRS, bought the shares of foreign Company B in October 2007. Company A recorded the purchase of Company B as an investment. In 2008 Company B will pay a dividend out of retained profits. Some of that retained profit was earned by Company B prior to its acquisition by Company A.

In general, the standard corporate taxation treatment of dividend income is that, provided it does not originate from a low-tax jurisdiction, it is exempt from taxation. In addition, the tax-deductible costs of the recipient are reduced by an amount equal to 5% of the income.

According to IAS 18.32, dividends received which relate to the period before the purchase of Company B by Company A should be booked as a decrease in the value of the investment. Dividends which relate to the period after the acquisition of the shares should, however, be booked as revenue. The Slovenian Tax Administration is of the opinion that the received dividends relating to the period prior to the acquisition should not be taxable as they are not accounted as revenue. Moreover, as the dividends in question are excluded from taxable income, the adjustment to the taxable costs of 5% of the value of the dividends is not required.

### Indirect taxation of sale and leaseback transactions

The Slovene Tax Authorities have recently issued an opinion on the VAT treatment of sale and leaseback transactions. The opinion summarises the case of the sale and leaseback of an immovable property where, in general terms, the transaction involves the sale of the immovable property between the seller and the leasing company as a buyer and then the leaseback of the same immovable property.

The Slovene Tax Authorities are of the opinion that, from the VAT and the real estate sales tax points of view, the most appropriate treatment is to treat sale and leaseback transactions as two separate supplies, i.e. as a sale of immovable property and subsequently as a lease of immovable property.

The Tax Authorities have decided that sale and leaseback transactions should be treated for VAT purposes as two separate supplies and not, for example, as one supply or, as the case may be in some other EU Member States, as a financial transaction.

## Corporate taxation

### Corporate tax

- The Slovene Corporate Income Tax Act (CITA-2) has been amended twice in recent months. The main purpose of the amendments was the harmonisation of CITA-2's provisions with the EU Treaty and EEA Agreements. The amendments allow tax relief on donations made both in cash and, in certain cases, in kind, made for specific purposes, not only to residents of Slovenia and EU Member States but also to Member States of the EEA.
- There have also been changes to withholding tax and a general tax allowance has been introduced for investments in equipment and intangible assets. More details of these changes are given below.

### Withholding tax

- Under the amendments to CITA-2 which came into effect in July, the withholding tax on interest payments by banks has been abolished. The exception to this is where interest is paid to countries where the general or average nominal rate of taxation of companies is less than 12.5% and the country is included in a list published by the Slovene Ministry of Finance and Tax Authorities.
- Withholding tax is also not charged, withheld or paid on dividends and interest paid to non-resident pension funds, investment funds and insurance companies which can provide a pension scheme under the conditions outlined in CITA-2 and which are residents of a member country of the European Union or the EEA. This applies as long as the income is not paid to a permanent establishment of such a non-resident in Slovenia and provided that the non-resident is unable to claim the tax paid in its country of residence.

## Double Tax Treaties

- A new Double Tax Treaty with the UK and Northern Ireland came into effect on 12 September. However according to the transitional provisions, it will not come into effect in Slovenia until 1 January 2009. In the meantime, the previous Double Tax Treaty applies.

## Investment incentives

- The amendments to CITA-2 introduced a general tax allowance for investments in equipment and intangible assets. A taxable person can apply, for investment purposes (including a financial lease arrangement), for a reduction of his tax liability by 20%. The reduction cannot exceed the lower of either EUR 20,000 or the tax liability. The amendment allows for up to EUR 10,000 of the reduction to be used in the first tax period of the investment. The balance may be used over the next five tax periods. The decrease in the tax liability in any given tax period cannot exceed EUR 10,000, including the allowance for investment in the current period and any unused allowance from previous periods.
- The tax liability allowance does not apply to investments in office equipment, furniture or vehicles, or to goodwill or the capitalised expenses of investments in foreign tangible assets.
- In order to qualify for a tax allowance, the company must have a minimum of two employees for the whole period in question. The tax allowance cannot be applied for if the taxable person has received grants from the local municipality, the Republic of Slovenia or the EU.

## Individual taxation

### Personal income tax

- A new act on tax on profit from the disposal of derivatives, applicable to natural persons, came into force in July 2008. Taxpayers are defined in accordance with the Personal Income Tax Act. The profit derived from derivatives is taxed at a 20% final tax rate, but certain exceptions apply: the tax rate will be reduced according to the length of the holding period:
  - The 20% tax rate will be reduced by five percentage points for each five-year period for which the holding condition is met.

- Profit will be taxed at a final tax rate of 40% if the derivatives are held for less than one year.

- In January and August 2008, an additional personal allowance of EUR 1,000 p.a. (i.e., on top of the basic personal allowance) was introduced for anyone with an annual taxable income of between EUR 8,300 and EUR 9,600. For anyone with an annual taxable income of below EUR 8,300, this allowance has been increased to EUR 2,000 p.a.
- A legal entity which pays out income from employment, pensions or other taxable income to a natural person is obliged to calculate and withhold personal income tax on behalf of the individual on the date of the payment of income, unless the income is received from a legal entity that is not classified as a taxpayer under the tax legislation. If this is the case, the individual himself is liable to report the income to the Tax Authorities and pay tax advances upon receipt of the tax assessment issued by the respective Tax Authority.

## Legal and other developments

### Labour code

- The minimum monthly gross salary has been increased from EUR 540 to EUR 580.
- In addition to EU citizens, citizens of the EEA and Switzerland do not require a work permit to work in Slovenia. Like EU citizens, they must also register their residential status and temporary or permanent address.

### Business transformations

- The Slovene Companies Act regulates mergers, demergers and, since 31 January 2008, also permits cross-border mergers. The majority of provisions of Directive 2005/56/EC (i.e. the cross-border directive) are directly implemented in Slovene legislation. In some cases, however, the Slovene legislation may diverge from the Directive where it is permitted to do so, in accordance with options set out in the Directive.
- The 'Workers' participation in decision-making in cross-border mergers of limited liability companies Act' came into force on 7 June 2008 and implements the related regulations set out in the Cross-border Directive.

# Ukraine

## Changes in the maximum interest rate restrictions on loans from non-residents

Starting from 27 October 2008, the National Bank of Ukraine (NBU) has implemented new requirements for maximum interest rates on foreign loans.

For loans with a term of less than one year, the maximum allowable interest rate will be 11% (previously it was 9.8%). In addition, there will no longer be maximum interest rate restrictions on other types of foreign loans.

These changes offer an opportunity for businesses to consider higher interest rates for inter-group financing, taking into account other potential restrictions on the deductibility of interest expenses on inter-company loans.

The National Bank of Ukraine (NBU) has imposed restrictions on the early withdrawal of deposits from commercial banks. This is stated in the NBU's resolution No. 319 of 11 October 2008. In particular, the NBU has ordered commercial banks to fulfil their obligations in all types of agreements involving deposits in all currencies only at the end of the agreements, regardless of the category of deposit; to explain the situation to their clients in order to prevent the early withdrawal of deposits; and to actively encourage clients to place cash in deposit accounts and extend deposit agreements.

Moreover, the NBU has ordered commercial banks to delay all payments between residents by one day following the clients' request for such payments. The NBU

regulation also introduces restrictions on settlements with non-residents, including a prohibition on purchases of foreign currency for early settlements with non-residents and making prepayments to non-residents.

The NBU adopted this resolution because of the need to neutralize the effect of the global financial crisis, ensure stable operation of the banking system, and protect the interests of depositors and other creditors.

## Corporate taxation

### Double Tax Treaties

- On 3 September 2008, the Ukrainian Parliament (Verkhovna Rada) ratified two treaties for the avoidance of double taxation with the Republic of Iceland and with Jordan. Both conventions come into force on 1 January 2009.

## Indirect taxation

### Excise duties

- Since 1 August 2008, new types of excise stamp for alcohol beverages and tobacco products were introduced. Excise stamps purchased previously could continue to be used in production till 1 September 2008, and goods that carry old-style excise stamps can be sold up to their expiry date.



# Uzbekistan

## Uzbek tax audits

The Uzbekistan tax legislation contains the following requirements concerning tax audits.

The tax authority of the district where an enterprise is registered, i.e. the district tax inspectorate, may carry out a scheduled statutory tax audit of the enterprise not more than once every three years (not more than once every four years for micro-firms and small enterprises). However, in certain cases the tax audit is undertaken by the State Tax Committee, which is the highest tax authority.

The purpose of the tax audits is to verify the tax returns submitted by the taxpayer. Normally the tax authorities would review the accounting records, copies of tax returns and source documents as required.

There can also be un-scheduled tax audits – e.g. in case of liquidation of the enterprise, and counter tax audits – to review the enterprise's transactions with a supplier or customer which is undergoing a scheduled tax audit.

Another form of monitoring whether enterprises have fulfilled their tax liabilities correctly and fully is 'cameral control' (a review of tax returns and underlying documents that the tax authorities conduct in their own offices), which is performed when tax returns are submitted. The tax authorities may require a taxpayer to amend a tax return if they find it contains mistakes or inconsistencies. The amended tax return should be filed within 10 days.



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