

Worldwide Tax Summaries

Corporate Taxes 2018/19

*Quick access
to information
about corporate
tax systems in
152 territories
worldwide.*

*Central Asia and
Eastern Europe.*



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Corporate Taxes 2018/19

All information in this book, unless otherwise stated, is up to date as of 1 June 2018.

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Foreword

Welcome to the 2018/19 edition of *Worldwide Tax Summaries – Corporate Taxes*, one of the most comprehensive tax guides available. This year's edition provides detailed information on tax rates and rules in 152 territories worldwide.

As governments across the globe are looking for greater transparency and with the increase of cross-border activities, tax professionals often need access to the current tax rates and other major tax law features in a wide range of territories. The territory summaries, written by our local PwC tax specialists, include recent changes in tax legislation, as well as key information about income taxes, residency, income determination, deductions, group taxation, credits and incentives, withholding taxes, indirect taxes, and tax administration. All information in this book, unless otherwise stated, is up to date as of 1 June 2018.

Our online version of the summaries is available at www.pwc.com/taxsummaries. The Worldwide Tax Summaries (WWTs) website also covers the taxation of individuals and is fully mobile compatible, giving you quick and easy access to regularly updated information anytime on your mobile device.

Some of the enhanced features available online include Quick Charts to compare rates across jurisdictions. You may also access WWTs content through Tax Analysts at www.taxnotes.com.

If you have any questions, or need more detailed advice on any aspect of tax, please get in touch with us. The PwC tax network has member firms throughout the world, and our specialist networks can provide both domestic and cross-border perspectives on today's critical tax challenges.



Colm Kelly
Global Tax &
Legal Services Leader



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Albania

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Significant developments

There have been no significant corporate tax developments in Albania during the past year.

Taxes on corporate income

Albanian law applies the principle of worldwide taxation. Resident entities are taxed on all sources of income in and outside the territory of Albania, while non-resident entities are taxed on income generated only in the territory of Albania.

The corporate income tax (CIT) rate in Albania is 15%. CIT is assessed on the taxable profits calculated as taxable income less deductible expenses.

Taxpayers with annual turnover up to 5 million Albanian lek (ALL) are exempt from CIT, whereas those with annual turnover between ALL 5 million and ALL 8 million are subject to a reduced CIT rate of 5%.

Local income taxes

Local taxes on income depend on a number of factors, such as type of activity, municipality where the business is located, and the annual turnover. Consequently, these taxes may vary from ALL 20,000 to ALL 143,000.

Corporate residence

Based on Albanian legislation, a legal entity is deemed to be resident in Albania if it has its head office or its place of effective management in Albania.

Permanent establishment (PE)

PE in Albania means a fixed place of business where an entity carries out, wholly or partly, its business activities, including, but not limited to, an administration office, a branch, a factory, a workshop, a mine, and a construction or installation site.

The determination of a PE, where applicable, is based on the provisions of the double tax treaties (DTTs) that Albania has entered into with a number of countries. When dealing with DTT provisions, the Albanian tax authorities refer to the Organisation for Economic Co-operation and Development (OECD) commentaries.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 20%, and the standard VAT period is the calendar month.

Taxable transactions include goods and services supplied domestically as well as goods imported into Albania by a taxable person. The following transactions are also taxable:

- Transactions performed for no consideration or for a consideration less than market value (the latter applies if the parties included in the transaction are considered as related parties).
- Barter transactions.
- The private use of taxable goods by a taxable person (self-supply).

Determination of VAT payers

'Taxable person' shall mean any person who, despite the legal form of organisation, independently carries out any economic activity, whatever the place and the purpose or results of that activity.

The VAT registration threshold in Albania is annual turnover over ALL 5 million. Any person providing taxable supplies and whose annual turnover does not exceed ALL 5 million is not required to register, although voluntary registration is possible.

VAT obligations for non-resident entities

For a non-taxable person, the place of supply shall be in Albania if the supplier of the non-taxable person has established their business or a PE there.

For a taxable person, the place of supply of services shall be in Albania if the taxable person who receives the service has established their business or PE there.

Reduced VAT rate

Starting from June 2017, a reduced VAT rate of 6% is applied to the supply of accommodation services in all accommodation facilities, as determined by the applicable legislation for the tourism sector.

Zero-rated goods and services

The following goods and services are subject to 0% VAT in Albania:

- Exports.
- The supply of goods transported in the personal luggage of travellers.
- International transport.
- Supply of gold for the Bank of Albania.

VAT-exempt goods and services

The VAT Law provides a list of supplies that are considered as VAT-exempt:

- The supply by the public postal services of services, and the supply of goods incidental thereto.
- Hospital and medical care and closely related activities.
- The provision of medical care in the exercise of the medical and paramedical professions.
- The supply of human organs, blood, and milk.

- The supply of services by dental technicians in their professional capacity.
- The supply of services by independent groups of persons who are carrying on an activity that is exempt from VAT.
- The supply of services and of goods closely linked to welfare and social security work.
- The supply of services and of goods closely linked to the protection of children and young persons.
- The provision of children's or young people's school or university education.
- Tuition given privately by teachers and covering school or university education.

VAT calculation

The amount of VAT to be paid is calculated as the difference between the VAT applied to purchases (input VAT) and the VAT applied to sales (output VAT). If the input is higher than the output, then the difference is a VAT credit that can be carried forward to subsequent months. Otherwise, if the output VAT is higher than the input VAT, the difference represents VAT payable to the state.

Taxpayers who carry out taxable VAT activities, as well as VAT-exempt activities, can credit only that portion of their input VAT that corresponds to the taxable activities. To determine the amount of input VAT that can be claimed from the state, the taxpayer should estimate a VAT credit coefficient (i.e. the rate of the taxable VAT activities over total activities).

VAT reimbursement

Taxable entities have the right to claim VAT reimbursement if the period in which VAT credits are carried forward exceeds three consecutive months and the total amount of accumulated VAT credit is equal to or above ALL 400,000.

Following the request for VAT reimbursement, taxable entities have the right to obtain the reimbursement of VAT credit within 60 days after the request is submitted. For all taxable persons who are considered as exporters based on the criteria established by the Instruction of Council of Ministers, the deadline for tax authority approval, or not, of VAT reimbursement requests is within 30 days.

VAT returns

The submission of VAT returns and sales and purchase books must be done electronically by all taxpayers, including VAT representatives.

Electronic submission deadlines fall on the dates below:

- For VAT books, the deadline is the tenth day of the following month.
- For VAT returns and for the payment of the related VAT liability, the deadline is the 14th day of the following month.

Customs duties

Albania uses the Harmonized Code System for tariff classification.

The customs duty rates range from 0% to 15%, depending on the type of goods.

Import of machinery and equipment for use in the taxpayer's business activity are generally subject to customs duties at the zero rate.

Albania

Import of vehicles are subject to customs duties at a rate of 0%.

Excise duties

Excise duty is a tax applicable to certain goods consumed in Albania, whether imported or produced in the country.

Albanian excise legislation is based on EU Council Directive 2008/118/EC, which defines common provisions applicable for all excisable goods. It also integrates specific provisions applicable for each category of excise products.

Categories of products subject to excise duty in Albania are:

- Energy products (e.g. petroleum, gasoil, gas).
- Tobacco products (e.g. tobacco, cigarettes).
- Alcohol and alcoholic beverages (e.g. beer, wine, spirits).
- Other products (e.g. baked coffee, fireworks).

Excise duty is usually calculated as an amount per quantitative measuring unit defined for that product (e.g. per litre, per kilogram, per hectolitre, per 1,000 pieces).

Albania levies excise tax on the following products:

- Beer of alcohol by volume 4.2%: ALL 15.12/litre to ALL 29.82/litre, depending on the annual produced quantity in hectolitres.
- Wine, champagne, fermented and sparkling beverage: ALL 30/litre to ALL 120 litre, depending on the alcoholic content and depending on the annual produced quantity in hectolitre.
- Other alcoholic drinks of above 38%: ALL 247/litre to ALL 321/litre depending on the annual produced quantity in hectolitre.
- Processed tobacco: ALL 2,500/kg to ALL 4,400/kg, depending on whether tobacco leaves were or not cultivated in Albania.
- Liquid nicotine for e-cigarettes: ALL 10/millilitre.
- Cigarettes containing tobacco: ALL 117/20 pieces.
- Liquid by-products of petroleum: ALL 5/litre to ALL 50/litre.
- Solid by-products of petroleum: ALL 2/kg to ALL 5/kg.
- Fireworks: ALL 200/kg.
- Pneumatic tires: ALL 20/kg for new tires and ALL 40/kg for recycled tires.
- Incandescent lamps: ALL 100/unit.

Reimbursement of excise tax can be obtained on:

- Goods that are used in a process previously approved by the customs authorities.
- Exported products that have previously been subject to excise duty in Albania.
- Fuel used by companies involved in the construction of electric energy resources, with an installed power of not less than five MW per source.
- Fuel used in greenhouses, for the production of industrial and agri-industrial products.
- Biodiesel used in transportation.

The reimbursement procedure is subject to special provisions and pre-defined criteria on the basis of which the amount to be reimbursed is calculated.

Real estate tax

Entities that own real estate property in Albania are subject to real estate tax.

Real estate tax on buildings

Real estate tax on buildings is calculated based on the type of activity the business entity owning the building carries out. The basis for this tax is the value of the building.

Tax due is calculated on a yearly basis as a percentage of the value of the building, depending on the use of the latter, as outlined below:

Type of building	Tax rate (%)
I. Residential buildings	0.05
II. Buildings used for commercial purposes	0.20
III. Construction sites for which building has not been finalised within the deadline outlined in the construction permit	30.00

Real estate tax on agricultural land

Real estate tax on agricultural land is levied on each hectare and varies depending on the district where the agricultural land is located and on the land productivity categorisation.

Real estate tax on land (non-agricultural)

Real estate tax on land (non-agricultural) is levied per square metre and varies depending on the district where the land is located.

Stamp duties and notary taxes

There are no stamp duties on the sale contract of land or other properties. There are, however, notary taxes that are, in nature, similar to stamp duties. The notary tax on sales contracts that relate to change in ownership of immovable properties is ALL 1,000. The notary tax on sales contracts that relate to change in ownership of movable properties is ALL 700.

Depending on the agreement reached between the seller and the buyer, the notary tax can be paid either by the seller, or by the buyer, or shared between both of them.

Registration taxes

The fee for the registration of a business entity is ALL 100; however, it can be reduced to ALL 0 if the registration is made online.

Payroll-related taxes

Entities shall withhold personal income tax (PIT) from the gross salaries of their employees.

Social and health contributions (SHC)

Employers shall pay SHC to the tax authorities at a rate of 15% and 1.7%, respectively. The social contributions are paid between the minimum and maximum gross salary for SHC purposes, which are ALL 24,000 and ALL 105,850, respectively. The health contributions are calculated on the total gross salary.

Albania

Branch income

Branch offices in Albania are subject to the same taxes as all other forms of legal entities.

Income determination

Inventory valuation

Inventory is valued at the end of each tax period using the methods stipulated in the Accounting Law, which should be applied systematically. The methods stipulated in the National Accounting Standards for the valuation of inventory at year-end are the average cost and first in first out (FIFO) methods.

Capital gains

Capital gains are taxed at the rate of 15%.

Dividend income

Dividends and other profit distributions received by a resident entity from another resident entity or from a non-resident entity are not subject to CIT for the resident beneficiary of such income. This applies despite the participation quote (in amounts or number of shares) of the entity distributing profits in the shareholder capital, voting rights, or its participation in initial capital of the beneficiary.

Interest income

Interest income is taxed at the rate of 15%.

Royalty income

Royalty income is taxed as ordinary income, at the rate of 15%.

Foreign income

Albanian resident corporations are taxed on their worldwide income. If a DTT is in force, double taxation is avoided either through an exemption or by granting a tax credit up to the amount of the applicable Albanian CIT rate.

Albanian legislation does not contain any provisions under which income earned abroad may be tax deferred.

Deductions

Depreciation and amortisation

Allowed tax depreciation and amortisation rates and methods for each category of fixed assets are shown below:

Asset category	Method	Rate (%)
Buildings and machinery and other fixed structures installed in the building	Reducing-balance basis	5 (1)
Computers, software products, and information systems	Reducing-balance basis	25 (2)
Other assets	Reducing-balance basis	20 (2)
Intangible assets (including goodwill and start-up expenses)	Straight-line basis	15

Notes

1. In case the net book value of the asset (in the beginning of the fiscal period) is less than 3% of the historical costs, the taxpayer may expense it entirely.
2. In case the net book value of the asset (in the beginning of the fiscal period) is less than 10% of the historical costs, the taxpayer may expense it entirely.

Land, fine art, antiques, and jewellery are non-depreciable assets.

Depreciation and amortisation of fixed assets at amounts higher than those allowed for tax purposes is considered a non-deductible expense.

Interest expenses

Interest paid in excess of the average 12-month credit interest rate applied in the banking system, as determined by the Bank of Albania, is a non-deductible expense. The amount of deductible interest expense may also be limited by thin capitalisation rules (*see Thin capitalisation in the Group taxation section*).

Additional to the above, any interest expenses that take at least 30% or more of earnings before interest, taxes, depreciation, and amortisation (EBITDA) are recognised as non-deductible for CIT purposes if these interest expenses arise from loans or financing from related parties.

Bad debt

Bad debts are only deductible if the following conditions are met simultaneously:

- An amount corresponding with the bad debt was included earlier in income.
- The bad debt is removed from the taxpayer's accounting books.
- All possible legal action to recover the debt has been taken.

This applies to all entities except those operating in the financial sector.

Charitable contributions

There are no provisions in Albania regarding the tax treatment of charitable contributions. In general, contributions are considered as non-deductible expenses for CIT purposes.

Fines and penalties

Fines and other tax-related sanctions are non-deductible expenses.

Taxes

Income taxes, VAT, and excise duties are non-deductible expenses.

Other significant items

The Albanian legislation also defines the following specific costs as non-deductible:

- Expenses not supported with fiscal invoices.
- Expenses paid in cash of amounts exceeding ALL 150,000.
- Benefits in kind and gifts.
- Wages, bonuses, and any other form of income deriving from an employment relationship and paid to the employees in cash.
- Provisions and reserves (with some exemptions applicable to the financial sector).

Albania

- Expenses for technical services, consultancy, and management received from foreign entities that are not registered for tax purposes in Albania and for which no withholding tax (WHT) has been paid by 20 January of the following year, at the latest.
- Losses, damages, and wastage incurred during production, transiting, or warehousing exceeding the norms defined by laws and related instructions.
- Impairment losses on fixed assets.
- Representation and reception expenses exceeding 0.3% of annual turnover.
- Sponsorship expenses exceeding 3% of profit before tax and sponsorships of press and publications exceeding 15% of profit before tax.

The amounts allocated to special reserve accounts in banks and insurance companies are deductible, provided that they do not exceed the limits stated in the Bank of Albania regulations.

Employers' contributions towards the life and health insurance of employees are deductible.

Banks can deduct only loan impairments (provisions) calculated under International Financial Reporting Standards (IFRS) for CIT purposes.

Net operating fiscal losses

Fiscal losses may be carried forward up to three consecutive years. However, losses may not be carried forward if more than 50% of direct or indirect ownership of the share capital or voting rights of the company is transferred during the tax year.

Albanian legislation does not allow losses to be carried back.

Payments to foreign affiliates

Payments to foreign affiliates are subject to WHT unless tax relief is requested in accordance with the local legislation or any DTT in place. These payments are tax deductible if they are properly documented and incurred for business purposes only.

Payments to foreign affiliates made for the purpose of profit transfer might be subject to price revaluation by the tax authorities. Any transactions/payments made to foreign affiliates shall be performed on an arm's-length basis.

Group taxation

There is no group taxation in Albania.

Transfer pricing

The law on transfer pricing in Albania emphasises the following:

- The general rule provides the application of the arm's-length principle.
- The taxpayer is subject to transfer pricing rules if the taxpayer performs controlled transactions with its related parties where:
 - Controlled transactions are considered the cross-border transactions only.
 - Related parties are considered the situations where:
 - one person participates, directly or indirectly, in the management, control, or capital of the other person, and

- the same person or persons participate(s), directly or indirectly, in the management, control, or capital of both persons.

The taxpayer subject to transfer pricing rules must have in place the following information:

- Documented information and analysis to verify that its controlled transactions are performed in consistency with the arm's-length principle. Transfer pricing documentation shall be provided to the tax administration upon its request within 30 days of receiving the tax administration's request. The content and form of the transfer pricing documentation is specified by instruction of the Minister of Finance.
- Taxpayers engaged in controlled transactions above ALL 50 million are required to submit an annual controlled transactions template by 31 March of the year following the year subject to documentation.
- The consistency of a controlled transaction(s) with the arm's-length principle shall be determined by applying the most appropriate transfer pricing method from the methods provided below:
 - Comparable uncontrolled price method.
 - Resale price method.
 - Cost plus method.
 - Transactional net margin method.
 - Transactional profit split method.
 - Other methods.

Taxpayers with a total value of related-party transactions of over 30 million euros (EUR) in a five-year period can enter into an Advance Pricing Agreement (APA) with the tax authority.

Thin capitalisation

The interest paid on outstanding loans and prepayments exceeding four times the amount of net assets is not deductible. This rule does not apply to banks and insurance companies.

Controlled foreign companies (CFCs)

There is no CFC regime in Albania.

Tax credits and incentives

The following entities are exempt from CIT:

- Legal entities that conduct religious, humanitarian, charitable, scientific, or educational activities.
- Trade unions or chambers of commerce, industry, or agriculture.
- International organisations, agencies for technical cooperation, and their representatives, the tax exemptions of which are established by specific agreements.
- Foundations or non-banking financial institutions established to support development policies of the government through credit activities.
- Film studios and cinematographic productions (among other types of entity/activity) that are licensed and funded by the National Cinematographic Centre.
- Voluntary pension funds administrated from the competent companies.

Albania

Foreign tax credit

Albania does not apply foreign tax credits except in the case of DTTs (see *Foreign income in the Income determination section*).

Withholding taxes

The gross amount of interest, royalties, dividends, and shares of partnerships' profits paid to non-resident companies is subject to a 15% WHT, unless a DTT provides for a lower rate.

The 15% WHT is levied on the gross amount of payments for technical, management, installation, assembly, or supervisory work, as well as payments to management and board members.

If a non-resident company does not create a PE in Albania, and a DTT exists between Albania and the home country of the non-resident company, the payment of WHT can be avoided.

Double tax treaties (DTTs)

Albania has signed 41 DTTs, of which 39 are in force.

WHT rates envisaged by applicable DTTs are provided in the following table:

Recipient	WHT (%)			Applicable from
	Dividends	Interest	Royalties	
Non-treaty	15	15	15	
Treaty:				
Austria	5/15 (6)	5	5	1/1/2009
Belgium	5/15 (6)	5	5	1/1/2005
Bosnia and Herzegovina	5/10 (5)	10	10	1/1/2009
Bulgaria	5/15 (6)	10	10	1/1/2000
China	10	10	10	1/1/2006
Croatia	10	10	10	1/1/1999
Czech Republic	5/15 (6)	5	10	1/1/1997
Egypt	10	10	10	1/1/2006
Estonia	5/10 (5)	5	5	1/1/2018
France	5/15 (6)	10	5	1/1/2006
Germany	5/15 (6)	5	5	1/1/2012
Greece	5	5	5	1/1/2001
Hungary	5/10 (5)	N/A	5	1/1/1996
Iceland	5/10 (5)	10	10	1/1/2017
India	10	10	10	-
Ireland	5/10 (5)	7	7	1/1/2012
Italy	10	5	5	1/1/2000
Korea	5/10 (5)	10	10	1/1/2009
Kosovo	10	10	10	1/1/2006
Kuwait	0/5/10 (3)	10	10	1/1/2014
Latvia	5/10 (5)	5/10 (2)	5	1/1/2009
Luxembourg	5/10 (5)	5	5	-
Macedonia	10	10	10	1/1/1999

Recipient	WHT (%)			Applicable from
	Dividends	Interest	Royalties	
Malaysia	5/15 (6)	10	10	1/1/1995
Malta	5/15 (6)	5	5	1/1/2001
Moldova	5/10 (5)	5	10	1/1/2004
Netherlands	0/5/15 (1)	5/10 (2)	10	1/1/2006
Norway	5/15 (6)	10	10	1/1/2000
Poland	5/10 (5)	10	5	1/1/1995
Qatar	5	5	6	3/5/2012
Romania	10/15 (7)	10	15	1/1/1995
Russia	10	10	10	1/1/1998
Serbia and Montenegro	5/15 (6)	10	10	1/1/2006
Singapore	5	5	5	1/1/2012
Slovenia	5/10 (5)	7	7	1/1/2010
Spain	0/5/10 (4)	6	0	4/5/2011
Sweden	5/15 (6)	5	5	1/1/2000
Switzerland	5/15 (6)	5	5	1/1/2001
Turkey	5/15 (6)	10	10	1/1/1997
United Arab Emirates	0/5/10 (3)	N/A	5	1/1/2014
United Kingdom	5/10/15 (8)	6	N/A	1/1/2014

Notes

1. If the recipient company directly or indirectly owns 50% of the capital of the paying company, a 0% rate of the gross amount of the dividends applies. If the recipient company directly or indirectly owns 25% of the capital of the paying company, a 5% rate of the gross amount of the dividends applies. A tax rate of 15% of the gross amount of the dividends applies in all other cases.
2. A tax rate of 5% of the gross amount of the interests applies in case of interests in a contracting state, which are paid to a loan granted by a bank or any other financial institution of the other contracting state, including investment banks and savings banks and insurance. A tax rate of 10% of the gross amount of the interests applies in all other cases.
3. If the recipient company or any other governmental body is a resident of the other contracting state, a 0% rate of the gross amount of the dividend applies. If the recipient company (other than a partnership) directly or indirectly owns at least 10% of the capital of the paying company, a 5% rate of the gross amount of the dividends applies. A tax rate of 10% of the gross amount of the dividends applies in all other cases.
4. If the recipient company (other than a partnership) directly or indirectly owns at least 75% of the capital of the paying company, a 0% rate of the gross amount of the dividends applies. If the recipient company (other than a partnership) directly or indirectly owns at least 10% of the capital of the paying company, a 5% rate of the gross amount of the dividends applies. A tax rate of 10% of the gross amount of the dividends applies in all other cases.
5. If the recipient company (other than a partnership) directly or indirectly owns at least 25% of the capital of the paying company, a 5% rate of the gross amount of the dividends applies. A tax rate of 10% of the gross amount of the dividends applies in all other cases.
6. If the recipient company (other than a partnership) directly or indirectly owns at least 25% of the capital of the paying company, a 5% rate of the gross amount of the dividends applies. A tax rate of 15% of the gross amount of the dividends applies in all other cases.
7. If the recipient company (other than a partnership) directly or indirectly owns at least 25% of the capital of the paying company, a 10% rate of the gross amount of the dividends applies. A tax rate of 15% of the gross amount of the dividends applies in all other cases.
8. If the recipient company (other than a partnership) directly or indirectly owns at least 25% of the capital of the paying company or is a pension scheme, a 5% rate of the gross amount of the dividends applies. The tax rate switches to 15% of the gross amount of the dividends where those dividends are paid out of income (including gains) derived directly or indirectly from immovable property by an investment vehicle that distributes most of this income annually and whose income from such immovable property is exempted from tax. A tax rate of 10% of the gross amount of the dividends is applied in all other cases.

Tax administration

Taxable period

The tax year is the calendar year.

Tax returns

The final CIT return is due by 31 March of the year following the tax year.

Payment of tax

Predetermined advance payments of CIT are due either by the 15th day of each month or by the end of each quarter.

According to the tax laws, CIT is paid during the year on a prepayment basis. The amount of monthly CIT prepayments is determined as follows:

- For each of the following months: January, February, and March of the following fiscal period, the income tax amount of the fiscal period two years prior to the current period, divided by 12.
- For each of the next nine months of the following fiscal period, the income tax amount of the previous fiscal period divided by 12.

The final due date for the payment of the final CIT for a fiscal year is 31 March of the following year. Note that this payment is calculated as the total amount of CIT self-assessed from the taxpayer for that particular fiscal year less total CIT instalments paid related to that year.

Penalties for non-compliance with CIT prepayment deadlines are 10% of the unpaid liability.

Companies have the obligation to pay the non-resident WHT on dividends to the tax authorities no later than 20 August of the year the financial results are approved, regardless of the fact of whether the dividend has been distributed or not to the shareholders.

Tax audit process

Generally, the Albanian tax system is based on self-assessment, which is under continuous audit by the tax authorities. Such audits include all types of taxes that the business is subject to. If any discrepancies result from the tax audit, the tax authorities issue an assessment notice, which the taxpayer might appeal within 30 calendar days.

Taxpayers may submit a corrected declaration within 36 months from the submission of the initial declaration, provided that this declaration has not been previously inspected by the tax authorities.

Statute of limitations

With regard to Albania's tax administration practices, the statute of limitations of a tax audit is five years. However, the statute of limitations can be extended by 30 calendar days in cases where:

- a new assessment is made as a result of an appeal against a previous tax assessment
- a tax assessment is made as a result of a tax audit or investigation of the taxpayer by the tax administration, or

- the taxpayer is subject to a penal case related to one's tax liabilities.

The right of the taxpayer to submit a reimbursement request is limited to five years from the moment that the credit position is confirmed.

Topics of focus for tax authorities

During a tax audit, the main focus of the tax authorities is on areas related to transfer pricing, which is becoming an increasing area of focus; WHT; and aspects affecting CIT, such as expense deductibility.

Tax Certificates

If a taxpayer's financial statements and tax declarations are certified as compliant with the tax legislation by certified auditing companies, the tax administration will include this as a parameter in the taxpayer risk analysis for tax inspection purposes.

Armenia

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Significant developments

The new Tax Code of Armenia entered into force on 1 January 2018. Under the Tax Code, all separate tax laws are consolidated in the single Code alongside with major changes in tax rates, policies, and administration.

The most significant changes effective from 1 January 2018, including changes under the Tax Code, are as follows:

- The transfer pricing regulations entered into force (*see Transfer pricing in the Group taxation section*).
- Fixed and intangible assets should be depreciated using the straight-line method, replacing previously applicable depreciation by pools (*see Depreciation and amortisation in the Deductions section*).
- Some expense deductibility limits were changed or removed (*see Other significant items in the Deductions section*).
- The definition of permanent establishment (PE) of a non-resident entity is introduced under the Tax Code (*see Permanent establishment in the Corporate residence section*). Previously, there was no specific PE definition.
- The non-resident taxpayers conducting activity in Armenia through a PE should keep separate accounting books (it is no longer allowed to use an indirect taxation method while calculating Armenian corporate income tax [CIT]).
- The submission deadline of the annual CIT return is changed to 20 April (inclusive) following the reporting period (previously 15 April).
- The income received by a non-resident entity conducting activity in Armenia through a PE is considered income received by the PE if the income-supporting documents are issued in the name of that PE.
- The registered PEs may now carry forward tax losses (previously, only residents were allowed to carry forward tax losses, unless the appropriate double tax treaty [DTT] was applied).
- The withholding tax (WHT) on the income from the alienation of securities is 0% (previously 10%).
- Residents and non-resident entities conducting activity in Armenia through a PE should make quarterly CIT prepayments by the 20th day of the last month of the quarter of 20% of the CIT paid for the previous reporting period (previously 18.75%).
- Taxpayers engaged in agricultural production are exempt from CIT on that income until 31 December 2024 (previously there was no exemption period defined).
- Armenian resident companies implementing a business plan approved by the government may deduct the amount of the annual salaries for the newly created jobs from the CIT liability of that year, but not greater than 30% of the actual CIT

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calculated. The incentive is applicable for five fiscal years, in addition to the year of the start of the business.

- Non-residents that do not have a registered PE in Armenia bear the responsibility to account and pay the value-added tax (VAT) for the transactions that result in Armenian VAT if the party to the transaction is not a VAT payer.
- Starting from 1 January 2018, all VAT payers should submit VAT returns on a monthly basis. Previously, the VAT payers should submit the VAT returns on a quarterly basis if they did not exceed the particular turnover threshold.
- The Law on Presumptive Tax is no longer in force as of 1 January 2018.
- Excise tax rates are changed for some products (i.e. whiskey, rum, and other alcoholic liquors) (*see Excise tax in the Other taxes section*).
- Turnover tax for income on notary activities is decreased from 20% to 10%.
- Turnover tax for income on lottery organising activities is 25% (previously lottery activities were taxed under presumptive tax with a fixed tax based on total value of lotteries sold during the month).
- Turnover tax for income on sales of newspapers by publishing companies is 1.5% (previously taxed as general trading activity at 5%).
- The customs relations in Eurasian Economic Union (EEU) member states are now regulated by The Customs Code of EEU that entered into force on 1 January 2018.

Taxes on corporate income

Armenian-resident entities, and non-resident entities doing business in Armenia through a PE, are liable for CIT. Armenia taxes residents on their worldwide income; non-residents are subject to CIT only on their Armenian-source income.

The standard CIT rate is 20%.

Taxable income is defined to be the difference between a taxpayer's gross income and deductible expenses:

- Gross income encompasses all revenues received by a taxpayer from all economic activities unless the revenues are expressly exempted under the law.
- Deductible expenses encompass all necessary and documented expenses that are directly related to conducting business unless a specific provision in the law restricts the deduction.

Note that resident entities, registered PEs, and individual entrepreneurs are required to withhold income tax at source on payments to non-residents not having a registered PE in Armenia (*see the Withholding taxes section*).

The tax base for investment funds (excluding pension funds and warranty funds), which are registered in the Republic of Armenia, and for securitisation foundations, which are established based on the Law on Asset Securitisation and Asset-backed Securities, is the sum of net assets.

The dividends paid to the shareholder of investment funds or other similar allocations provided in a different manner shall not be deducted from the net assets of the investment funds.

The CIT rate for investment funds (excluding pension funds and warranty funds) registered in the Republic of Armenia, as well as for securitisation foundations, is 0.01% of the tax base.

The turnover tax generally replaces the CIT and VAT obligations for small and medium enterprises (SMEs). The tax rate is differentiated in accordance to the income type (*see Turnover tax in the Other taxes section*).

Licence payments

Individuals (individual entrepreneurs) and legal entities engaged in certain activities should make licence payments, which replace CIT and/or VAT. Under this system, the taxpayer pays a fixed tax based on the location and the business activity base data. Licence payment rates for some activities are mentioned below.

Type of activities	Base	Monthly rate of licence payment for one unit (thousand AMD*)				
		Yerevan	Regional centres	Other cities	Other location	Bordering villages
Transportation of passengers with passenger cars	Number of cars	9.5	5.6	5.6	2.8	1.4
Organisation of billiard game	Game table	40.0	20.0	20.0	10.0	5.0
Organisation of table tennis	Game table	10.0	7.0	6.0	5.0	1.0
Barber's shops	Workplace	15.0	12.0	9.0	4.5	2.25
Technical maintenance and repairs of vehicles	Workplace	15.0	12.0	12.0	6.0	3.0

* Armenian dram

Local income taxes

Armenia does not have any provincial or local government taxes on income.

Corporate residence

Resident entities are legal and business entities whose existence is established under Armenian law. Non-resident entities are those whose existence is established under foreign law (including subdivisions of foreign entities in Armenia).

Permanent establishment (PE)

The domestic definition for a PE essentially adopts the definition for PE found in the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention.

Mainly, the non-resident's PE in Armenia is defined as the place of business in Armenia registered at the tax authorities as a taxpayer through which the non-resident performs business activity in Armenia, regardless of the period of the activity.

In particular, this will include the following:

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- The place of production, processing, sorting, packaging, and/or delivery of goods.
- Any place of management.
- The place of geological research, preparatory works for mineral extraction, and/or related supervisory services.
- The place of activity in relation to installation, adjustment, and deployment of playing machines, computer and communication networks, amusement rides, transportation, or other infrastructures.
- The place of sales of goods in the territory of Armenia.
- The place of construction, montage, or assembly works, as well as the place of supervision services of those works.
- In case a joint activity agreement is signed with a non-resident to perform activity in the territory of Armenia, the PE will be the place of the entity that is responsible to report on that activity under the contract.

In addition, a non-resident's activities will create a PE if the non-resident provides services in Armenia through its employees or other hired personnel for 183 or more days in any tax year starting from the day of activities within the framework of one project or more than one related projects.

Other taxes

Value-added tax (VAT)

Armenia's current VAT law is based loosely on the principles of the European Union (EU) VAT Directive. Armenia operates the input-output model of VAT. VAT-registered persons may deduct the VAT on their inputs from the VAT charged on their sales and account for the difference to the tax authorities.

The VAT recoverable amount is the negative difference between the output and input VAT. The taxpayer may receive the VAT recoverable amount from the State Budget on a semi-annual basis, after it is substantiated by examination by the tax authorities.

The standard rate of VAT on domestic sales of goods and services and the importation of goods is 20%. Exported goods and related services are zero-rated. Advertising, consulting, marketing, design, engineering, legal, accounting, audit, data processing, and other related services provided to non-residents are zero-rated if the non-resident's place of business is outside Armenia. Various supplies, including most financial and education services, are VAT-exempt.

Import of goods from EEU non-member states by a taxpayer with the status of authorised economic operator according to Armenian tax legislation, or by a group of resident CIT payers implementing a project approved by the Armenian government, is exempt from VAT under certain condition (namely, if imported goods or goods produced as a result of processing of the imported goods are exported [including to EEU member states] within 180 days from their importation).

Services supplied in Armenia to VAT payers by non-residents that do not have a registered PE in Armenia are subject to application of a VAT reverse charge.

Non-residents that do not have a registered PE in Armenia bear the responsibility to account and pay the VAT for the transactions that result in Armenian VAT if the party to contractual relations is not a VAT payer.

The turnover tax (*see below*) generally replaces VAT obligations for SMEs. To be allowed to register for turnover tax, the taxpayer should meet the revenue threshold of the previous year.

The taxpayer may register for turnover tax for 2018 if the revenue for 2017 does not exceed AMD 115 million. If the taxpayer's revenue during 2018 exceeds AMD 115 million, the taxpayer may not be considered as a turnover taxpayer and should account for VAT on the excess sales. Taxpayers whose revenues are below the threshold may voluntarily elect to account for VAT.

The VAT registration threshold will be reduced to AMD 58.3 million starting from 1 January 2019. However, for 2019, the threshold of 2018 is AMD 115 million. If during 2019 the revenue exceeds AMD 58.3 million, the taxpayer may not be considered as a turnover taxpayer and should account for VAT on the excess sales.

Certain ownership and inter-relation thresholds and restrictions on types of business activities are also applicable for entities to be considered as turnover taxpayers.

VAT payers should file unified return of VAT and excise tax on a monthly basis before the 20th day of the month following the reporting period (inclusive).

Customs duties

Armenia is a member of the Eurasian Economic Union (EEU) along with Russia, Kazakhstan, Kyrgyzstan, and Belarus. The EEU's aim is to create a common market for the member states to raise the competitiveness of the national economies and to cooperate for sustainable growth. The EEU introduces the free movement of goods, services, capital, and people, creating a platform for common transport and reduced economic isolation.

The customs relations in EEU member states are regulated by The Customs Code of EEU that entered into force on 1 January 2018.

Customs levies are payable by persons whose goods cross the customs border of Armenia. Customs levies consist of customs duties, taxes, duties, and other mandatory charges. Customs duty is collected on the customs value of the imported goods. Importers must take into account specific EEU rules to determine the customs value on which the import tax will be applied. The general rule is that the customs value will be the price actually paid or payable for the goods when sold for export to Armenia.

Under the EEU regulations, goods imported from member countries are free of custom duties. The unified custom tariffs are applicable for the goods imported from non-member states.

VAT for the goods imported from the EEU member countries is not calculated by the customs authorities. Instead, taxpayers should calculate and pay VAT by the 20th day of the month following the month of the importation. In the meantime, within this timeframe, the taxpayer should submit the tax declaration and the statement on imported goods to tax authorities.

Excise tax

Excise tax is payable on alcoholic beverages, tobacco products, and petroleum products, whether imported or produced domestically, as follows:

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Goods	Unit of measure	Tax rate
Beer	Price excluding VAT and excise tax or customs value or purchase price or 1 litre	30%, but not less than AMD 105 for 1 litre
Grape wines and wines made of fruits and berries	Price excluding VAT and excise tax or customs value or purchase price or 1 litre	10%, but not less than AMD 100 for 1 litre
Vermouth and other grape wines	Price excluding VAT and excise tax or customs value or purchase price or 1 litre (by recalculation of 100% spirit)	50%, but not less than AMD 750 for 1 litre
Vodka made of fruits and/or berries	1 litre	AMD 800 for 1 litre
Cognac, brandy, and other spirits	Price excluding VAT and excise tax or customs value or purchase price or 1 litre (by recalculation of 100% spirit)	50%, but not less than: <ul style="list-style-type: none"> • AMD 3,000 for 1 litre (1 to 3 years old spirit) • AMD 3,500 for 1 litre (4 to 5 years old spirit) • AMD 6,000 for 1 litre (6 to 10 years old spirit) • AMD 8,500 for 1 litre (11 to 15 years old spirit) • AMD 14,000 for 1 litre (16 to 19 years old spirit) • AMD 22,000 for 1 litre (more than 20 years old spirit)
Other brewed drinks (apple cider, pear cider, honey-drinks)	Price excluding VAT and excise tax or customs value or purchase price or 1 litre	25%, but not less than AMD 270 for 1 litre
Ethyl spirit	Price excluding VAT and excise tax or customs value or purchase price or 1 litre (by recalculation of 100% spirit)	50%, but not less than AMD 900 for 1 litre
Spirituos liquors	Price excluding VAT and excise tax or customs value or purchase price or 1 litre	<ul style="list-style-type: none"> • From 1 January 2018, 73% but not less than AMD 725 for 1 litre • From 1 January 2019, 84% but not less than AMD 835 for 1 litre • From 1 January 2020, 96% but not less than AMD 960 for 1 litre • From 1 January 2021, 110% but not less than AMD 1,100 for 1 litre
Whisky and rum and other spirits	Price excluding VAT and excise tax or customs value or purchase price or 1 litre	<ul style="list-style-type: none"> • From 1 January 2018, 66% but not less than AMD 3,970 for 1 litre • From 1 January 2019, 76% but not less than AMD 4,560 for 1 litre • From 1 January 2020, 87% but not less than AMD 5,250 for 1 litre • From 1 January 2021, 100% but not less than AMD 6,035 for 1 litre
Tobacco products	Minimum retail price of tobacco set by the government of Armenia, excluding VAT and excise tax, or 1,000 units	<ul style="list-style-type: none"> • From 1 January 2018, 15% but not less than AMD 7,275 for 1,000 units • From 1 January 2019, 15% but not less than AMD 8,370 for 1,000 units • From 1 January 2020, 15% but not less than AMD 9,625 for 1,000 units • From 1 January 2021, 15% but not less than AMD 11,070 for 1,000 units
Cigars	1,000 units	AMD 605,000
Cigarillos	1,000 units	AMD 16,500

Goods	Unit of measure	Tax rate
Lubricating oil	Price excluding VAT and excise tax or customs value or purchase price or 1 kg	50%, but not less than AMD 400 for 1 kg
Tobacco substitutes	1 kilogram	AMD 1,500
Raw oil and oil materials	1 ton	AMD 27,000
Gases produced from oil and other hydrocarbons (except compressed natural gas)	1 ton	AMD 1,000
Compressed natural gas	1,000 m ³	AMD 25,000
Petrol *	1 ton	AMD 40,000
Diesel fuel	1 ton	AMD 13,000

* If the sum of excise tax and VAT calculated for 1 ton of petrol is less than AMD 135,000, the amount of excise tax should be increased to reach the sum of excise tax and VAT equal to AMD 135,000.

Taxpayers producing excisable goods in Armenia should submit monthly VAT and excise tax unified returns and make excise tax payments by the 20th day of each month following the reporting period.

Land tax

Land tax is assessed and collected at the municipal level and is paid biannually by landowners and the permanent users of state-owned land. Tax on rented land is levied on the lessor. The land cadastre (valuation system) is used to determine the value of the land. Land tax for agricultural land is calculated at 15% of the net income determined by the cadastral evaluation. For non-agricultural land, the rate is 0.5% to 1.0% of the cadastral value of the land.

Property tax

Property tax is assessed and collected at the municipal level on buildings, motor vehicles, and means of water transport. The tax rate on buildings is 0.3%, which is paid on the cadastral value.

Property tax for motor vehicles with up to ten seats is calculated as follows:

Capacity (horsepower)	Tax rate (per horsepower)
Up to 120	AMD 200
121 to 150	AMD 300
151 to 250	AMD 300 + AMD 1,000 per horsepower in excess of 150
251 and over	AMD 500 + AMD 1,000 per horsepower in excess of 150

Property tax for motor vehicles with more than ten seats is calculated as follows:

Capacity (horsepower)	Tax rate (per horsepower)
Up to 200	AMD 100
201 and over	AMD 200

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The annual property tax on motorcycles is calculated at the rate of AMD 40 for each horsepower of tax base. The annual rate of property tax on watercraft is calculated at AMD 150 for each horsepower of tax base.

Beginning from the fourth year after the year of production, the tax base for motor vehicles and means of water transport is reduced by 10% per year, up to a maximum reduction of 50%.

Legal entities should calculate property tax and pay this to the municipal budget on a semi-annual basis. The semi-annual property tax calculations should be submitted to the state bodies where the property is registered not later than the 20th day following the reporting half-year.

The Law on property tax and land tax will be replaced by the immovable property tax and vehicle property tax under the Tax Code starting from 1 January 2019.

Transfer taxes

Armenia does not have any transfer taxes.

Stamp taxes

Armenia does not have any stamp taxes.

Turnover tax

The turnover tax is payable by commercial organisations and individuals (individual entrepreneurs). The turnover tax replaces VAT and (or) CIT obligations for SMEs, with the exception of individual entrepreneurs and notaries for whom it replaces only VAT.

There are certain revenue thresholds that taxpayers should not exceed to be considered as turnover taxpayers (*see description of Value added-tax [VAT] above*).

Businesses producing/importing excisable goods are required to account for VAT on their sales.

Certain ownership and inter-relation thresholds are also applicable for entities to be considered as turnover taxpayers.

The taxpayer should file an application to the tax authorities before 20 February of the calendar year to become a turnover taxpayer. Note that there are also some other requirements that the taxpayer should meet to become a turnover taxpayer. Subdivisions of foreign companies in Armenia (i.e. PEs) cannot become turnover taxpayers.

The turnover tax is imposed on the reporting period income (revenue) as follows:

Type of income	Tax rate (%)
Trading activities *	5.0
Production activities	3.5
Newspaper sales by publishing companies	1.5
Rental income, interest, royalties, and assets' disposal (including estate property)	10.0
Income on notary activities	10.0
Organising lottery activities	25.0
Income on other type of activities	5.0

* The tax rate on the sale of secondary raw materials is 1.5%. Turnover taxpayers engaged in trade activities may deduct 4% of cost of the goods for sale (including imported goods) purchased during the reporting period from the turnover tax payable for that period, provided such purchases are properly documented. However, the final tax payable for the trading activities, after the deductions, should not be less than 1.5% of the taxable turnover for the reporting period. The purchases not deducted in the reporting period because of the limitations above may be deducted in the future periods.

Turnover taxpayers are required to submit tax calculation on a quarterly basis and make tax payment within 20 days following the end of the reporting period.

Taxation of a family business

Entities and/or individual entrepreneurs that qualify as a family business enjoy exemption from all state taxes. Family businesses pay only monthly income tax in the amount of AMD 5,000 per individual engaged in the business and receiving income.

The business activity is considered a family business if the annual turnover (net of VAT) of an entity does not exceed AMD 18 million for the previous year and if at least two family members (parent, spouse, child, sister, brother) are engaged in that business. Note that there are also some other limitations for entities to become qualified as a family business.

Payroll taxes

Payroll income paid by the employer (tax agent) is subject to final withholding on a monthly basis.

Dividends received by foreigners are subject to 10% income tax (i.e. dividends resulted from the activities after 1 January 2017), and dividends received by Armenian citizens are subject to 5% income tax (i.e. dividends resulted from the activities after 1 January 2018).

The tax withheld from the dividends is subject to refund if the dividend received from a resident entity is invested in the capital of the same resident entity during the same tax year.

Social security contributions

Mandatory contributions to pension funds are applicable for both Armenian and foreign citizens who were born after 1 January 1974 (inclusive). However, some employees could have suspended the payment of social contributions until 1 July 2018 by submitting an appropriate application.

Employers should automatically enrol all workers (except those who submitted an application by 25 December 2014 to suspend the social payments) into a pension scheme and withhold contributions in accordance to the following rates:

- If the monthly gross income is up to AMD 500,000, the employer should withhold monthly social payment at a rate of 5%.
- If the monthly gross income is above AMD 500,000, the employer should withhold a contribution in the amount of the difference of 10% of the income and AMD 25,000.

The maximum amount of monthly social payment is capped at AMD 25,000 by 1 July 2020.

The state contributes another 5% per month to the pension fund from its side, capped at AMD 25,000.

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Branch income

When a non-resident company conducts business in Armenia through a subdivision (i.e. a branch or a representative office) and maintains separate accounting records for that subdivision, taxable income generally should be determined on the same basis as for resident entities. Note that a subdivision is taxable on dividends received from Armenian companies.

The non-resident taxpayers conducting activity in Armenia through subdivision (i.e. PE) should keep separate accounting books.

The income received by a non-resident entity conducting activity in Armenia through a PE is considered income received by the PE if the supporting documents of income received are issued in the name of the PE.

Armenia has no special tax rules for non-commercial representative offices established to engage in liaison-type activities. Such offices are subject to the normal CIT, but an exemption from CIT may be available under a relevant tax treaty if the activities of the representative office are not sufficient to constitute a PE for the foreign entity.

See the Withholding taxes section for a list of countries with which Armenia has a tax treaty.

Income determination

Taxable profits are defined as a positive difference between a taxpayer's gross income and deductible expenses. Gross income encompasses all revenues received by a taxpayer from all economic activities, unless the revenues are expressly exempt from inclusion under the law. Deductible expenses encompass all necessary and documented expenses that are directly related to conducting business, unless a specific provision in the law restricts the deduction.

Inventory valuation

Inventories are stated at their cost. First in first out (FIFO) or average cost methods of valuation are generally used for tax purposes.

The assets' revaluation is not considered for CIT purposes, unless the revaluation of certain assets is prescribed under the law.

Capital gains

Capital gains are included in taxable income. Non-residents are taxable on the realised capital gains from the increase of the value of the assets located in Armenia. Capital gains received by non-residents on sale of securities are taxed at 0% WHT.

Dividend income

Dividends derived by an Armenian entity from another Armenian entity are exempt from tax. Dividends derived by non-residents from Armenian entities are subject to 10% WHT unless relief is available under a relevant tax treaty (*see the Withholding taxes section*).

The dividend income should be considered received on the day of the decision by the shareholders to distribute dividends.

Interest income

Interest income attracts normal CIT treatment.

Royalty income

Royalty income attracts normal CIT treatment.

Foreign income

Resident entities are liable to Armenian tax on their worldwide income. Foreign taxes should be available for credit against Armenian tax liabilities, up to the amount of Armenian tax payable on the foreign income.

There are no provisions in the Tax Code allowing any tax deferral on income earned abroad.

Deductions

Expenses incurred in the furtherance of a taxpayer's business activities generally are deductible, unless a specific provision in the Tax Code provides otherwise. Expenses that are not supported by relevant documentation are not deductible.

Depreciation and amortisation

Fixed assets owned (leased) by the taxpayer and ready for use should be depreciated using the straight-line method. The minimum periods for depreciation (to be applied on the initial value) for depreciating fixed assets are:

Asset	Minimum depreciation period (years)
Industrial and commercial buildings, engineering constructions, and transmission devices	20
Hotels, resorts, rest houses, educational institutions	10
Robot equipment and assembly lines	3
Calculating devices and computers	1
Fixed assets with value up to AMD 50,000	1
Production equipment	5
Other fixed assets (including labour livestock, perennial plantings, and capital investments for land improvement)	8

Intangible assets may be amortised using the straight-line method over the lesser of the asset's useful economic life or ten years.

Land may not be depreciated. Capital investments for land improvement are depreciated over eight years.

Goodwill

Payments with respect to goodwill and impairment losses of goodwill are not deductible in Armenia.

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Start-up expenses

Start-up expenses are fully deductible, provided they are properly documented.

Interest expenses

As a general rule, interest is deductible if the related debt is used to fund business activities of the taxpayer. However, the following items are not deductible from gross income:

- Part of interest on loan and credits (including interest amounts calculated within the framework of financial lease contracts) exceeding the amount of twice the settlement rate set by the Central Bank of Armenia on 31 December of the tax year. Currently, the deductible interest rate is capped at 24%.
- Part of yearly interest on loans attracted from non-bank and non-credit entities that, according to fiscal year results, is above:
 - the two-fold positive amount of the equity of the taxpayer (excluding banks and credit organisations) on the last day of the fiscal year, and
 - the nine-fold positive amount of the equity of the taxpayer, which is a bank or credit organisation, on the last day of the fiscal year.

Equity is the difference between assets and liabilities calculated for tax purposes.

In the event of a negative amount of equity on the last day of the fiscal year, interest on loans attracted from non-bank and non-credit organisations should not be deducted from the gross income.

The above provisions do not apply to interest on loans received from international development institutions included in the list specified by the Armenian government, as well as on interest on borrowing attracted from placement of debt securities through public offerings.

- Interest on loans received by non-bank and non-credit organisations if the amounts of these loans are provided to other taxpayers on an interest-free basis.
- The part of interest on loans received by non-bank and non-credit organisations that is above interest received on sub-lending of those loans to other taxpayers.

Lease payments

Lease payments are generally deductible, except for the following cases:

- Lease payments on fixed assets and/or intangible assets leased by the taxpayer are not deductible if they are provided to other taxpayers for free use.
- The part of lease payments on fixed assets and/or intangible assets leased by the taxpayer that is above lease payments received on sub-lease on those assets to other taxpayers.

Bad debt

A taxpayer is entitled to deduct bad debts if the taxpayer creates a reserve and allocates the amount of bad debt in the following proportions:

- Up to 90 days from the due date: 0%.
- From 91 to 180 days from the due date: 25%.
- From 181 to 270 days from the due date: 50%.
- From 271 to 365 days from the due date: 75%.

Beyond 365 days, bad debts of less than AMD 100,000 may be deducted. For larger debts, the company would need to have pursued the debt through the courts before a deduction may be taken.

Charitable contributions

Expenses on aid, food organisation for individuals, as well as organisation of social-cultural events for them, are deductible in amounts of up to 0.25% of gross income.

Cost of assets, works, and services provided to non-commercial organisations, libraries, museums, public schools, boarding-houses, nursing homes, orphanages, and hospitals are deductible in amounts of up to 0.25% of gross income.

Fines and penalties

Commercial fines and penalty expenses are deductible for CIT purposes. Fines and penalties paid to the state or municipal budgets are not deductible.

Taxes

Non-refundable (non-credited) taxes (e.g. property tax, land tax, expensed VAT), duties, and other obligatory payments are deductible for CIT purposes.

Other significant items

The deductibility of the following common items is limited for CIT purposes:

- Expenses for business trips outside Armenia are limited to 5% of the gross income of the reporting year (for the tax year that includes the date of the registration of the taxpayer, the deductibility limit is not applied). However, up to 80% of sales turnover for execution of works and/or delivery of services indicated in the contract signed with the customer or provided separately in the settlement document endorsed by the customer can be deducted in the event of execution of works and/or delivery of services outside the territory of Armenia.
- Representative expenses are limited to the lesser of 0.5% of the gross income of the reporting year or AMD 5 million.
- Expenses on management services received from non-resident companies or individuals are limited to 2% of the gross income of the reporting year. For the management services incurred during the tax year of the state registration, if 2% of the gross income is less than AMD 2 million, it is allowed to deduct the management service expenses up to AMD 2 million.
- Funded contributions made within the framework of the voluntary funded pension scheme are limited to 7.5% of the salary of the employee.

Net operating losses

Companies are entitled to carry forward losses to the five subsequent income years. Armenian law does not allow the carryback of losses.

Payments to foreign affiliates

Payments to foreign affiliates are deductible if they meet the normal tests for deductibility.

Group taxation

There are no group taxation provisions available in Armenia.

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Transfer pricing

The transfer pricing regulations entered into force on 1 January 2018 under the Tax Code. This will have a significant impact on many taxpayers, as previously there was no transfer pricing legislation in Armenia.

The new regulations define the scope of transfer pricing control, introduce the arm's-length principle and transfer pricing methods, define sources of information for analysing transfer pricing, determine transfer pricing documentation requirements, and establish other important provisions.

Overview of the transfer pricing regulations

The new rules are aimed at transactions between related parties and transactions with tax havens. They will apply to the taxpayers whose sum of controlled transactions exceed AMD 200 million in any reporting year.

For application of the transfer pricing rules, Armenian tax authorities will focus on completeness of calculation and payment of the following taxes:

- CIT.
- VAT.
- Mineral royalty tax (for the use of metal mineral resources).

Thin capitalisation

Armenia does not have thin capitalisation rules. However, there are certain limitations on deductibility of interest expenses (*see Interest expenses in the Deductions section*).

Controlled foreign companies (CFCs)

There are no CFC rules in Armenia.

Tax credits and incentives

The Tax Code provides additional tax incentives to Armenian resident entities meeting several criteria under the government's export promotion-oriented program. The group of entities involved in the program approved by the government enjoy CIT rates reduced up to tenfold from the general 20% CIT rate. Mainly, the group of companies exclusively engaged in exports of goods and services with an annual group turnover of at least AMD 50 billion will enjoy a 2% reduced CIT rate. For the group of companies whose total annual export turnover is at least AMD 40 billion, the CIT rate will be reduced to 5%. Note that there are several other conditions the companies should meet to be eligible for the program.

The CIT for the resident companies implementing special construction projects exclusively outside Armenia and approved by the government is reduced to a 5% rate.

Taxpayers engaged in agricultural production are exempt from CIT on that income until 31 December 2024.

Taxpayers engaged in production of hand-made carpets are exempt from CIT on the income received from the sale of hand-made carpets.

Taxpayers operating in free economic zones are exempt from CIT in respect of income received from activities performed in free economic zones in Armenia. Armenian resident companies implementing a business plan approved by the government may deduct the amount of the annual salaries for the new jobs created from the CIT liability of that year, but not greater than 30% of the actual CIT calculated. The incentive is applicable for five fiscal years, in addition to the year of the start of the business.

Foreign tax credit

Tax residents are allowed to credit foreign taxes paid on income received abroad against their Armenian tax liabilities. The amount of foreign tax credit is limited to the amount of Armenian tax that would arise from the equivalent income in Armenia.

Withholding taxes

Payments to non-residents are subject to the following WHT rates:

- Payments for insurance, reinsurance, and transportation are subject to WHT at the rate of 5%.
- Dividends, interests, royalties, income from the lease of property, and capital gains (except capital gains from the sale of securities) are subject to WHT at the rate of 10%.
- Capital gains from the sale of securities are subject to WHT at the rate of 0%.
- Other income (from services) received from Armenian sources is subject to WHT at the rate of 20%.

WHT is required to be transferred to the budget not later than the 20th day following the quarter that includes the date of the income payment. A WHT return should be submitted by the 20th day following the reporting quarter.

WHT rates for non-residents may be reduced under a relevant tax treaty.

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	10	10	10
Treaty:			
Austria	5/15 (1)	0/10 (2)	5
Belarus	10/15 (19)	10	10
Belgium	5/15 (1)	0/10 (2)	8
Bulgaria	5/10 (3)	5/10 (14)	5/10 (11)
Canada	5/15 (4)	10	10
China, People's Republic of	5/10 (5)	10	10
Croatia	0/10 (6)	10	5
Cyprus	0/5 (16)	5	5
Czech Republic	10	0/5/10 (10)	5/10 (11)
Estonia	5/15 (7)	10	10
Finland	5/15 (7)	5	5/10 (8)
France	5/15 (9)	0/10 (12)	5/10 (13)
Georgia	5/10 (5)	10	5
Germany	7/10 (18)	5	6
Greece	10	10	5
Hungary	5/10 (5)	5/10 (14)	5

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Recipient	WHT (%)		
	Dividends	Interest	Royalties
India	10	10	10
Indonesia	10/15 (20)	10	5
Iran	10/15 (20)	10	5
Ireland	0/5/15 (21)	0/5/10 (10)	5
Italy	5/10 (22)	10	7
Kazakhstan	10	10	10
Kuwait	5	5	10
Latvia	5/15 (7)	10	10
Lebanon	5/10 (5)	8	5
Lithuania	5/15 (7)	10	10
Luxembourg	5/15 (1)	0/10 (15)	5
Moldova	5/15 (7)	10	10
Netherlands	0/5/15 (24)	5	5
Poland	10	5	10
Qatar	5/10 (23)	5	5
Romania	5/10 (5)	10	10
Russia	5/10 (17)	10	0
Serbia	8	8	8
Slovakia	5/10 (28)	0/10 (29)	5
Slovenia	5/10 (5)	10	5
Spain	0/10 (25)	5	5/10 (11)
Sweden	0/5/15 (30)	5	5
Switzerland	5/15 (26)	10	5
Syria	10	10	12
Tajikistan	10	10	10
Thailand	10	10	15
Turkmenistan	5/15 (7)	10	10
Ukraine	5/15 (7)	10	0
United Arab Emirates	3	0	5
United Kingdom and Northern Ireland	5/10/15 (27)	5	5

Notes

1. The direct ownership threshold for the 5% rate is 10%. The 15% rate applies in other cases.
2. The 0% rate applies to the sale on credit of industrial, commercial, and scientific equipment, and capital goods, and to interest on loans granted by banks. The 10% rate applies in other cases.
3. The 5% rate applies if the recipient company directly holds at least 100,000 United States dollars (USD) of the capital of the company paying dividends. The 10% rate applies in other cases.
4. The 5% rate applies if the recipient company directly owns at least 25% of the capital of the company paying dividends and the capital invested exceeds USD 100,000. The 15% rate applies in other cases.
5. The 5% rate applies if the beneficial owner is a company that directly owns at least 25% of the capital of the company paying dividends. The 10% rate applies in other cases.
6. The 0% rate applies if the recipient company directly or indirectly owns at least 25% of the capital of the company (during the latest two calendar years) paying dividends, provided that such dividends are tax exempt in the recipient company country. The 10% rate applies in other cases.
7. The 5% rate applies if the beneficial owner is a company that directly owns at least 25% of the capital of the company paying dividends. The 15% rate applies in other cases.
8. The 5% rate applies to royalties on copyright on software, trademark, model or project, industrial, commercial, scientific information (know-how) etc. The 10% rate applies to copyright royalties, including films, etc.
9. The 5% rate applies if the recipient company directly or indirectly holds at least 10% of the capital of the company paying dividends. The 15% rate applies in other cases.
10. The 0% rate applies to government debt and government-assisted debt. The 5% rate applies to interest on loans or credit granted by banks. The 10% rate applies in other cases.

11. The 5% rate applies to literary, artistic, or scientific work copyright royalties and to film and broadcasting royalties. The 10% rate applies in other cases.
12. The 0% rate applies to the credit sale of industrial, commercial, or scientific equipment, to the credit sale of merchandise or services, and to loans granted by a bank. The 10% rate applies in other cases.
13. The 5% rate applies to copyright royalties. The 10% rate applies in other cases.
14. The 5% rate applies to interest on loans or credit granted by banks. The 10% rate applies in other cases.
15. The 0% rate applies to interest on loans granted by banks. The 10% rate applies in other cases.
16. The 0% rate applies if the beneficial owner has invested at least 150,000 euros (EUR) in equity. The 5% rate applies in other cases.
17. The 5% rate applies if the recipient company directly holds at least 25% of the capital of the paying company. The 10% rate applies in other cases.
18. The 7% rate applies if the beneficial owner is a company (not partnership) that directly owns at least 25% of the capital of the company paying dividends. The 10% rate applies in other cases.
19. The ownership threshold for the 10% rate is 30%. The 15% rate applies in other cases.
20. The 10% rate applies if the beneficial owner is a company that directly owns at least 25% of the capital of the company paying dividends. The 15% rate applies in other cases.
21. The ownership threshold for the 0% rate is 25% (during the latest two calendar years), provided that such dividends are tax exempt in the recipient company country. The direct ownership threshold for the 5% rate is 10%. The 15% rate applies in other cases.
22. The 5% rate applies if the company receiving dividends has directly owned at least 10% of the capital (representing at least USD 100,000) of the company paying dividends for at least 12 months. The 10% rate applies in other cases.
23. The 5% rate applies if the capital invested by the company receiving the dividends exceeds USD 100,000. The 10% rate applies in other cases.
24. The ownership threshold for the 5% non-portfolio rate is 10%. The 0% rate applies if the dividends out of which the profits are paid have been effectively taxed at the normal rate for profits tax and the dividends are exempt income to the Dutch recipient. The 15% rate applies in other cases.
25. The ownership threshold for the 0% rate is 25% (during the latest two calendar years), provided that such dividends are tax exempt in the recipient company country. The 10% rate applies in other cases.
26. The 5% rate applies if the recipient company directly holds at least 25% of the capital of the paying company and the capital invested exceeds 200,000 Swiss francs (CHF). The 15% rate applies in other cases.
27. The 5% rate applies if the recipient company directly or indirectly owns at least 25% of the capital of the company paying dividends and the capital invested is at least 1 million pound sterling (GBP). The 15% rate applies to the income derived directly or indirectly from immovable property by an investment that distributes most of this income annually and income from such immovable property is exempted from tax. The 10% rate applies in other cases.
28. The 5% rate applies if the beneficial owner is a company (not partnership) that directly owns at least 10% of the capital of the company paying dividends. The 10% rate applies in other cases.
29. The 0% rate applies to government debt and government-assisted debt. The 10% rate applies in other cases.
30. The ownership threshold for the 0% rate is 25% (during the latest two calendar years), provided that such dividends are tax exempt in the recipient company country. The ownership threshold for the 5% rate is 10%. The 15% rate applies in other cases.

Tax administration

Taxable period

In Armenia, the taxable period is the calendar year.

Tax returns

The annual CIT return for resident entities must be filed by 20 April.

Payment of tax

The tax corresponding to the CIT return for resident entities is payable by 20 April.

Taxpayers should make advance CIT payments by the 20th day of the last month of each quarter (unless they applied for the alternative method of advance payments, *see below*). Each advance payment is equal to 20% of the CIT of the previous year. For payments before the previous year's tax is calculated (e.g. January to March), tax is paid based on the last filed tax return, and an adjustment is made in the first advance

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tax payment made after the previous year's tax is calculated to correct the amount paid. If advance payments exceed the CIT liability for the year, the excess may be refunded.

Taxpayers are not required to make advance CIT payments during the year of registration as long as they did not submit an application for the alternative method of advance payments.

Alternative method of advance payments

Companies and PEs are allowed to make quarterly CIT advance payments equal to 2% of the revenue generated from the sales of goods and services provided in the previous quarter, provided they submitted an application of selecting the alternative CIT prepayment method by 20 March of the corresponding year. Quarterly payment should be made by the 20th day of the last month of each quarter.

Tax audit process

Risk based audits

For the purposes of planning audits, the authorities develop risk criteria that are approved by the Armenian government. Based on the risk criteria, entities are classified into the following three categories:

- High risk entities.
- Medium risk entities.
- Low risk entities.

The authorities should approve the audit plan (list of audit targets) before 1 June of the preceding year for the 12-month period beginning on 1 July. The list of audit targets is published during three days after the audit plan has been approved.

Tax audits

The tax authorities may carry out scheduled audits a maximum of once each year for high risk taxpayers, once each three years for medium risk taxpayers, and once each five years for low risk taxpayers.

Business entities must be notified of the audit in writing at least three days before the scheduled audit.

The tax inspector must present a written order to the taxpayer outlining the scope and period of the tax audit before starting the audit. The written order specifies the names of the officials who may participate in the audit.

For normal business entities, the scheduled audit should be carried out within 15 business days, although the period may be extended by up to ten days. For companies whose annual revenue exceeds AMD 3 billion, the period may be extended by up to 75 business days.

Statute of limitations

The statute of limitations is four years.

Topics of focus for tax authorities

There are no specific topics of focus for the tax authorities. In practice, the tax authorities perform a comprehensive audit of the taxpayer's books, covering all taxes and mandatory payments.

Other issues

Intergovernmental agreements (IGAs)

A Model 2 IGA is treated as 'in effect' by the US Treasury as of 8 May 2014.

On 12 February 2018, Armenia signed a Model 2 IGA with the United States of America to improve international tax compliance and to implement the Foreign Account Tax Compliance Act (FATCA).

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Significant developments

New rules on administration of double tax treaties (DTTs) are effective as of 1 July 2017. By repealing the old rules, the new rules introduced administration of advance tax relief, DTT application, etc. *See the Withholdings taxes section for more information.*

According to several amendments regarding cashless operations introduced to the Tax Code, taxpayers are subject to financial sanctions for failure to conduct certain operations cashless (i.e. for receiving in cash). *See the Other issues section for more information.*

Taxes on corporate income

In general, Azerbaijan resident entities are subject to a profit tax on their worldwide income. A non-resident enterprise operating in Azerbaijan through a permanent establishment (PE) must pay tax on the gross income generated from Azerbaijan sources, less any related deductions attributable to the PE. Gross income of a non-resident enterprise generated from Azerbaijan sources and not connected with a PE is taxed at the source of payment without any deductions allowed for expenses.

Domestic enterprises and PEs of non-residents are subject to profit tax at the flat rate of 20%.

Taxable profits are defined to be the difference between a taxpayer's gross income and deductible expenses.

Gross income encompasses all revenues received by a taxpayer from all economic activities, unless the revenues are expressly exempted under the law.

Deductible expenses encompass all expenses that are incurred in the furtherance of a taxpayer's business activities, except for those determined as non-deductible under the Tax Code. *See the Deductions section for more information.*

Simplified tax system

The Tax Code stipulates payment of taxes based on a simplified system for enterprises or sole entrepreneurs not registered as value-added tax (VAT) payers and whose cumulative gross revenue during any consecutive 12-month period is not more than 200,000 Azerbaijani manats (AZN), except for enterprises producing excisable goods, credit and insurance organisations, and investment funds and professional participants in the securities market. Enterprises rendering trade and catering services with taxable

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transactions exceeding AZN 200,000 during any consecutive 12-month period may choose to be simplified taxpayers.

The simplified tax is imposed on gross revenue at a rate of 4% in Baku and at a rate of 2% in other regions of Azerbaijan, whereas the simplified tax rate for enterprises rendering trade and catering services with taxable transactions exceeding AZN 200,000 shall be at 6% and 8%, respectively.

A special rate of simplified tax is set:

- for taxpayers involved in construction at a fixed amount of AZN 45 per square metre multiplied by an applied co-efficient, and
- for taxpayers selling residential and non-residential premises (except for premises of individuals where one has been residing for at least five years) at a fixed amount of AZN 15 per square metre multiplied by an applied co-efficient.

The above applied coefficient is determined by regional executive authorities.

A special rate of simplified tax is set for operators of gambling games at a rate of 6% from gross receipts from game participants and for sellers of such games at a rate of 4% from gross commission paid to them by the operator.

Simplified tax is calculated at 1% for cash withdrawals by legal entities and sole traders.

Other special corporate tax regimes

There are other tax regimes applicable under special agreements concluded between the Azerbaijan government and foreign oil companies: production sharing agreements (PSAs) and host government agreements (HGAs). The PSA and HGA regimes apply to all enterprises involved in these agreements, including foreign oil companies functioning as contractors and foreign service companies providing services to the contractor or the operating company.

There are 24 signed and ratified PSAs and two HGAs, each with its own separate tax regime. Each PSA and HGA is in force, published on the official website of the Ministry of Taxes (www.taxes.gov.az), and contains a tax article that outlines the tax regime for that particular agreement. While there are several similarities with respect to tax terms in the various PSAs, there are some differences, other than merely differing tax rates (e.g. taxation of foreign subcontractors) or reporting requirements. Additionally, tax protocols for each PSA and HGA, which provide specific guidance regarding the procedures for payment of taxes and filing of reports, are negotiated with the Ministry of Taxes and other executive authorities.

Under PSAs, PSA contractor parties and foreign subcontractors are subject to tax only on their corporate income. Contractor parties pay profit tax on income derived from hydrocarbon activities, and foreign subcontractors are subject to tax only on income from services and mark-up on goods supplied in Azerbaijan. Local subcontractors are subject to the statutory tax regime.

No corporate tax is applicable to HGA subcontractors. HGA participants pay tax only on their transportation income.

See the Tax credits and incentives section for a description of other tax incentives.

Local income taxes

Local income taxes are paid only by companies and organisations that are in the property of municipalities. Tax rates do not exceed 20% for profit taxpayers and 4% to 8% for simplified taxpayers.

Corporate residence

A resident enterprise is any legal entity established in accordance with the legislation of Azerbaijan and performing entrepreneurial activity or any entity that is effectively managed in Azerbaijan.

Permanent establishment (PE)

A PE of a foreign legal entity is subject to taxation with respect to the income attributable to such PE. A PE is an establishment of a foreign legal entity, through which it fully or partially performs commercial activities (for these purposes, a PE may be considered a management unit, office bureau, agency, construction site, etc.) for 90 cumulative days or more within any 12-month period. Activities of an auxiliary or preparatory nature (e.g. exclusively storing or exhibiting goods or products belonging to a non-resident, purchasing goods, collecting data by a non-resident enterprise for its own purposes) do not create a PE.

Other taxes

Value-added tax (VAT)

VAT is levied on the supply of goods and services in Azerbaijan, and on the import of goods.

VAT rates

The standard rate of VAT is 18%.

Zero rating applies to the following:

- Exportation of goods and services.
- Importation under the PSA and HGA regimes if the taxpayer obtains a VAT exemption certificate.
- Importation of goods, the supply of goods, and the implementation of works and provision of services to grant recipients on the expense of financial aid (grants) received from abroad.
- International and transit cargo and passenger transportation, as well as the supply of works and services directly connected with international and transit flights.
- The supply of gold and other valuables to the National Bank of Azerbaijan.

Taxable persons

Any person who is registered or is liable to register as a VAT payer is regarded as a taxable person.

Taxpayers are required to register for VAT if:

- their cumulative taxable income exceeds AZN 200,000 for a consecutive 12-month period, or

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- the value of one taxable transaction exceeds AZN 200,000.

Payments to a non-resident person, who is not registered as a VAT payer, for e-commerce services and works are subject to VAT.

If a person, who is not registered for tax purposes, makes payment to a non-resident for such services (excluding hotel and air ticket arrangement services), the local bank executing the payment should pay the VAT from funds of the buyer. Such paid VAT is not creditable.

Taxable amount

The taxable base is established by starting with the value of the goods and services without adding the VAT amount, but including any customs duty and excise duty, if applicable.

The value of taxable imports consists of the value of the goods determined in accordance with the customs legislation and taxes and duties (other than VAT) to be paid upon importation to Azerbaijan.

The amount of VAT to be paid is the difference between the amount of VAT received on taxable supplies of goods and services (output VAT) and VAT paid on the purchase of goods and services necessary to generate taxable supplies of goods and services (input VAT).

The Cabinet of Ministers can grant exemptions for the import of goods and equipment used for production purposes or to provide advanced technology know-how. Such exemptions are granted for a specific period and in a specific area, and can only be granted if it is impossible to satisfy the respective needs from local resources.

Customs duties

The Customs Code sets out the rules governing all aspects of the regime, including:

- The establishment of bonded warehouses and duty-free zones.
- Temporary imports and the processing of foreign goods in Azerbaijan.
- The procedures for the re-import and re-export of goods.

Azerbaijan has adopted the internationally accepted classification system for goods. The valuation procedures for customs purposes are determined in line with the general principles of the World Trade Organization (WTO).

The rates of customs duties are contained in the list of customs duties for the goods to be imported to Azerbaijan. These *ad valorem* customs duty rates vary between 0% and 15%, depending on the type of goods.

Full or partial relief from the duty on temporary imports (generally, for a period of up to one year) is also available.

Under the PSA regime, contractors, their agents, and subcontractors are entitled to import and re-export from Azerbaijan, free from any import duties and restrictions, goods used for hydrocarbon activities.

Excise duties

Excise duties are imposed on tobacco products; alcoholic beverages; light vehicles; leisure and sports yachts; petroleum; lubricants; imported platinum, gold, jewellery, and other items made thereof; processed, sorted, framed, and fixed diamonds; and imported fur and leather goods.

Taxable persons

Excise duties are paid by individuals, companies, and organisations, including companies with foreign investment, as well as branches, divisions, and other independent subdivisions of companies in Azerbaijan that render services and sell self-produced goods.

Taxable operations

The following operations are subject to excise duties:

- Release of excise goods produced in Azerbaijan outside the premises of the building in which they were produced.
- Import of excise goods pursuant to the customs legislation of Azerbaijan.

Tax rates

The relevant executive authority shall determine rates of excise tax for excise goods imported into Azerbaijan (with the exception of light vehicles, leisure and sports yachts, and other floating transports stipulated for these purposes; platinum, gold, jewellery, and other items made thereof; and processed, sorted, framed, and fixed diamonds).

The following excise rates apply for the following items produced in Azerbaijan:

- Food alcohol (including ethyl alcohol non-denatured with alcohol content of not less than 80%; ethyl alcohol non-denatured with alcohol content of less than 80%): AZN 2 per litre.
- Vodka, strong drinks and strong beverage materials, liqueurs, and liqueur products: AZN 2 per litre.
- Cognac and cognac products: AZN 6 per litre.
- Sparkling wines: AZN 2.5 per litre.
- Wine and vineyard materials: AZN 0.1 per litre.
- Beer (with the exception of non-alcoholic beer) and other beverages containing beer: AZN 0.2 per litre.
- Cigars, cigarillos: AZN 10 per 1,000 items.
- Cigarettes made of tobacco and their substitutes: AZN 4 per 1,000 items.

Excise rates on petroleum materials, light vehicles, leisure and sports yachts, and other floating transports stipulated for these purposes produced in the Azerbaijan Republic are established by the Cabinet of Ministers. Excise rates for petroleum materials vary from 3% to 72% of the ex-factory price, depending on the product.

Excise rates for automobiles, yachts for rest and sport purposes, and other floating means serving the mentioned purposes and imported into the Azerbaijan Republic constitute AZN 0.20 to AZN 40, depending mostly on the volume of engines.

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Property tax

Property tax is levied on both movable and immovable property owned by individuals and companies.

Property tax rates

Property tax of legal entities is imposed on the average annual book value of the taxable property at the rate of 1%.

Property tax of physical persons is calculated based on the area of the building, and property tax rates will vary between AZN 0.1 and AZN 0.4 per square metre, depending on the location of the building (e.g. in Baku, the rate is AZN 0.4 per square metre).

In the residential areas, property tax is applied only to the area of the property exceeding 30 square metres. If the building is located in Baku, tax will be calculated applying coefficients (minimum 0.7 and maximum 1.5).

Taxable persons

Taxable persons are comprised of the following:

- Resident companies, including companies with foreign investment that are treated as residents under Azerbaijani law; international organisations engaged in economic activities; and other enterprises.
- Branches and affiliated companies of such taxpayers.
- Agencies and representative offices of foreign legal entities located in Azerbaijan.
- Non-resident companies performing activities through a PE in the territory of Azerbaijan.

Enterprises can combine their assets and cooperate as joint owners. Joint owners are liable to pay tax according to their interest in the property concerned.

Tax base

The property tax base varies according to the residency status of the taxpayer. Resident companies are subject to property tax on their tangible assets recorded on their balance sheet. Non-resident companies carrying out a business activity through a PE in Azerbaijan are only subject to property tax on their tangible assets connected with the PE.

The following assets are exempt:

- Facilities used for the purposes of the environment, fire protection, and civil defence.
- Product lines, railways and motorways, communication and power lines, melioration and watering facilities, and satellites and other space objects.
- Mechanical transport means.
- Facilities of companies involved in education, health, culture, and sports that are used only for the purposes of such areas of activity.
- Exemption of 25% of the property tax payable for water transportation means in the balance of enterprises, which are used in the carriage of passengers and cargoes.

Administration

Companies are required to report the average annual value of taxable property by 31 March of the year following the reporting year and pay property tax on a quarterly basis, subject to any necessary recalculations at the end of the year. Tax payments are

due within 15 days of the second month of each quarter. The payment should be 20% of the previous year property tax amount.

The tax on water and air transport means is estimated on 1 January each year by the tax offices based on data provided by the organisations responsible for registration of means of transport. The tax is assessed on the person named in the registration document.

When an asset changes ownership during the tax year, the tax liability is defined as the liability of the new owner.

Land tax

Land tax is levied on Azerbaijan's land resources that are in the possession of or used by individuals or companies.

Land tax rates

Land tax is AZN 0.06 per unit for agricultural land used for intended purposes or not available for the intended purposes of irrigation, reclamation, and other farming reasons based on conventional units per hectare.

AZN 2 is calculated per 100 square metres of land considered for agricultural use but not used for that purpose.

The rate of land tax for industrial, construction, transport, telecommunications, trade and housing servicing, and other dedicated land varies from AZN 0.1 to AZN 20 per 100 square metres, depending on the city or region.

Taxable base

Land plots that are in ownership or used are subject to land tax. Exemptions apply to various types of land owned or used for public purposes by the state or other public authorities. The government may grant further tax exemptions and reliefs.

Assessment and procedure of payment

Companies must compute the exact amount of the land tax each year on the basis of documents evidencing the title of ownership, possession, and use. The computation must be submitted to the tax authorities by 15 May of each year. The tax must be paid by 15 August and 15 November in equal amounts.

Transfer taxes

No specific transfer taxes are levied upon the transfer of immovable property. However, certain notary fees and other sale duties applicable to transfer of property may apply.

Stamp duties

There are no stamp duties. State notary fees are payable upon notarisation of certain transactions.

Payroll taxes

Employers are liable for correct calculation, withholding, payment, and reporting of personal income tax (14% or 25%) from employee's monthly gross salaries.

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Social security contributions

Social security contributions at the rate of 22% are payable by the employer from the gross income of the employees. In addition, a 3% social security contribution is withheld from employees.

Road tax

Instead of payment of road tax by owners of auto-transportation means (excluding road tax on transit), such owners will indirectly pay the road tax within the price of fuel.

Wholesalers: Road tax rate for automobile petrol, diesel fuel, and liquid gas manufactured in Azerbaijan and directed to the national consumption (wholesale) is AZN 0.02 on wholesale price (including VAT and excise) for each litre of these mentioned items.

Importers: For automobile petrol, diesel fuel, and liquid gas imported into Azerbaijan, road tax is calculated at AZN 0.02 on the customs value, but not lower than wholesale market price (including VAT and excise), of each litre of the mentioned items.

Road tax will not be included into the taxable base for VAT and excise tax.

Mining tax

Legal entities and individuals involved in the recovery of minerals in Azerbaijan are obligated to pay the mining tax. The rate depends on the type of mineral extracted and varies from 3% to 26% of its total wholesale price.

Branch income

In addition to profit tax paid by a PE of a non-resident, the amount repatriated from the net profit of such PE to the non-resident is taxed at the source of payment at a rate of 10%.

Income determination

Capital gains

There is no separate capital gains taxation in Azerbaijan. Proceeds from the disposal of capital assets are included in ordinary taxable income.

Dividend income

Dividends distributed to residents and non-residents are subject to withholding tax (WHT) at 10% (taxable at source upon payment). Consequently, the received dividend amounts of legal entities and physical persons are not taxable for profit tax purposes.

Interest income

Azerbaijani source interests paid by a resident or a non-resident's PE, or on behalf of such establishment, shall be taxed at the source of payment at a rate of 10%.

Interest amounts received by local legal entities are subject to profit tax, and any tax withheld could be credited against due profit tax.

Royalty income

Royalty received by non-residents from an Azerbaijani resident and PE of a non-resident in Azerbaijan is taxed at the source of payment at the rate of 14%.

Royalty income received by Azerbaijan tax resident legal entities is subject to profit tax.

Foreign income

If a resident of Azerbaijan directly or indirectly holds more than 20% of shareholders' equity or possesses more than 20% of the voting shares of a foreign legal entity that, in turn, receives income from a state with favourable taxation, then such income shall be included in the resident's taxable income.

A state with favourable taxation is considered a country in which the tax rate is two or more times lower than that determined under the Tax Code of Azerbaijan, or a country in which the laws on confidentiality of information about companies exist (which allow secrecy to be maintained concerning financial information, as well as the actual owner of property or receiver of income).

A list of countries and territories with a favourable tax regime was approved. Please access the list (only in Azerbaijani) at: <http://az.president.az/articles/24547>

Any payment made to a low-tax jurisdiction is subject to WHT at 10%.

Deductions

All expenses connected with generating income, except for non-deductible expenses and expenses with limited deductibility, specifically defined by the law, are deductible from income.

Depreciation

Depreciation can be calculated up to the following annual rates:

- Buildings and premises: up to 7%.
- Machines and equipment: up to 20%.
- Computing technology (high tech): up to 25%.
- Means of transportation: up to 25%.
- Working cattle: up to 20%.
- Expenses incurred for geological and exploration works, as well as for preparatory works for the production of natural resources: 25%.
- Intangible assets with an undetermined period of use: up to 10%. For those with a determined period of use: pro-rata amount as per the useful life, in years.
- Other fixed assets: up to 20%.

Goodwill

Azerbaijani tax legislation does not specify the definition of goodwill.

Tax basis of assets

The tax basis of assets include expenses for their acquisition, production, construction, assembly, and installation, as well as other expenses that increase their value, with the exception of expenses for which the taxpayer is entitled to a deduction.

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Interest expenses

Interest on loans received from overseas and/or from related parties may be deducted, limited to the interest rate on loans with similar currency and maturity at the interbank credit auction. In absence of such an auction, deductions for interest may not exceed rates of 125% of the interbank auction credit rates published by the Central Bank of Azerbaijan.

Bad debt

A taxpayer shall be entitled to a deduction for doubtful debts connected with goods, work, and services that have been realised where income from them was previously included in the gross income received from entrepreneurial activity. Doubtful debt deduction shall be allowed only if the debt is written off as worthless in the taxpayer's books.

Charitable contributions

Charitable contributions are non-deductible expenses in Azerbaijan.

Fines and penalties

No deduction is allowed for financial sanctions or interest calculated for delayed payment of taxes.

Taxes

Property, land, and mining taxes are deductible.

Other expenses deductible within certain limits

- The amount of repair expenses deductible each year is limited to the amount of the tax written down value of each category of fixed assets as of the end of the previous year. For buildings and premises, the limit is 2%; for machinery and equipment, the limit is 5%; and for other fixed assets, the limit is 3%. An amount exceeding these limits shall be taken as an increase of the residual balance value of the fixed assets in the appropriate category.
- Actual business trip expenses are deductible from income within the limits established by the Cabinet of Ministers.
- A legal entity engaged in insurance activities is entitled to deduct allocations to reserve insurance funds within the standards established by the legislation of Azerbaijan.
- Banks and credit entities engaged in certain types of banking activities shall be entitled to deduct from income the amounts assigned for establishment of special reserve funds, depending on the classification of assets in compliance with legislation and in accordance with procedures established by the relevant executive authority.

Non-deductible expenses

The following expenses are non-deductible:

- Capital expenses.
- Expenses connected with non-commercial activity.
- Entertainment and meal expenses, accommodation, and other expenses of a social nature incurred for employees.

Net operating losses

Taxable losses incurred by legal entities may be carried forward for five years to offset future taxable profit, without limitations. Carryback of losses is not possible.

Payments to foreign affiliates

Payment to charter capital in order to create an affiliate in a foreign country is not tax deductible and is instead treated as investment to subsidiary on the balance sheet.

Under local transfer pricing rules, payment for goods and services supplied by foreign affiliates is deductible up to the fair market price of such supplies.

Group taxation

Each taxpayer is liable to fulfil one's own tax liabilities. Azerbaijani tax legislation does not have the concept of 'group taxation'.

Transfer pricing

The Tax Code provides that relations between associated (interrelated) entities must be based on the arm's-length principle.

Interrelated persons, for the purposes of taxation, are natural and/or legal persons, relations between which might have direct effect on economic results of their activities or the activities of persons they represent.

According to the regulations approved by the Ministry of Taxes, transfer pricing is only applied for the purposes of corporate/personal income tax and to so-called controlled transactions exceeding AZN 500,000 per controlled party/*per annum*.

The following transactions are controlled:

- A resident and a non-resident in a related-party relationship.
- A PE of a non-resident and such non-resident or any representative office, branch office, or other unit of such non-resident in other countries.
- A resident and/or a PE of a non-resident and persons established (registered) in a country with a favourable tax regime.

For the purposes of comparability analysis, transfer price is determined based on one of the three transactional transfer pricing methods and two profit methods:

- Comparable uncontrolled price method.
- Resale price method.
- Cost plus method.
- Comparable profit method.
- Profit split method.

Where the value of the transactions per controlled party does not exceed AZN 500,000 and no filing requirement is applicable, the taxpayer is still required to follow the regulations in computing tax liability.

In determining transfer prices, the following databases may be used:

- International or local exchange quotations.

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- Foreign trade statistics of the customs authorities.
- Reports placed in reliable sources.
- Databases of specialised agencies to which the tax office is subscribed, etc.

The regulations also set out provisions on transfer pricing dispute resolution and avoidance of double taxation, as well as provide relevant examples of each of the transfer pricing methods.

Thin capitalisation

There is no concept of thin capitalisation in Azerbaijani tax law. However, the Tax Code provides that interest on loans received from overseas and/or from related parties may be deducted, limited to the interest rate on loans with similar currency and maturity at the interbank credit auction. In absence of such an auction, deductions for interest may not exceed rates of 125% of the interbank auction credit rates published by the Central Bank of Azerbaijan.

Controlled foreign companies (CFCs)

See the description of Foreign income in the Income determination section.

Tax credits and incentives

Foreign tax credit

Azerbaijani legal entities are taxed on worldwide profit; however, any tax paid overseas, up to the tax amount that would be calculated under Azerbaijani law, will be allowed to offset the Azerbaijani profit tax. The tax credit may not exceed the tax that would be imposed on such income in Azerbaijan. This credit applies only to residents of Azerbaijan.

Incentives for agricultural producers

Taxpayers producing agriculture products are exempt from profit tax, VAT, and property tax until the end of 2018.

Only mark-ups applied in the retail sale of agricultural products produced in Azerbaijan are subject to VAT.

The following transactions are not subject to VAT for three years from 1 January 2017:

- Import and sale of wheat, as well as production and sale of flour and bread.
- Sale of non-performing assets as part of restructuring and rehabilitation of insolvent banks.
- Sale of poultry meat.

Incentives for residents of industrial and technology parks

Businesses operating in industrial and technology parks are eligible for certain privileges and exemptions. The privileges include the following:

- Exemption for seven years from the date of registration in these parks from profit/income, land, and property tax for resident legal entities and private entrepreneurs.
- VAT exemption for import of equipment for construction, scientific research works, and other activities in these parks for seven years or an indefinite period, depending on the nature of these activities.

The Law on the Special Economic Regime for Export-Oriented Oil and Gas Activities

The Law on the Special Economic Regime for Export-Oriented Oil and Gas Activities was adopted in April 2009 and will remain effective for 15 years. This law avails the following tax incentives to contractors and subcontractors (excluding foreign subcontractors without PE in Azerbaijan):

- Local companies are permitted to choose between (i) profit tax at a rate of 20% or (ii) 5% WHT on gross revenues.
- Foreign subcontractors are taxable only by a 5% WHT.
- 0% VAT rate.
- Exemption from dividend WHT and taxation on branch's net profits.
- Exemption from customs duties and taxes.
- Exemptions from property tax and land tax.

In order to derive these benefits, the relevant taxpayer should obtain a special confirmation certificate from the Ministry of Industry and Energy.

The Law on Special Economic Zones (SEZs)

The companies operating in SEZs shall have the following tax benefits:

- A 0.5% tax levied on overall turnover from supplied goods, performed services, or works.
- A 0% VAT rate.
- Customs exemptions.

In order to operate in an SEZ, a special residency certificate is necessary. However, the following companies may not apply for this certificate:

- Companies producing or processing oil and gas.
- Companies producing alcoholic beverages and tobacco.
- Television or radio broadcasting companies.

As of March 2018, no SEZs have yet been established in Azerbaijan.

Incentive for the employment of disabled persons

The rate of profit tax levied on production enterprises belonging to community organisations for disabled persons, and involving at least 50% of disabled persons, shall be reduced by 50%.

In determining eligibility for these privileges, disabled persons substituting for permanent employees, contractors (i.e. who work under contractor agreements, civil legal contracts), or disabled persons till the age of 18 are not included in the average number of employees.

Withholding taxes

Income received from Azerbaijan sources not attributable to a PE of a non-resident in Azerbaijan is subject to WHT at the following rates:

- Dividends paid by resident enterprises: 10%.

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- Interest paid by residents, PEs of non-residents, or on behalf of such PEs (except for interest paid to resident banks or to PEs of non-resident banks): 10%.
- Rental fees for movable and immovable property: 14%.
- Royalties: 14%.
- Risk insurance or reinsurance payments: 4%.
- Telecommunications or international transport services: 6%.
- Other Azerbaijani-source income: 10%.
- Payments to low-tax jurisdictions: 10%.

If a resident enterprise or a PE of a non-resident receives interest, royalties, or rental fees taxable at the source of payment in Azerbaijan, it is entitled to consider the tax deducted from the source of payment, provided that the documents supporting the tax deduction are in place.

Direct or indirect payments to a person in a country with a favourable tax regime are considered income from an Azerbaijani source and subject to 10% WHT. The list of countries concerned is determined annually (*see Foreign income in the Income determination section for a link to the list*).

Banks and the national operator of the postal service must deduct 10% WHT from funds transferred by residents to digital wallets, which refer to software to carry out electronic payments.

Tax treaties

The following chart contains the WHT rates that are applicable to dividend, interest, and royalty payments by Azerbaijan residents to non-residents under the tax treaties in force as of 1 January 2018. If the treaty rate is higher than the domestic rate, the latter is applicable.

Recipient	WHT (%)			
	Dividends		Interest (2)	Royalties (3)
	Individual companies	Qualifying companies (1)		
Non-treaty	10	10	10	14
Treaty:				
Austria	15	5/10	10	5/10
Belarus	15	15	10	10
Belgium	15	5/10	10	5/10
Bosnia and Herzegovina	10	10	0/10	10
Bulgaria	8	8	0/7	5/10
Canada	15	10	0/10	5/10
China (People's Republic)	10	10	10	10
Croatia	10	5	10	10
Czech Republic	8	8	5/10	10
Denmark	15	5	8	5/10
Estonia	10	5	10	10
Finland	10	5	0/10	5/10
France	10	10	10	5/10
Georgia	10	10	10	10
Germany	15	5	10	5/10
Greece	8	8	8	8
Hungary	8	8	0/8	8

Recipient	WHT (%)			
	Dividends		Interest (2)	Royalties (3)
	Individual companies	Qualifying companies (1)		
Iran	10	10	10	10
Israel	15	15	10	5/10
Italy	10	10	10	5/10
Japan	15	15	10	10
Kazakhstan	10	10	10	10
Korea	7	7	10	5/10
Kuwait	10	5	7	10
Latvia	10	5	10	5/10
Lithuania	10	5	10	10
Luxembourg	10	5	10	5/10
Macedonia	8	8	0/8	8
Malta	8	8	8	8
Moldova	15	8	10	10
Montenegro	10	10	0/10	10
Netherlands	10	5	0/10	5/10
Norway	15	10	10	10
Pakistan	10	10	10	10
Poland	10	10	10	10
Qatar	7	7	7	5
Romania	10	5	8	10
Russia	10	10	10	10
San Marino	10	5	10	5/10
Saudi Arabia	7	5	7	10
Serbia	10	10	10	10
Slovenia	8	8	8	5/10
Sweden	10	5	8	5/10
Switzerland	15	5	5/10	5/10
Tajikistan	10	10	10	10
Turkey	12	12	10	10
Ukraine	10	10	10	10
United Arab Emirates	10	10	7	5/10
United Kingdom	15	10	10	5/10
Uzbekistan	10	10	10	10
Vietnam	10	10	10	10

Notes

1. The lower dividend rate applies if the qualifying company meets certain criteria (e.g. participation and capital holding criteria).
2. The lower interest rate applies, *inter alia*, to interest paid by public bodies or to bank loans.
3. The lower royalty rate applies to royalties for patents, designs or models, plans, secret formulas or processes, computer software, know-how, etc.

New rules on administration of DTTs are effective as of 1 July 2017. The following amendments are established:

- Advance tax relief may be obtained for all type of income, including business (active income) if such income is not attributable to a PE in Azerbaijan. Previously, such

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relief might only be obtained for dividends, interest, royalties, and income from international shipments.

- Applications may also be filed electronically along with a hard-copy submission. Previously, only hard-copy submission was possible.
- No requirement to get respective DTT application approved by the overseas tax authorities. Only a tax residency certificate is required to be approved by the foreign tax authorities.
- Tax office may also return the approved applications to the income payer (tax agents) in the online regime.

More detailed information about applicability of lower rates may be found in respective DTTs.

Tax administration

Taxable period

The tax year in Azerbaijan is the calendar year.

Tax returns

Resident enterprises and PEs of non-residents must file profit tax returns for a calendar year by 31 March of the following year. During liquidation of a legal entity or a PE of a non-resident, the tax return should be submitted within 30 days after the adoption of a decree on liquidation.

A non-resident that has no PE in Azerbaijan and receives income subject to WHT (except for dividends and interest) may file a tax return with respect to such income and expenses, connected with the generation of the income, for purposes of reassessment of profit tax at the rate of 20%.

If a taxpayer applies for an extension of time to file the profit tax return prior to the expiration of the filing deadline and at the same time settles the full tax amount due, the filing deadline may be prolonged for up to three months. The prolongation of the terms for filing the return will not modify the terms of tax payment.

Legal entities and entrepreneurs that withhold tax at the source of payment are obligated to file the WHT report with the tax authorities within 20 days following the end of the quarter.

Advance tax ruling

The Tax Code introduces the concept of advance tax ruling, which allows a taxpayer to apply to the tax office for determination of its tax liabilities and legal consequences in advance for taxable operations. A tax ruling can be obtained for a particular transaction of at least AZN 10 million. The state duty for such application is AZN 500.

Voluntary tax disclosure

Voluntary tax disclosure refers to situations where notification of a tax liability, not discovered during a field tax audit, is made by the taxpayer to the tax authorities after the audit. In this case, the taxpayer pays only the tax due (i.e. without payment of a financial sanction).

Payment of tax

Taxpayers must make advance quarterly tax payments of profit tax by the 15th day of the month following the end of the calendar quarter. Payments are determined either (i) as 25% of tax for the past fiscal year or (ii) by multiplying the amount of actual income through the quarter by a ratio of tax to gross income for the previous year.

The final payment of profit tax coincides with submission of the declaration of profit tax (i.e. 31 March).

Tax audit process

The ordinary on-site tax audit shall be conducted not more than once in a year.

Off-site tax inspection shall be conducted within 30 days from the date when a tax return is provided by the taxpayer to the tax office. After the mentioned term expires, off-site tax inspection is not allowed for the tax return.

An extraordinary tax audit may be performed at any time under the following conditions:

- If tax return documents that are necessary for tax calculation and payment are not submitted in time or not submitted at all upon the warning of the tax authorities.
- If incorrect information is found in the report made on the results of tax inspection.
- When overpaid amount of VAT, interest, and financial sanction is assigned for the payment of other taxes, interests, and financial sanctions or assigned as payments on future liabilities. In such cases, the scope of the extraordinary tax audit is limited only to the taxable VAT operations of the taxpayer.
- When application is submitted by the taxpayer to return overpaid amounts of tax, interests, and financial sanctions.
- When the tax authorities obtain information from a known source on hiding (decreasing) of incomes or object of taxation by the taxpayer.
- When, in accordance with criminal legislation, there is a decision of the court or law-enforcement agency on implementation of a tax audit.
- In case of failure to provide the documents specified in the Tax Code.
- In the event of application for liquidation, reorganisation of the taxpayer legal entity, or seizure of business operations of the natural person operating without formation of a legal entity.

Statute of limitations

Tax authorities are entitled to calculate and recalculate taxes, penalties, and financial sanctions of the taxpayer within three years after termination of the taxable reporting period and to impose calculated (recalculated) sums of taxes, penalties, and financial sanctions within five years after termination of the taxable reporting period.

Topics of focus for tax authorities

The main issues challenged by the tax authorities during a tax audit include, but are not limited to, the following:

- Application of the 20% profit tax on 'deemed profit'.
- Application of benchmarking principle for income of foreign employees subject to tax in Azerbaijan.
- Correctness of claim of input VAT from budget and identification of operations taxable to VAT.

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- Taxes withheld on payments to non-resident suppliers in cases where income of non-residents is considered as Azerbaijani-source income.
- Application of VAT on market price of assets that were written off, disposed free of charge, or at a discount rate.
- Challenging the transfer pricing.
- Grossed-up WHT paid at cost of the buyer disallowed for deduction.
- Deductibility of the head office costs.

Other issues

Compliance requirements for financial institutions

Provisions on tax monitoring by financial institutions were introduced to the Tax Code in December 2016. In accordance with international treaties on exchange of information, financial institutions must submit information about financial transactions in Azerbaijan to the competent authorities of foreign countries by submitting e-reports.

Non-cash settlement

According to new changes to the law on non-cash settlements, taxpayers are subject to financial sanctions for failure to conduct the below-listed operations cashless (i.e. for receiving in cash):

- Receipt of money by leasing providers and loan issuers.
- Payment of insurance payments and receipt of insurance premiums by insurer or reinsurer.
- Receipt of service fees and other levies by state authorities, state entities, budgetary organisations, and public entities.
- Receipt of stationary phone charges and utilities.
- Receipt of tuition fees.
- Receipt of fees for tourism agency services.

Furthermore, taxpayers are also subject to financial sanctions for failure to conduct the below-listed operations cashless (i.e. for paying in cash):

- Up to AZN 30,000 per calendar month for VAT-registered taxpayers and taxpayers engaged in trade and/or public catering services whose taxable supplies exceed AZN 200,000 in any 12-month period.
- Up to AZN 15,000 per calendar month for other taxpayers.
- Any payments over AZN 15,000 per calendar month by other taxpayers.
- Payment of salary and other relevant compensations to employees (not applicable to those engaged in retail trading, public catering, and service industry whose taxable supply are below AZN 200,000 in any month [months] of a consecutive 12-month period).
- Any payments out of funds earned from state procurement contracts.

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Significant developments

On 1 January 2018, Belarus introduced value-added tax (VAT) on e-services provided to Belarusian individuals (including individual entrepreneurs) by foreign companies. Foreign companies rendering e-services are obligated to register with the Belarusian tax authorities, file VAT returns/e-services VAT information forms (when applicable), and pay VAT directly to them.

The period open for tax audits was limited. It shall not exceed five years plus the period from current year to date. Scheduled audits are replaced with random ones.

On 1 January 2018, a five-year statute of limitations to tax charges was introduced.

Taxes on corporate income

The standard corporate income tax (CIT), also known in Belarus as profits tax, rate is 18%. The CIT rate for banks and insurance companies is 25%.

All resident companies are obligated to recognise revenue derived from the supply of goods, works, services, and property rights as of the date when it was recorded in accounting in line with the accrual method, notwithstanding the date of settlement for goods, works, services, and property rights supplied.

CIT is charged on taxable income (net profits). Taxable income is generally determined as revenues from sales of goods, works, and services, excluding VAT, less production and business-related costs, less other deductible expenses, plus net results of non-operating income and expenses.

Resident companies are taxed on their worldwide income. The amount of tax paid by a Belarusian company to the foreign tax authorities with regard to the income received from its activity abroad is deducted from the amount of CIT reported with regard to the worldwide income.

Non-resident companies are taxed on Belarus-sourced income derived through a permanent establishment (PE) with CIT (at the rate of 18%). Income of non-resident companies sourced in Belarus that is not related to the activities of a PE is subject to withholding tax (WHT) (at rates varying from 6% to 15%).

Local income taxes

There are no provincial or local taxes due on net profits.

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Corporate residence

A company is resident in Belarus if it is incorporated in Belarus.

Permanent establishment (PE)

According to local legislation, a non-resident company is deemed to have a PE in Belarus in cases where:

- it permanently carries out commercial activities in Belarus, in whole or in part
- it carries out its activities through a dependent agent
- it uses a building site or construction, assembly, or equipment objects, or
- it provides services or performs works within a period of 90 days, continuously or in the aggregate, in any 12-month period starting or ending in the respective tax period.

Double taxation treaties (DTTs) may establish different rules of PE recognition. According to domestic law, where there is a DTT, the provisions of the treaty shall prevail.

Notwithstanding the activities that create a PE in Belarus, a non-resident company must be registered with the local tax authorities controlling the territory where activities are carried out before starting a business in Belarus.

Other taxes

Value-added tax (VAT)

All taxpayers shall recognise revenue for VAT purposes on an accrual basis. The only exception is set out for taxpayers using the simplified taxation system and keeping simplified tax records without accounting records. Such taxpayers shall recognise revenue on a cash basis.

The standard VAT rate is 20%, whereas the preferential rate is 10%. All telecommunication services are subject to VAT at the rate of 25%.

The 10% preferential rate applies on:

- local supplies of crop products (excluding floriculture, cultivation of ornamental plants), wild-growing, beekeeping, livestock (except for fur production), and fisheries locally produced, and
- import and/or local supplies of certain food products and goods for children.

In general, local supplies of goods, works, and services made by a taxpayer performing its economic activities in Belarus, as well as the importation of goods, are subject to VAT.

Place of supply rules established by the Tax Code of Belarus should be followed to determine whether goods, works, and services are supplied locally, and therefore subject to tax in Belarus.

When a non-resident company, which does not have a PE registered in Belarus, sells goods or provides works and services that are considered local supplies according to the place of supply rules, the VAT due on such supplies is paid by the purchaser

registered with the local tax authorities from its own funds. This VAT can be deducted against output VAT, if any, or refunded by the tax authorities in the established order.

Some exceptions apply to provision of construction and other similar works.

Exemptions with credit (zero-rated) include, but are not limited to, the following:

- Supply of goods exported outside of Belarus.
- Provision of works and services involving maintenance, loading, reloading, and any other similar works and services related to supply of exported goods.
- Transportation and any directly linked ancillary services related to the export or import of goods, including transit forwarding, as well as exported works for goods processing.
- Bunker fuel for fuelling aircraft of foreign companies carrying out international flights and/or international carriages by air.
- Works and services related to repair (modernisation, conversion) of aircraft (including engines and railway vehicles) and provided to non-resident companies or individuals.
- Works (services) on repair and technical maintenance of Belarusian non-resident's trucks performed by authorised service centres.

For VAT offset purposes, an electronic VAT invoice should be issued by all VAT payers in accordance with the legislative requirements.

In order to apply zero-rated VAT on goods carried out from Belarus, VAT payers must hold supporting documents as evidence that these goods were actually exported from Belarus to another country. Application of zero-rated VAT on respective works and services must be supported by the appropriate documents, which have to be provided to the local tax authorities where the taxpayer is registered for tax purposes.

Exemptions without credit include, but are not limited to, the following:

- Supply of material rights for certain industrial property objects (e.g. inventions, utility models, industrial designs, breeding achievements, integrated circuits, know-how).
- Supply of securities, derivatives, and other similar financial instruments; certain limitations apply.
- Provision of all types of insurance and re-insurance (co-insurance) services rendered by insurance and re-insurance agents.
- Supply of medicines, medical equipment, instruments, medical products, as well as drugs, devices, equipment, under certain conditions.
- Personal or public health care services, under certain conditions.
- Social services supplied by institutions for children and young people care, nursing homes for the elderly and/or by care/guardianship institutions for disabled or by other non-profit entities.
- Supply of services in the field of culture and art, under certain conditions.
- Public services (services of barbers, baths, and showers; laundry and dry cleaning services; watch repairing; manufacturing and repair of clothing and footwear; repair and maintenance of household appliances; repair of personal and household goods).
- Services provided by religious organisations, provided these services correspond to the purposes set out in their canons, statutes, and other documents.

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- Funeral services, maintenance of the graves, tombstones, fences, and other objects associated with burial, as well as works on their production, under certain conditions.
- Supply of postage stamps, postcards, and envelopes marked, excise and control (identification) stamps for marking of goods at their nominal value, and stamps that can be used as a confirmation of fees and charges payable in accordance with the legislation.
- Supplies of jewels, as well as related services, under certain conditions.
- Retail trade of goods in duty-free shops, under certain conditions.
- Research and development (R&D), design, and technological works and services, under certain conditions.
- Education and training services.
- Lotteries and gambling, under certain conditions.
- Financial services supplied by the banks, under certain conditions.
- Goods and equipment imported into Belarus, under certain conditions.
- Transactions related to provision of loans.
- Remuneration of lessee and its investments expenditures not compensated in the value object of leasing on transfer of the object of a financial leasing arrangement to individuals (lessees) if the relevant leasing contracts contain a provision on the buyout of the leasing object.

In order to apply exemptions, taxpayers should ensure that the services and goods supplied meet the appropriate VAT exemption requirements.

VAT returns shall be submitted on either a monthly or quarterly basis, by the 20th day of the month following the reporting period. VAT shall be paid on either a monthly or quarterly basis, no later than the 22nd day of the month following the reporting period.

VAT on e-services

On 1 January 2018, Belarus introduced VAT on e-services provided to Belarusian individuals (including individual entrepreneurs) by foreign companies.

The e-services falling within the scope of e-services VAT cover licensing of software (including computer games), databases, electronic books, information materials, graphic images, music, audio-visual works via the Internet; advertising services via Internet; placing sales offers via the Internet; automated data search, selection, sorting, and provision to users via the Internet; providing domain names and hosting services, etc.

The e-services VAT base is the amount of funds received by a foreign company from providing e-services to Belarusian individuals. The e-services VAT rate is 20%.

E-services VAT is a special tax that is paid by e-services VAT registered foreign companies directly to the Belarusian tax authorities. Such companies shall be registered for e-services VAT in the quarter when they started to provide e-services to Belarusian individuals.

Submission of e-services VAT returns/e-services VAT information forms (when applicable), as well as e-services VAT payment, shall be carried out quarterly.

Customs payments

Belarus, Kazakhstan, and Russia have continued their integration process, and, since 1 January 2015, have launched the Eurasian Economic Union (EAEU) on the basis of Agreement on the EAEU, which is considered as a further step of integration after the Customs Union of these countries. Armenia and Kyrgyzstan entered into the EAEU on 2 January 2015 and on 12 August 2015, respectively. The unified trade regulations and the EAEU Customs Code, entered into force on 1 January 2018, have become a part of the EAEU legislation. Within the EAEU, single markets of goods, services, labour, and capital, with certain limitations, are introduced.

Indirect taxation issues within the EAEU shall be administered in compliance with the Agreement on the EAEU and Annex 18 to the Agreement that is the 'Protocol on the procedure of collection of indirect taxes and the mechanism of control over their payment for export and import of goods, works, services'.

The following charges are considered customs payments:

- Import duties.
- Export duties.
- Special, anti-dumping, and countervailing duties.
- VAT and excise taxes due upon importation of goods.
- Fees for customs processing/services.

Rates of import duties as well as descriptions of goods subject to them are established by the Single Nomenclature of Goods of the EAEU (HS Nomenclature) and Single Customs Tariff of the EAEU.

Export duties are not levied on exported goods, with the following exceptions: certain soft oil; light and medium distillates; fuels and gasoline; wasted petroleum products; propane, butane, ethylene, propylene, and other liquefied gases; petroleum coke; petroleum bitumen, benzol, toluene, xylenes, potash fertilisers; rape or colza seeds; timber; rough skin; and tannage. According to the EAEU regulations, rates of export duties in regards to mentioned goods shall be established by the Belarusian government and shall be equal to the rates applied in Russia.

Import and export duties are calculated on the customs value of the goods. The EAEU customs valuation legislation is based on rules and principles of the World Trade Organization (WTO). There are six methods of the customs valuation applied in sequential order:

- The transaction value method (Method 1).
- The method on the transaction value of identical goods (Method 2).
- The method on the transaction value of similar goods (Method 3).
- The deductive value method (Method 4).
- The computed value method (Method 5).
- The fallback method (Method 6).

The main customs valuation method is the transaction value method. Generally, the following components are considered when calculating the customs value of imported goods:

- Contract price of the goods.
- Rebates and discounts provided by a supplier, under certain conditions.

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- Transportation-related expenses to the border of the Customs Union (i.e. Belarusian border).
- Insurance premiums.
- Cost of containers and other packaging.
- Part of direct or indirect income to be derived by the seller from future resale, transfer, or other use of imported goods.
- Licence and other similar payments.

Special, anti-dumping, and countervailing duties could be imposed as a measure to protect economic interests of Belarus.

The tax base for VAT calculation due on imported goods includes the total amount of customs value, import duty, and excise tax paid, if any.

Generally, the taxpayer is required to pay customs duties before the customs clearance of the appropriate goods; however, under certain conditions, a taxpayer may be provided with an extension of payment deadlines or allowed to pay only part of customs duties. It is also possible to pay customs duties in advance.

Electronic customs declaration is currently available for customs clearance of the goods declared in customs procedures of temporary exports, re-exports (exports) as well as re-imports, free circulation (imports), and free customs zones.

Excise taxes

Rules on determination of moment of actual supply of excisable goods are adjusted as consistent with the obligation of taxpayers to record revenue on an accrual basis. From 1 January 2015 to 31 December 2018, Belarussian companies producing alcoholic drinks and/or beer have the right to determine the date of the actual sale (transfer) of excisable goods either on an accrual or cash basis.

The goods that are subject to excise tax and the tax rates applicable in 2018 are represented in the table below.

Description of tax object	Taxable item	Tax rate per taxable item (BYN*)
Rectified ethyl alcohol and alcoholic drinks, including beer and wine	1 litre of 100% alcohol, or 1 litre of complete product	From 0 to 19.61
Tobacco (excluding raw tobacco), including cigarettes, cigars, cigarillos, and smoking tobacco	1 kg of pipe and smoking tobacco, or 1 cigar or 1,000 cigarettes, cigarillos	From 4.38 to 80.27
Energetic products (petrol, kerosene, diesel and biodiesel, gasoline, fuel, marine fuel, oils for diesel engines and engines with a carburettor and an injector)	1 ton	From 0 to 580.11
Liquefied hydro carbonated gas and compressed natural gas used as motor fuel	1,000 litres and 1,000 cbm	From 27.77 to 54.21
Diesel and/or carburettor (jet) oil	1 ton	From 1 January till 30 June: 338.96; from 1 July till 31 December: 350.43

* Belarusian rubles

The tax rate depends on the type of goods. Rates of excise taxes are stipulated by the Appendix to the Tax Code of Belarus. The rates of excise tax are increased over the course of the year by establishing different rates effective during each following half a year proportionally to inflation processes in Belarus.

The excise tax rate for cigarettes with filters is defined on the basis of (i) maximum retail price per pack of cigarettes of certain brands declared by a taxpayer and (ii) reference of certain brands of cigarettes to one of three price groups defined in the Tax Code.

Excise taxes paid on the purchasing/importation of excisable goods to be used in manufacturing of goods or provision of works and services in Belarus are considered as deductible for CIT purposes, with certain exceptions.

Excise taxes are reported and paid on a monthly basis. The tax return should be submitted no later than the 20th day of the month following the reporting period, while the payment should be made no later than the 22nd day of the month following the reporting period.

Real estate tax (immovable property tax)

Real estate tax is levied at the annual rate of 1% on the residual value of buildings, installations, including separated premises, and car-parking spaces owned by legal entities. The increased annual tax rate of 2% applies to late construction in progress (if construction works take longer than the deadline established in technical documentation). The tax rate is increased (decreased) by the coefficient determined by the local state authorities (up to 2.3) depending on the location of the object subject to real estate tax. The tax rate can be increased by ten times (as a maximum) by the local state authorities with regard to constructions, installations, and car-parking spaces not exploited (exploited ineffectively) that are included in the list of not exploited (exploited ineffectively) property.

The tax base of buildings and other taxable objects located in the territory of Belarus and leased by individuals to legal entities will be the contract value of the leased real estate not less than its value established by the evaluation. Evaluation can be made in the order approved by the President of Belarus as well as by a certified appraiser or local authority responsible for state registration of real estate.

When the real estate subject to taxation is located in Belarus and leased by a foreign company that is not considered as having a PE in Belarus to a resident company, the lessee is considered a real estate taxpayer.

The amount of tax, except the tax due on late construction in progress (if construction works take longer than the deadline established in technical documentation), is deductible for CIT purposes.

The tax reporting obligation must be fulfilled by a taxpayer not later than 20 March of the reporting year. Taxpayers are entitled to choose whether to pay tax on a quarterly basis by equal parts, not later than the 22nd day of the third month of each quarter, or once a year, not later than 22 March of a current tax period (tax year).

Belarus

Land tax

Belarusian and foreign entities are subject to land tax collected by the local tax authorities with respect to land that they own or use in Belarus. Land plots assigned for temporary use and not transferred back to the state by the due date, land plots occupied without permission, and land plots used contrary to the intended purpose are also a part of the land tax base. Such land plots are taxed at the rate increased by coefficient 10. The determined land tax rates are increased by coefficient 2 in respect of the land plots where the objects of late construction in progress are located.

The tax base depends on plot location and purpose and is normally determined pursuant to cadastral value of a land plot.

The Tax Code provides for a number of land plot categories that are exempt from, or not subject to, land tax in Belarus.

The tax is payable on an annual basis at the rates established by the Appendices to the Tax Code of Belarus. Tax rates for agricultural plots vary from BYN 0.05 to BYN 27.86 per hectare. Tax rates on the land plots located in towns and rural areas can be determined in absolute amount or as a percentage depending on the cadastral value of a land plot. The range from 0.025% to 3% payable on the cadastral value is applied. Local state authorities are authorised to increase (decrease) the land tax rates by a coefficient that should not exceed 2.3.

Land tax is deductible, with some exceptions, for CIT purposes.

Land tax is reported annually, no later than 20 February of the current reporting year.

Taxpayers are entitled to choose whether to pay tax on a quarterly basis, by equal parts not later than the 22nd day of the second month of each quarter, or once a year, not later than 22 February of a current year on plots other than agricultural and not later than 15 April with regard to agricultural plots.

State dues

State dues are payable by legal entities that apply to the state institutions for the issuance of documents having legal force or other deeds, bring the cases before the courts for consideration, use bills of exchange in their activities, etc.

State dues include the following payments and duties:

- State fees (payable on suits, applications, appeals, and other documents that are submitted to or claimed from the courts or prosecution authorities, payable on applications for state registration of a legal entity, notary public services, real estate registration services, etc.).
- Patent fees (payable for registration and use of intellectual property).
- Stamp fees (payable on activities with bills of exchange).
- Consular fees (payable on the activities of state consular and diplomatic departments performed under the request of any applicant).

State dues for state registration of a business entity are not charged if registration-related documents are filed with the registration authorities electronically via the official web-portal. State dues paid are refunded if proceedings in the economic court are terminated due to the parties consent to resort to mediation.

Social insurance contributions (SICs) and other similar payments

All payments to employees are subject to SICs at the total rate of 35%. SICs at a rate of 34% (28% pension insurance and 6% social insurance) are paid by an employer and deducted for CIT purposes. SICs at a rate of 1% are withheld from employee's salary and paid by the employer.

In addition to SICs, an employer is liable for payments under mandatory insurance against accidents at work and professional diseases to the state insurance company 'Belgosstrakh' on behalf of all its individuals employed. These payments are charged at a flat rate of 0.6%. For employees engaged in certain sectors of the economy, special coefficients of up to 1.5 are applied; consequently, the amount of payments under mandatory insurance against accidents at work and professional diseases could increase.

Such payments as dismissal allowances, compensations for moral damages, legally provided compensations (with some exceptions), insurance premiums payable under certain personal mandatory and voluntary insurance, dividends and interests from participation in legal entities, and others, are exempt from SICs and from mandatory insurance against accidents at work and professional diseases.

Offshore charge

An offshore charge is levied upon the following activities of domestic entities:

- Any transfer of funds to an entity registered in an 'offshore jurisdiction', to a third party who is a creditor of that entity in discharge of an obligation before the latter, or to the bank account of an offshore jurisdiction.
- In kind performance of obligation to an offshore entity, with some exceptions.
- Any transfer of material rights and obligations as a result of changes in commitment (cession or transfer of debt) between a domestic entity and an offshore entity.

The following transactions are excluded from the scope of offshore charge:

- Performance of the obligations in kind to a non-resident as a result of transfer of responsibilities due to substitution of parties in an obligation, the parties of which are a resident of Belarus and a non-resident registered in the offshore zone, under the conditions when transfer of monetary funds is not subject to offshore charge.

According to Belarusian laws, an offshore jurisdiction is a territory that is included in the list of offshore territories established by the President, has a preferential tax treatment, and/or does not disclose the information related to financial transactions made by resident entities.

A list of 52 offshore territories has been published. With certain exceptions specified in the law, all payments to offshore companies or their branches for any kind of work or services, commodities, interest on loans, insurance premiums, guarantees, etc. are subject to an offshore charge, which is deductible for CIT purposes.

Tax relief is granted to: (i) repayment of loans, including interests on them, borrowed from entities located in offshore territories, (ii) payments due under international marine cargoes and forwarding services, and (iii) payments made by banks due to the fact of performing banking operations, under certain conditions.

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An offshore charge is paid at a 15% rate and is deductible for CIT purposes.

The tax is reported and paid on a monthly basis, no later than the 20th day of the month following the reporting period.

Ecological (environmental) tax

Ecological (environmental) tax is imposed on pollutants discharged into the environment, storage and disposal of industrial wastes, and wastewater discharges.

The amount of tax due is decreased by the amount of disbursed capital investments in renewable energy plants and facilities for removing pollutants.

Importation of ozone-depleting substances is excluded from the tax.

Emissions of pollutants into the atmospheric air are subject to ecological tax, provided the total volume of emissions regarding all the groups of substances amounts to three or more tons a year.

Emissions of pollutants of the 1st hazard rating and pollutants having no hazard rating are not subject to ecological tax. The tax base of ecological tax is the actual quantity of respective pollutants used/discharged. Tax rates of ecological tax are stipulated by the Tax Code of Belarus.

Ecological tax paid, with certain exceptions, is treated as deductible for CIT purposes.

The tax is reported on a quarterly basis, by the 20th day of the month following the reporting quarter. Taxpayers who pay tax on the basis of established annual limits are entitled to choose whether to pay tax on a quarterly basis, by the 22nd day of the month following the reporting quarter, or once a year, not later than 22 April of a current year. Other legal entities pay the tax on a quarterly basis.

Tax on natural resources

A tax on natural resources is payable on the actual value of extracted natural resources. It depends on the kind and quantity of extracted resources.

The amount of tax on natural resources is fully deducted (regardless of being over the limit of natural resources extraction) for CIT purposes.

In general, the tax is reported and paid on a quarterly basis. If taxpayers calculate the tax on the basis of volumes of extraction specified in documents being the ground of extraction, the tax is reported and paid as follows:

- The initial tax return is submitted to the tax authority not later than 20 April of the reporting year based on the planned volumes of resources to be extracted, and the tax is paid on a quarterly basis.
- The final tax return is submitted not later than 20 February of the year following the reporting year based on the volumes actually extracted, and the additional tax, if any, is paid not later than 22 February of the year following the reporting year. The amounts of tax overpaid as a result are to be offset (refunded) in accordance with the legislation.

Local tax on providers (suppliers)

The local tax on providers is levied on legal entities engaged in gathering/purchasing of wild plants (or parts thereof), mushrooms, and technical and medical raw materials of floral origin for their further industrial processing or resale.

The tax base is the cost of gathered items defined on the basis of procurement (purchasing) prices.

The tax rates do not exceed 5%. Tax on providers is treated as deductible for CIT purposes.

The tax is reported and paid on a quarterly basis.

Branch income

Non-resident legal entities pay tax on profits attributable to a PE (18%).

Taxation of a PE

If a non-resident company is deemed to have a PE in Belarus, it will have to register with a local tax authority and declare related profit. Profit related to a PE is taxed by CIT at a rate of 18%.

A PE's profits are computed on substantially the same basis as Belarusian legal entities, including the composition of tax-deductible expenses. The Tax Code provides for the deductibility of expenses incurred abroad by a head office with respect to its PE in Belarus (including a reasonable allocation of administration costs).

To calculate a PE's taxable income, a non-resident company is required to provide a tax authority with financial documents (i.e. accounting records, income statement, general ledger accounts, invoices, statements of services/works fulfilment, etc.) supporting the amount of revenue earned and expenses incurred. Generally, a PE's taxable income is defined on a revenue less costs basis. Documentary support of each revenue and/or cost item is required.

When it is not possible to calculate a profit attributable to a PE, this profit can be calculated by the tax authority using one of the following methods:

- A profit-sharing method (i.e. gross foreign profit is allocated to PE by using one of the following coefficients related to a PE: working time costs, expenses incurred, services/works performed).
- Benchmarking method (tax authority performs benchmarking study by collecting the respective ratios/indexes of other entities engaged in similar activities).

Head office expenses related to a PE are considered for calculation of taxable income in Belarus and require confirmation of an independent foreign auditor. Splitting of expenses is highly recommended in the audited financial statements of the parent company (head office).

Non-resident legal entities operating in Belarus through a PE are required to follow the filing and payment schedules established for Belarusian legal entities.

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Representative office

Non-resident legal entities are also allowed to operate in Belarus via a representative office or to set up a resident legal entity.

A representative office of a non-resident company is defined as the structural subunit registered with the Ministry of Foreign Affairs, which is entitled to protect and represent the interests of a non-resident company.

The representative office is not considered a legal person.

Non-resident legal entities are permitted to open representative offices in Belarus only for the purposes of carrying out activity of preparatory and auxiliary character. The scope of such permitted non-commercial activities includes the following:

- Contribution to the implementation of international treaties of Belarus in areas of trade, economy, finances, science, technologies, and transport; improving co-operation in these areas; and encouraging a larger amount of data on economic, commercial, and scientific issues.
- Research for investment opportunities in Belarus.
- Establishment of legal entities, including joint ventures.
- Ticket sale and seats booking of aviation, railway, automobile, and maritime transports.
- Other socially useful and non-commercial activity.

The copy of documents confirming state registration of a non-resident legal entity with competent authorities of its country of incorporation (to be filed along with the set of other documents required to open a representative office in Belarus) shall be issued no later than three months prior to the submission of the respective set of documents to the Ministry of Foreign Affairs of Belarus.

The permitted number of foreigners working in a representative office shall not exceed five individuals.

A representative office pays taxes due on its primary and auxiliary activities, such as real estate tax (with some exceptions), customs duties, input VAT, personal income tax (PIT), SICs due on employment of individuals, etc.

Income determination

Inventory valuation

Under domestic accounting legislation, stock used in the production and included in the cost of produced goods may be generally valued by the following methods:

- Cost of each unit.
- Average cost.
- First in first out (FIFO).

The inventory valuation method used for CIT purposes must be the same method established by the taxpayer's accounting policy.

Capital gains

Capital gains from disposal of shares/stocks in a Belarusian entity by another Belarusian entity are taxed as part of the latter's profits and are subject to an 18% tax. No tax exemptions are provided by the Tax Code for the taxation of capital gains.

Dividend income

Dividends distributed by a resident company to another resident company are subject to 12% CIT, which is withheld by a paying company.

Dividends distributed by a foreign entity represent non-operating income of a receiving Belarus entity and are subject to 12% CIT payable by the receiving entity in Belarus, irrespective of the fact that the foreign entity has paid the WHT on dividends distributed.

Dividends received by venture companies are exempt from CIT.

Dividends received by taxpayers from Belarusian companies are exempt from CIT in the hands of such taxpayers since CIT on dividend income is withheld by a respective dividend-distributing entity.

Inter-company dividends

The Tax Code provides no exemptions for taxation of inter-company dividends.

Interest income

Interest on most types of bonds, including state, municipal, bank, and corporate bonds issued during the period from 1 April 2008 till 1 January 2015 as well as from 1 July 2015 till 31 December 2017, is exempt from Belarusian CIT under certain conditions provided for in the Tax Code.

CIT at the standard rate of 18% is charged on interest income derived by a Belarus entity from another resident company.

Interest income derived by a Belarus entity from a foreign entity represents non-operating income of a receiving Belarus entity and is subject to 18% CIT payable by the receiving entity in Belarus, irrespective of the fact that the foreign entity has paid the WHT on interest income.

Royalty income

Income from sale of property rights by a Belarusian entity is subject to CIT at the standard rate of 18%.

Property rights to research findings that are registered in the state register of property rights to the research findings are exempt from CIT.

Other significant items

The following types of income are, *inter alia*, exempt from CIT:

- 'Target financing' received from the state or municipal authorities. The taxpayer is required to hold separate accounting records of income and expenses derived and incurred within 'target financing'.
- Goods (works, services), material rights, and monetary means granted:
 - to the successors by a legal entity in case of its restructuring

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- as an inter-company transfer pursuant to corporate decision
- to taxpayers engaged in crop production, animal husbandry, fish farming, and beekeeping, provided that this income is spent for the appropriate activities, or
- as a foreign gratuitous help on conditions stipulated by the President.

Foreign income

Foreign income of Belarusian resident legal entities is taxed, except for dividends, as ordinary business income at the standard 18% CIT rate. Dividends are taxed at a 12% CIT rate.

There are no provisions in the tax legislation that allow tax deferral with regard to foreign income.

Deductions

Deductible expenses include all the usual costs that an entity actually incurs for the purpose of earning income or receiving economic benefit, unless the Tax Code of Belarus or presidential regulations provide otherwise.

Depreciation

Assets may be depreciated using the directly proportional (straight-line) depreciation method, indirect disproportionate depreciation methods, and productive depreciation methods. Depreciation may not exceed maximum rates established by the law.

Almost all types of fixed assets (buildings, premises, equipment, vehicles) are depreciated for tax purposes in accordance with the established procedures. Land plots are not depreciated. There are many different depreciation rates established for different types of fixed assets. Generally, fixed assets may be divided into five basic groups, as follows:

Group of assets	Description of the assets	Annual depreciation rate (%)
1	Buildings and constructions, premises	1 and 2
2	Vehicles and equipment	10
3	Cars and vehicles	12.5
4	Inventories (furniture, tools, etc.)	10
5	Computers and other related devices	20

Application of an investment deduction under the tax rules is possible in addition to the depreciation deduction provided by the accounting legislation, i.e. taxpayers are entitled to classify/record part of the initial value of fixed assets, as well as investment in reconstruction, as costs of production and supply of goods (works, services) for CIT purposes. The amount of the investment deduction is limited to 10% of the initial value or value of investment in reconstruction with regard to buildings and constructions and to 20% of the initial value with regard to machines, equipment, and vehicles.

An investment deduction is applied in a month starting from which:

- depreciation charges are calculated for accounting purposes and
- the value of investment in reconstruction increased the initial value of fixed assets in accounting records.

An investment deduction cannot be applied with regard to fixed assets received by a taxpayer free of charge.

Annual re-evaluation of fixed assets is required only with regard to buildings, constructions, and transfer units, provided the inflation rate in November of the current year has reached 100% for the period from the date of the prior mandatory re-evaluation. A particular company is entitled to re-evaluate fixed assets on its own initiative as of 1 January of the year following the reporting one.

Goodwill

Goodwill and personnel experience cannot be recognised as intangible assets for CIT purposes.

Start-up expenses

Deduction of start-up expenses is not possible.

Interest expenses

Interest expenses are generally deducted for CIT purposes unless interest is accrued on past-due loans. Thin capitalisation restrictions must also be considered (*see Thin capitalisation in the Group taxation section*).

Bad debt

Bad debts are deductible only if proved and specific criteria are met.

Charitable contributions

Amounts not exceeding 10% of an entity's gross profit granted to health, education, social welfare, culture, and sports state institutions; religious organisations; social services institutions; and public associations (i.e. 'Belarusian Society of Disabled Persons', 'Belarusian Society of Deaf Persons', 'Belarusian Fellowship of Visually Impaired Persons', 'Belarusian Children's Fund', and 'Belarusian Children's Hospice'), or spent for acquisition of goods, works, or services for the benefit of the named institutions, are exempt from CIT.

Taxes

Generally, the following taxes, dues, and other compulsory charges to the state authorities are deductible for CIT purposes:

- Excise taxes paid at purchasing/importation of excisable goods to be used in manufacturing of goods or provision of works and services in Belarus, with some exceptions.
- Ecological tax.
- Real estate tax, except for the tax due on late construction in progress.
- Land tax, with some exceptions.
- Tax on natural resources.
- State dues.
- Offshore charge.
- Tax on providers.
- Payments for social and other mandatory security.

The following taxes shall not be deducted for CIT purposes:

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- VAT paid, with certain exceptions (*see below*).
- CIT.

VAT can be treated as deductible for CIT purposes only if acquired goods, works, or services are used for production or sale of goods, works, or services that are VAT exempt.

Other significant items

Limited deductible expenses also include the following:

- Modernisation and reconstruction of fixed assets. The value of modernisation or reconstruction is included in the acquisition costs.
- Business trips.
- Premiums on certain types of voluntary insurance, with restrictions.
- Natural losses, with certain exceptions.
- Cost of fuel and energy resources, with restrictions established for certain entities.
- Membership fees, contributions, and premiums, with restrictions.

Non-deductible expenses also include the following:

- Expenses on provision or acquisition of works and services not related to the taxpayer's business activities.
- Construction, maintenance, and other works, including all types of repair of assets that are not used for the purpose of earning income or receiving economic benefit.
- Default interest (forfeit), fines, and other sanctions paid to the state authorities.
- Dividends paid and similar type of payments.
- Contributions made to the authorised share capital.
- Expenses incurred on purchase and/or creation of depreciable assets.
- Depreciation for tangible and intangible assets not used in business, as well as for tangible assets that are not in operation.
- Cost of assets or material rights transferred as advance or a pledge to a third party.
- Expenses covered by reserves for future expenses created by a taxpayer in the prescribed manner.
- Interest on overdue loans.
- Remunerations to the members of the board of directors (supervisory board).
- Foreign exchange differences arisen as a result of revaluation of most obligations the expenses on which are not deductible for CIT purposes.
- Other expenses not related to the deriving of income and not attributed to operating activities of the entity as well as expenses that are not considered as allowable deductions under the Tax Code of Belarus.

To be deductible, expenses must be economically justified. The expenses that cannot be economically justified are as follows: (i) expenses for goods, works, services, and property rights actually not received by a taxpayer, (ii) expenses for services/works of the individual entrepreneur who is an employee of the taxpayer in case such services/works are related to one's working duties, and (iii) expenses for services/works of a taxpayer's parent company or subsidiary in case such services/works are related to working duties of the taxpayer's employees.

Net operating losses

Belarusian companies are given the possibility to recognise in the current tax period the tax losses incurred in the previous tax periods. Taxpayers are entitled to carry forward

losses incurred in 2011 and subsequent tax periods. Losses can be carried forward only for ten years after the tax period when the losses have occurred.

However, tax loss carryforward is not applied to losses:

- incurred as a result of activities outside Belarus if a company is registered as a taxpayer in a foreign state with regard to such activities, or
- incurred in a tax period when a company was entitled to apply CIT relief (tax exemption) established for several tax periods.

Tax losses cannot be carried forward if, following the results of a relevant previous tax period (calendar year), a taxpayer received book income (profits), notwithstanding the fact that losses available to be carried forward in line with the Tax Code were actually suffered or not.

Tax losses cannot be carried back in Belarus.

Payments to foreign affiliates

Payments to foreign affiliates of a Belarusian resident legal entity in amounts of financing aimed to cover ongoing costs thereof are deductible for CIT purposes in Belarus.

Group taxation

Currently, group taxation legislation and regimes are not available in Belarus. Each Belarusian entity is regarded as a separate taxpayer and may not deduct tax losses of any other group entity. The Belarus Tax Code does not allow the deduction of foreign losses from domestic taxable income or domestic losses from foreign taxable income.

Transfer pricing

The Tax Code empowers tax authorities to carry out transfer pricing control. Though Belarusian transfer pricing legislation is not as thorough as it is in the European Union (EU) member states, taxpayers should be aware of the following:

- The tax authorities of Belarus are entitled to apply the market price of the transaction for tax purposes in case of:
 - Selling or acquisition of immovable property/real estate as well as housing bonds to/from a resident of Belarus and/or non-resident of Belarus when the price of the transaction deviates by more than 20% of the market price on the dates of recognition of income from sale and expenses incurred in the acquisition in tax accounting, respectively.
 - Entering into foreign trade transactions with a related party or a party located in an offshore zone, including the transactions performed with the participation of an intermediary under certain conditions, as well as entering into a transaction with an interdependent Belarusian tax resident, including transactions performed with the participation of an intermediary under certain conditions, who is allowed not to calculate and pay CIT (is exempt from CIT) in the tax period, when the transaction is performed, due to the fact that such party relates to special types of taxpayers, and/or applies special tax regimes, and/or performs its activity in the areas specified with the legislation, when the transaction price (price of a number of transactions with one person during the period of a calendar year) exceeds BYN 100,000 on the date of sale/purchase

of goods (works, services) or property rights and the price of such transaction (transactions) deviates by more than 20% of the market price for goods (works, services) or property rights.

- Entering into foreign trade transactions on purchasing/acquisition of (i) goods included into the list of strategic goods determined by the Belarusian government or (ii) other goods (works, services) or property rights by the entity included into the list of largest taxpayers, when the transaction price (price of a number of transactions with one person during the period of a calendar year) exceeds BYN 1 million on the date of:
 - Sale of goods (works, services) or property rights and the price of such transaction (transactions) deviates by more than 20% of the market price for goods (works, services) or property rights on the date of recognition of income from sale in tax accounting.
 - Purchase of goods (works, services) or property rights and the price of such transaction (transactions) deviates by more than 20% of the market price for goods (works, services) or property rights on the date of recognition of expenses incurred in the purchase in tax accounting.
- The following transactions do not fall upon transfer pricing rules:
 - Transactions on sale or purchase of goods (works, services) or property rights if the price of the transaction is determined in an international treaty signed by the Republic of Belarus.
 - Banking operations according to the list determined in the Bank Code of the Republic of Belarus.
 - Operations with securities and financial future instruments that are traded on the organised stock market.
- Revenue derived from the sale of goods (works, services), as well as expenses for production and sale of goods (works, services), is to be defined for the purposes of the application of transfer pricing rules.
- Taxpayers are obligated to:
 - inform the tax authorities, by means of electronic VAT invoices, of the transactions that fall under the transfer pricing control
 - submit the economic justification of the price applied and/or the documentation supporting economic feasibility of the price applied with regard to (i) foreign trade transactions on purchasing/acquisition of goods included into the list of strategic goods determined by the Belarusian government, and (ii) the transactions performed by the entities included into the list of largest taxpayers, when the transaction price (price of a number of transactions with one person during the period of a calendar year) exceeds BYN 1 million, and
 - upon the request of the tax authorities, submit the electronic justification of the price applied with regard to other operations falling under the transfer pricing control and not listed as (i) and (ii) above.
- To determine the CIT base on the basis of a market price, the tax authorities are entitled to apply the following methods:
 - Comparable uncontrolled price (CUP) method.
 - Resale price method.
 - Cost plus method.
 - Transactional net margin method.
 - Profit split method.
- Before the tax audit has been carried out, a taxpayer who applied transaction prices not corresponding to market prices is entitled to independently adjust the CIT base according to market prices and pay the remaining CIT.

Moreover, there is a mechanism to control transfer pricing provided by the DTTs applicable for Belarus. When interests under the loan agreement between related parties exceeds the arm's-length rate/basis (the amount which will be agreed upon between independent parties under normal business circumstances), a 5% rate of WHT (provided by the DTT) will be charged on the arm's-length interest charge. Excess amounts, if any, will be taxed by WHT at a 10% rate.

Thin capitalisation

Subject to thin capitalisation rules, deductibility of controlled debt may be, in certain circumstances, restricted for Belarusian CIT purposes if:

- it arises under the contract with a foreign shareholder (who directly or indirectly owns more than 20% of the Belarusian company), its related party, or other entity where the foreign shareholder or the related party is the guarantor with regard to the controlled debt, and
- the amount of the controlled debt exceeds:
 - the difference between the Belarusian taxpayer's assets and liabilities for taxpayers producing excisable goods, or
 - the difference between the Belarusian taxpayer's assets and liabilities by three or more times for other taxpayers.

The following expenses are regarded for thin capitalisation rules as controlled debt:

- Borrowing expenses (i.e. interests).
- Expenses for engineering services, marketing services, consulting services, information services, management services, intermediary services, and services involving searching for and employment of staff, as well as the fee for the transfer of property rights to objects of industrial property rights.
- Expenses for penalties (fines) and the amount payable as a result of other sanctions, including as a result of damages for breach of contractual obligations.

The thin capitalisation rules are not applied by (i) banks, (ii) insurance companies, and (iii) companies (lessors and finance lessors) as a result of receiving rent remuneration that does not exceed 50% of total income from sale of goods (works, services) or property rights and income from rent (finance rent) as of 31 December of the reporting tax period.

Controlled foreign companies (CFCs)

There are no provisions in relation to CFCs in Belarus.

Tax credits and incentives

Foreign tax credit

If a Belarusian legal entity derives income subject to taxation abroad, the tax paid abroad may be deducted from the calculated CIT. In accordance with the Tax Code, the amount deducted from CIT may not exceed that part of the tax calculated in Belarus that is attributed to the income received in a foreign jurisdiction. If there is a valid DTT with the country in question, the provisions of the treaty regarding avoidance of double taxation shall apply.

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Special tax treatments

The Belarusian Tax Code provides a more favourable tax environment for particular resident legal entities. Special tax treatments are available for certain taxpayers depending on their location, amount of revenue, number of individuals employed, types of business, etc. Special tax treatments include, but are not limited to, the following:

- Simplified taxation.
- Tax on farmers and other producers of agricultural products.
- Tax on gambling business.
- Tax on lotteries.
- Tax on electronic interactive games.
- Single tax on imputed income, with regard to companies conducting maintenance and servicing of cars and other motor vehicles.
- Free economic zones.

In cases where activities fulfil the criteria of a special tax treatment, the taxpayer is not permitted to use the general taxation regime with regard to income deriving from those activities, with certain exceptions. Concerning simplified taxation, tax on farmers, and taxation of a free economic zone resident, the taxpayer is entitled to determine whether to apply such treatment or not.

Incentive for employing disabled persons

Entities employing disabled persons, if their average number equals or exceeds 50% of the average number of employees for the reporting period, are exempt from CIT due on taxable profit derived from production activity.

Exemption of CIT on profits derived from various activities

- Profits of entities engaged in baby food production are exempt from CIT.
- Profits derived by insurance companies from investments of insurance reserves under the contracts of voluntary life insurance are exempt from CIT.
- Entities engaged in manufacturing of prosthetic and orthopaedic devices (including dental prostheses), provision of rehabilitation, and disability services are exempt from CIT due on profits derived from sales of these items.

Incentives for the production of innovative, high-technology goods and laser-optical equipment

Income derived from selling goods of one's own production included in the list of innovative goods approved by the Council of Ministers is exempt from CIT.

Income from selling goods of one's own production that are included in the list of high-technology goods approved by the Council of Ministers is exempt from CIT, provided revenue from selling of such goods comprises at least 50% of total revenue of a taxpayer. If revenue from selling high-technology goods is less than 50% of total revenue, such income is taxable at a reduced CIT rate of 10%.

Free economic zones

Entities that are registered in Belarusian free economic zones are exempt from CIT as follows. Those who are registered as free economic zone residents till 1 January 2012 are entitled to apply CIT exemption during the period from 1 January 2017 till 31 December 2021, even if they used their right for a five-years CIT exemption before

with regard to profits received from export of goods, works, and services of their own production. Free economic zone residents who are registered during the period from 1 January 2012 are entitled to apply CIT exemption with regard to profits received from own production during ten calendar years starting from the date when the profits were declared in relation to goods, works, and services of their own production that are exported. After expiration of the terms above, the CIT rate is 9%.

Land plots within the borders of free economic zones are exempt from land tax during the period from 1 January 2017 till 1 January 2022, regardless of the land plots designed purpose.

Moreover, residents of free economic zones are granted, under certain conditions, a relief from real estate tax on buildings and constructions located in free economic zones.

High Technologies Park (HTP)

The following tax privileges are granted to residents of the HTP:

- Full exemption from CIT.
- Full exemption from VAT when selling goods, works, services, or property rights in the territory of Belarus.
- Full exemption from VAT and customs duties when importing certain goods for the purpose of using them in activities connected with high technology.
- No land tax is applicable to land plots situated in the HTP on which a construction project is being carried out; however, this exemption will last no longer than three years.
- Full exemption from real estate tax on buildings and installations, including late constructions in progress but excluding the objects rented, that are situated in the territory of the HTP.
- 9% PIT for employees of residents of the HTP.
- No SICs on the part of employees' income exceeding the average salary in Belarus.

Taxation of holding companies

A holding company is a group of companies where one company of the group is considered to be a management company by virtue of influence over decisions passed by other group companies (i.e. the subsidiaries) as a result of holding 25% and more of their ordinary stock (shares).

A management company is entitled to create a centralised fund by means of contributions of subsidiaries from net income thereof. Subject to certain conditions, monetary means received by a management company (Belarusian tax resident) from subsidiaries (Belarusian tax residents) for the purpose of a centralised fund formation as well as monetary means transferred from a centralised fund to subsidiaries are not considered taxable income for CIT purposes.

Free of charge transfer of assets within a qualifying holding group is exempted from CIT in Belarus, conditional on certain terms, in particular:

- Participants of a holding group receiving or transferring assets are not (i) participating in another holding; (ii) registered as residents of free economic zones, the Special Tourist and Recreational Park 'Avgustovski Canal', HTP, or China-Belarusian Industrial Park; (iii) professional participants of the securities

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market and do not manufacture alcoholic and tobacco products; (iv) banks, non-bank financial intermediaries, or insurance companies; and (iv) engaged in realtor activity, lottery activity, activity on organising and conducting electronic interactive games, or activity in the sphere of gambling business.

- Received assets are used to manufacture products, to perform works, and to render services.

Withholding taxes

The following income of a non-resident entity in Belarus that is not derived through a PE is deemed to be Belarusian-source income and is subject to WHT at the rates provided:

Income	WHT (%)
Freight charges (including demurrage) and freight-forwarding services (excluding freight charges for marine transportation and forwarding services)	6
Interest on any type of debt obligations, including securities	10
Royalties	15
Dividends and other similar income	12
Penalties, fines, and other sanctions received for breach of contractual liabilities	15
Income derived from the sale of goods in Belarus under a commission, mandate, or other similar contract.	15
Income derived from performing and/or participation in cultural events and shows, as well as from operation of attractions and wild beast shows in Belarus.	15
Income derived from sports, entertainment activities, or performers' activities	15
Income derived from innovative, design, and R&D activities, design of technological documentation engineering design, and other similar works and services	15
Income from provision of guarantees	15
Income from provision of disk space and/or communication channel for placing information on the server and services for its maintenance	15
Proceeds from the sale, transfer (with title), or lease of immovable property located in Belarus	15
Income derived by a foreign entity from the sale of an enterprise as a complex of assets located in Belarus	15
Capital gains (income from the sale of shares/stocks) in local companies	12
Income from the sale of securities (except shares)	15
Income derived from provision of the range of works and services	15

In calculation of WHT due on certain types of income, a taxpayer is permitted to deduct related expenses following the rules specified by the Tax Code.

Generally, the tax is withheld and paid to the tax authorities by a local entity, an individual entrepreneur, a branch, a PE of a foreign company, or an individual. When certain types of Belarusian-source income are received under the agreement between two non-resident entities (e.g. capital gains, sale, transfer of title of ownership or lease of immovable property, provision of licences for software, and other copyright objects), a WHT shall be withheld by the foreign entity that is the income payer.

Currently, Belarus has 69 DTTs in force with foreign countries. Where a treaty for the avoidance of double taxation with the country in question contradicts the local tax regulations, the treaty provisions prevail.

Reduction of or an exemption from WHT under a DTT may be obtained if a special residence certificate is completed and provided to the tax authorities before the payment is made.

If the payment that is covered by the DTT has already been made and WHT at the local rate was withheld, it is possible to obtain an appropriate refund (reduction) by completing a special claim for a refund. The claim for a refund must be filed with additional documents, such as a residence certificate, copies of the contract, and other documents related to the payment.

The following table indicates WHT rates stipulated in DTTs Belarus is a party to:

Recipient	WHT (%)			Construction site duration before creation of a PE (months)
	Dividends (3)	Interest (4)	Royalties	
Non-treaty	12	10	15	
Treaty:				
Armenia	10/15	0/10 (1)	10	12
Austria	5/15	0/5 (1)	5	12
Azerbaijan	15	0/10 (1)	10	12
Bahrain	5	0/5 (1)	5	12
Bangladesh	10/12	0/7.5	10	6
Belgium	5/15	0/10	5	12
Bulgaria	10	0/10 (1)	10	12
China	10	0/10 (1)	10	18
Croatia	5/15	10	10	12
Cyprus	5/10/15	5	5	12
Czech Republic	5/10	0/5	5	12
Democratic People's Republic of Korea	10	0/10	10	12
Denmark (2)	15	0	0	24
Ecuador	5/10	10	10	9
Egypt, Arab Republic of	15	10	15	12
Estonia	10	0/10	10	6
Finland	5/15	0/5	5	12
France (2)	15	0/10	0	24
Georgia	5/10	0/5	5	12
Germany	5/15	0/5	3/5 (5)	12
Hong Kong	5	5	3/5 (6)	12
Hungary	5/15	5	5	12
India	10/15	0/10	15	6
Iran, Islamic Republic of	10/15	0/5 (1)	5	12
Ireland	0/5/10	0/5	5	12
Israel	10	0/5/10	5/10 (7)	12
Italy	5/15	0/8 (1)	6	12
Japan (2)	15	0/10	0/10 (8)	12
Kazakhstan	15	0/10 (1)	15	12
Korea, Republic of	5/15	0/10 (1)	5	12
Kuwait	0/5 (1)	0/5 (1)	10	6
Kyrgyz Republic	15	0/10 (1)	15	12
Laos	5/10	0/8 (1)	5	9

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Recipient	WHT (%)			Construction site duration before creation of a PE (months)
	Dividends (3)	Interest (4)	Royalties	
Latvia	10	0/10 (1)	10	6
Lebanon	7.5	0/5 (1)	5	an aggregated period of more than 9 months in any 12-month period
Lithuania	10	0/10 (1)	10	12
Macedonia, Former Yugoslav Republic of	5/15	10	10	12
Malaysia (2)	15	0/15 (1)	10/15 (9)	12 months for construction site; 6 months for assembling object
Moldova	15	0/10	15	12
Mongolia	10	0/10 (1)	10	12
Netherlands	0/5/15	0/5	3/5/10 (10)	12
Oman	0/5 (1)	0/5 (1)	10	6
Pakistan	10/15	0/10 (1)	15	6
Poland	10/15	0/10	0	12
Qatar	5	0/5 (1)	5	6
Romania	10	0/10 (1)	15	12
Russia	15	0/10 (1)	10	no special provisions in the relevant DTT, local tax legislation provisions should apply
Saudi Arabia	5	5	10	6
Serbia (2)	5/15	8	10	12
Singapore	0/5 (1)	0/5 (1)	5	12
Slovakia	10/15	0/10 (1)	5/10 (11)	12
Slovenia	5	0/5	5	12
South Africa Republic	5/15	0/5/10	5/10	12
Spain (2)	18	0	0/5	12
Sri Lanka	7.5/10	0/10 (1)	10	an aggregated period of more than 183 days in any 12-month period
Sweden	5/10	0/5 (1)	3/5/10 (12)	12
Switzerland	5/15	0/5/8 (1)	3/5/10 (12)	12
Syria	15	10	18	6
Tajikistan	15	0/10 (1)	15	12
Thailand	10	0/10 (1)	15	6
Turkey	10/15	0/10 (1)	10	12
Turkmenistan	15	0/10 (1)	15	6
Ukraine	15	10	15	12
United Arab Emirates	5/10	0/5 (1)	5/10 (13)	12
United Kingdom of Great Britain and Northern Ireland (2)	0	0	0	24
United States of America (2)	0 (15)	0 (1)	0	36
Uzbekistan	15	0/10 (1)	15	12
Venezuela	5/15	0/5 (1)	5/10 (14)	9

Recipient	WHT (%)			Construction site duration before creation of a PE (months)
	Dividends (3)	Interest (4)	Royalties	
Vietnam	15	0/10 (1)	15	6

Notes

1. In general, a 0% tax rate applies to interest payments to the governments of contracting states and to payments guaranteed by the governments of contracting states.
2. The DTT with this country is in force since Belarus is a successor of the former USSR.
3. In the case of two rates, the lowest rate is applicable with regard to those companies or physical persons who are the beneficial owners of dividends distributed by a company in which they hold 25% or more shares. In the case of three rates, these terms apply to the middle rate whereas application of the lowest rate requires compliance with more strict criteria with regard to participation share and amount of contribution.
4. In the case of multiple rates, the lowest rate is applicable with regard to all kinds of loans provided by a government or national bank.
5. 3% applies to patents and trademarks; 5% applies to copyrights.
6. 3% applies to aircraft; 5% applies to all other royalties.
7. 5% applies to equipment; 10% applies to all other royalties.
8. 0% applies to copyrights; 10% applies to all other royalties.
9. 10% applies to patents, trademarks, and equipment; 15% applies to all other royalties.
10. 3% applies to patents and trademarks; 5% applies to equipment; 10% applies to copyrights.
11. 5% applies to copyrights; 10% applies to patents and trademarks.
12. 3% applies to patents; 5% applies to equipment; 10% applies to all other royalties.
13. 5% applies to copyrights; 10% applies to patents and trademarks.
14. 5% applies to copyrights; 10% applies to all other royalties.
15. Zero tax rate is specified in the table based on the current approach of the Belarusian tax authorities to dividends taxation under the US-Belarus DTT. We would like to note that due to the fact that the provisions of the US-Belarus DTT do not specify directly any exemptions with regard to dividends taxation, the approach of the Belarusian tax authorities may change and 12% WHT local rate can be applied to dividends.

Tax administration

Taxable period

The taxable period for CIT is a calendar year. The taxable period for CIT withheld on dividends accrued by Belarusian companies is a month.

Tax returns

A CIT return shall be submitted on a quarterly basis, whether a company has taxable income or not, by the 20th day of the month following the reporting period. The CIT return for the fourth calendar quarter is submitted not later than 20 March of the year following the reporting year.

The above CIT reporting rule is also applicable on PEs of foreign companies as well as non-commercial representative offices.

CIT withheld on inter-company dividends must be reported by a tax withholding entity no later than the 20th day of the month following the month in which the dividends were accrued.

A tax-withholding entity must submit a WHT return to the tax authorities no later than the 20th day of the month following the month when the payment was made.

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Payment of tax

CIT must be paid on a quarterly basis on actual results of financial and economic activity for a quarter, no later than the 22nd day of the month following the expired reporting period. CIT payment for the fourth quarter of 2018 shall be made no later than 22 December 2018 in the amount of 2/3 of CIT calculated based on the CIT amount for the third quarter of 2018 with subsequent recalculation of the whole CIT for the 2018 year and calculation of CIT to be additionally paid or reduced no later than 22 March 2019.

The above deadline shall also be followed by PEs of foreign entities.

CIT on inter-company dividends shall be paid no later than the 22nd day of the month following the month when dividends were paid.

WHT is to be calculated, withheld, and paid by a Belarusian company or a PE of a non-resident company no later than the 22nd day of the month following the month when the payment was made.

Tax audit process

Due to a reform, scheduled audits are replaced with random ones in 2018. Controlling activity is planned to be performed mostly as monitoring and explanatory process, providing various information, organising seminars, and round tables.

The period to be covered with the audit shall not exceed five years plus the period from current year to date.

Statute of limitations

Starting from 1 January 2018, a five-year statute of limitations is applied to tax charges in Belarus.

Generally, the statute of limitations for penalty due to failing to fulfil tax liability is either three years after the date when violation was committed or six months after the date when violation was exposed by tax authorities.

Topics of focus for tax authorities

Below are the main areas that the tax authorities usually monitor in Belarus:

- Application of CIT incentives.
- CIT treatment of overdue loans and recognition of accounts payable above the statute of limitations.
- Proper justification of deductible marketing, consulting, and other similar costs for CIT purposes.
- VAT deductions and relevant justification thereof.
- Tax treatment of reorganisations, mergers, and spin-offs.
- Tax treatment of related-party transactions.
- Tax treatment of charitable and other similar donations.

Other issues

United States (US) Foreign Account Tax Compliance Act (FATCA)

An agreement between the government of the Republic of Belarus and the government of the United States to improve international tax compliance and to implement FATCA was signed on 18 March 2015.

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Significant developments

There have been no significant corporate tax developments in Bosnia and Herzegovina during the last 12 months.

Taxes on corporate income

Bosnia and Herzegovina consists of two entities: Federation of Bosnia and Herzegovina (FBiH) and Republika Srpska (RS), with a third region, the Brčko District (BD), being administered by both. Direct taxes are imposed at the entity/district level, while indirect tax regulations are imposed at the state level. Corporate income tax (CIT) systems in Bosnia and Herzegovina have been partially harmonised in the past few years, but significant differences remain.

The Federation of Bosnia and Herzegovina, Republika Srpska, and the Brčko District tax resident corporations on a worldwide basis. Non-residents are taxed on income realised in the FBiH, RS, and BD territories.

FBiH CIT

A CIT payer in the Federation of Bosnia and Herzegovina is:

- A resident company or other legal entity performing independent and permanent business activity through the sale of products and provision of services in the domestic or foreign markets for the purpose of generating profit.
- A legal entity from Republika Srpska and Brčko District that is registered in the territory of the Federation of Bosnia and Herzegovina for the income generated in the territory of the Federation of Bosnia and Herzegovina.
- A business unit of a non-resident legal entity that performs activities through a permanent establishment (PE) in the territory of the Federation of Bosnia and Herzegovina and is a resident of the Federation of Bosnia and Herzegovina.
- A non-resident in respect to the income generated from a resident of the Federation of Bosnia and Herzegovina.

The CIT rate in the Federation of Bosnia and Herzegovina is 10%.

RS CIT

A CIT payer in Republika Srpska is:

- A legal entity, a resident of Republika Srpska, for income generated from any source in Republika Srpska, Federation of Bosnia and Herzegovina, Brčko District, or abroad.

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- A business unit of a legal entity from Federation of Bosnia and Herzegovina or Brčko District, which is registered in the territory of Republika Srpska, in respect to the income generated from sources in Republika Srpska.
- A legal entity from Federation of Bosnia and Herzegovina or Brčko District for income generated from real estates located in the territory of Republika Srpska.
- A non-resident legal entity that conducts business activity through a PE in Republika Srpska, in respect to the income generated from sources in Republika Srpska.
- A non-resident legal entity for revenue (i.e. income) generated from sources in Republika Srpska.

The CIT rate in Republika Srpska is 10%.

BD CIT

A CIT payer in Brčko District is:

- A legal entity from Brčko District that generates income from any source in Bosnia and Herzegovina or abroad.
- A business unit of a legal entity with headquarters in the Federation of Bosnia and Herzegovina or Republika Srpska, for income generated in Brčko District.
- A non-resident legal entity that conducts business activity and has a PE in Brčko District, for income that is related to that PE.
- A non-resident legal entity that generates income from immovable property in Brčko District, for the income generated in Brčko District.
- A non-resident legal entity that generates income in Brčko District, not mentioned above, and is subject to withholding tax (WHT) in accordance with the CIT law of Brčko District.

The CIT rate in Brčko District is 10%.

Corporate residence

FBiH residency

Under FBiH CIT law, a resident is a legal entity that meets one of the following criteria:

- Headquarters (registration) is entered into a court registry of the Federation of Bosnia and Herzegovina.
- Management and supervision over the business activities is located in the Federation of Bosnia and Herzegovina.

FBiH permanent establishment

A PE of a non-resident is a permanent place of business through which the non-resident performs activity in whole or partially throughout the territory of the Federation of Bosnia and Herzegovina.

A PE under FBiH CIT law is considered to be one of the following:

- Management headquarters.
- Branch office.
- Business office.
- Factory.
- Workshop.

- Location of natural resources extraction.
- Construction site (construction or mounting project) when the work is performed during a period exceeding six months.
- Providing consulting or business services lasting for a period exceeding three months consecutively over a 12-month period.
- A representative acting independently on behalf of a non-resident related to the activities of signing a contract or keeping supplies of products delivered on behalf of a non-resident.

The term PE shall be deemed not to include the following:

- The use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise.
- The maintenance of stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery.
- The maintenance of stock of goods or merchandise belonging to the enterprise solely for the purpose of processing and finishing by another enterprise.
- Maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise.
- Maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
- Maintenance of a fixed place of business solely for any combination of above-mentioned activities, provided that the overall activity of a fixed place of business is of a preparatory or auxiliary character.

A non-resident legal person shall not be deemed to have a PE in the Federation of Bosnia and Herzegovina merely because it carries on business through a broker, general commission agent, or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

A non-resident legal person shall not be deemed to have a PE in the Federation of Bosnia and Herzegovina merely because it controls or is controlled by a legal person resident of the Federation of Bosnia and Herzegovina.

Provisions of a double tax treaty (DTT) shall prevail over domestic law when identifying a PE.

RS residency

Under the RS CIT law, a resident of Republika Srpska is a legal entity that meets one of the following criteria:

- Headquarters of a legal entity is registered at the registry of business entities of Republika Srpska.
- The place of actual management and supervision over the business activities of a legal entity is located in Republika Srpska.

RS permanent establishment

A PE is considered to be a place of business in Republika Srpska through which the business of a foreign legal entity is wholly or partially carried on. The term PE includes the following, especially:

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- A place of management, a branch, an office, a factory, a store, a workshop, a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources in the territory of Republika Srpska.
- A building site, installation, or assembly works in Republika Srpska, as well as a place of infrastructure used for research or extraction of natural resources or supervisory of the same.
- A place of business where an individual or legal person has the authority to conclude contracts in the name of the non-resident enterprise.
- A place where a resident individual or legal person, without authority to conclude contracts in the name of the non-resident enterprise, does business in the name of the non-resident enterprise by holding stock of goods or merchandise and carries out deliveries on a regular basis in the name of the non-resident enterprise.

The term PE shall be deemed not to include the following:

- The use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise.
- The maintenance of stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display.
- The maintenance of stock of goods or merchandise belonging to the enterprise solely for the purpose of processing and finishing by another enterprise.
- Sale of goods or merchandise belonging to the enterprise, provided that it was displayed during fairs or exhibitions under condition that the sale was executed within a month of closing a fair or an exhibition.
- Maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise.
- Maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.
- Maintenance of a fixed place of business solely for any combination of above-mentioned activities, provided that the overall activity of a fixed place of business is of a preparatory or auxiliary character.

A foreign legal entity shall not be deemed to have a PE in Republika Srpska merely because it carries on business through a broker, general commission agent, or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

A foreign legal entity shall not be deemed to have a PE in Republika Srpska merely because it is controlled by a legal person that is a resident of Republika Srpska or by a person carrying out business in Republika Srpska, whether through a PE or otherwise.

Provisions of a DTT shall prevail over domestic law when identifying a PE.

BD residency

The BD CIT law prescribes that a resident is a legal entity registered in Brčko District.

BD permanent establishment

A PE of a non-resident in Brčko District is considered to be:

- construction works, installation and assembly works, infrastructure used for research or exploitation of natural resources, or supervisory of the same, or

- a place of business where an individual or legal person has the authorisation to conclude contracts for a foreign legal entity.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 17%, and the VAT regime applies equally throughout the country of Bosnia and Herzegovina. There is no reduced VAT rate in Bosnia and Herzegovina.

Taxable persons are all individuals and legal entities registered, or required to be registered, for VAT. Any person making taxable supplies of goods and services that exceeds or is likely to exceed a threshold of 50,000 konvertibilna marka (convertible mark or BAM) is required to register as a VAT payer.

The export of goods is zero-rated.

Taxable transactions include the supply of goods and services in Bosnia and Herzegovina by a taxable person, as well as the importation of goods to Bosnia and Herzegovina by any person. The following transactions are also taxable:

- Transactions for no consideration or for a consideration less than the market value.
- The private use of taxable goods by a taxable person (self-supply).

The following services are exempt from VAT in Bosnia and Herzegovina:

- The leasing and subletting of residential houses, apartments, and residential premises for a period of longer than 60 days.
- The supply of immovable property, except for the first transfer of the ownership rights or the rights to dispose of newly constructed immovable property.
- Financial services.
- Insurance and reinsurance services.
- Educational services provided by private or public educational institutions.
- Postal services.

The VAT period is one calendar month.

Any tax credit that has not been used after a period of six months shall be refunded. Registered exporters are to be refunded within 30 days.

Customs duties

The customs policy law and the rates of customs tariffs to be applied exist and are largely based on European Union (EU) standards. Bosnia and Herzegovina has signed the Stabilisation and Association Agreement (SAA) and the Central European Free Trade Agreement (CEFTA).

Excise duties

There is a single excise regime throughout Bosnia and Herzegovina, which levies excise tax on the following products:

- Petroleum products: BAM 0.3 to BAM 0.4 per litre.

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- Tobacco products: 42% on retail price and an additional BAM 0.75 per pack of 20 cigarettes. If the calculated excise duty is lower than the minimally prescribed excise duty, then the minimal excise duty should be paid (the minimal duty is determined every year by the indirect tax authorities by special regulation).
- Non-alcoholic drinks: BAM 0.1 per litre.
- Alcohol and alcoholic drinks: BAM 8 to BAM 15 per litre of absolute alcohol.
- Beer and wine: BAM 0.2 to BAM 0.25 per litre.
- Coffee (unroasted, roasted, and ground coffee and coffee extracts): BAM 1.5 to BAM 3.5 per kilogram.

Property taxes (real estate)

FBiH property taxes

FBiH property taxes are imposed at the cantonal level (ten cantons in total), and the rates as well as the taxpayers are different between the cantons. The taxes are paid in the range of BAM 0.5 to BAM 3 per square metre.

RS property taxes

RS property taxes are imposed at the entity level. The annual tax rate is between 0.05% and 0.5% of the market value of the property. The applicable tax rate is determined every year by the municipalities.

BD property taxes

BD property taxes are imposed by the BD assembly. The annual tax rate is between 0.05% and 1% of the market value of the property. The rate is adopted by the assembly for every year based on the proposed annual budget.

Tax on transfer of land and real estate

FBiH transfer taxes

The FBiH tax on transfer of land and real estate is imposed at the cantonal level. The rate differs by canton; however, it cannot be higher than 5%.

RS transfer taxes

There is no tax on transfer of land and real estate in Republika Srpska.

BD transfer taxes

There is no tax on transfer of land and real estate in Brčko District.

Payroll taxes

FBiH payroll taxes

Personal income tax (PIT) of 10%, in addition to social security contributions, has to be calculated and withheld by an employer with the salary payment.

There are no additional payroll taxes due in the Federation of Bosnia and Herzegovina.

RS payroll taxes

PIT of 10%, in addition to social security contributions, has to be calculated and withheld by an employer with the salary payment.

There are no additional payroll taxes due in Republika Srpska.

BD payroll taxes

PIT of 10%, in addition to social security contributions, has to be calculated and withheld by an employer with the salary payment.

There are no additional payroll taxes due in Brčko District.

Social security contributions

FBiH social security contributions

Mandatory social security contributions in the Federation of Bosnia and Herzegovina are due by the following rates:

Type of contribution	Employee's contributions (%)	Employer's contributions (%)
Contribution for pension and invalid insurance	17.0	6.0
Contribution for health insurance	12.5	4.0
Contribution for unemployment insurance	1.5	0.5

The base for calculation of social security contributions is the gross salary.

In the Federation of Bosnia and Herzegovina, the employer also pays 0.5% of contribution for protection from natural and other disasters, as well as 0.5% of the water protection charge, calculated on net salary.

Social security contributions have to be calculated and withheld by an employer with the salary payment.

RS social security contributions

In Republika Srpska, the following rates of mandatory employee's social security contributions have to be applied:

Type of contribution	% of gross salary
Contribution for pension and invalid insurance	18.5
Contribution for health insurance	12.0
Contribution for unemployment insurance	0.8
Contribution for child protection	1.7

In Republika Srpska, mandatory social security contributions are calculated on gross salary and have to be withheld by the employer, as an income payer. There are no employer's social security contributions in Republika Srpska.

BD social security contributions

Persons who are working in Brčko District can opt to which fund of pension insurance, either the fund of Republika Srpska or fund of the Federation of Bosnia and Herzegovina, they would like to pay pension and invalid insurance contributions.

Health insurance contributions are calculated in the amount of 12% on gross salary.

The table below provides an overview of mandatory social security contributions in Brčko District in a scenario when an employee opts to pay pension and invalid

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insurance contributions to the Pension Insurance Fund of the Federation of Bosnia and Herzegovina.

Type of contribution	Employee's contributions (%)	Employer's contributions (%)
Contribution for pension and invalid insurance	17.0	6.0
Contribution for health insurance	12.0	-
Contribution for unemployment insurance	1.5	-

The table below provides an overview of mandatory social security contributions in Brčko District in a scenario when an employee opts to pay pension and invalid insurance contributions to the Pension Insurance Fund of Republika Srpska.

Type of contribution	% of gross salary
Contribution for pension and invalid insurance	18.5
Contribution for health insurance	12.0
Contribution for unemployment insurance	1.5

Other local taxes

There are several other taxes introduced at the entity, cantonal, and municipality level. The duties differentiate based on company location, business size, and type of business.

FBiH other local taxes

FBiH other taxes include the communal tax, fire prevention contribution, tourist community contribution, forestry contribution fee, Foreign Trade Chamber of Bosnia and Herzegovina duty, Chamber of Commerce FBiH duty, and administrative stamp duties.

RS other local taxes

RS other taxes include the special republic tax, communal tax, forestry contribution fee, fire prevention contribution, Foreign Trade Chamber of Bosnia and Herzegovina duty, Chamber of Commerce RS duty, and administrative stamp duties.

BD other local taxes

BD other taxes include the communal tax, fire prevention contribution, forestry contribution fee, Foreign Trade Chamber of Bosnia and Herzegovina duty, and administrative stamp duties.

Branch income

Representative offices of foreign companies can be registered in all three administrative units.

A branch of a foreign legal entity can be registered in the Federation of Bosnia and Herzegovina and in Republika Srpska. The tax treatment of the branch of a foreign legal entity is still quite unclear from the local perspective, so we recommend contacting a tax and accounting specialist.

BD regulations do not allow registration of branch of a foreign legal entity.

Income determination

Taxable profit is profit determined by adjusting the accounting profit as stated in the profit and loss statement and determined in accordance with International Financial Reporting Standards/International Accounting Standards (IFRS/IAS) and accounting legislation, in accordance with the provisions of the CIT law.

FBiH income

Taxable income in the Federation of Bosnia and Herzegovina is the income determined in the financial statements, increased for tax non-deductible costs and other tax non-deductible items and decreased for non-taxable items in accordance with the CIT Law of the Federation of Bosnia and Herzegovina.

Income on the basis of collected written-off debt, in the event that it was included in income in a previous period and was not subject to tax allowable or recognised expenditure, shall not be included in the tax base.

FBiH inventory valuation

Expenses of production in accordance with accounting regulations and IFRS/IAS shall be recognised in the value of stocks of unfinished production, semi products, and finished products for the calculation of taxable profit.

The inventory is valued by using the average price method.

FBiH capital gains

Capital gains that increase the CIT base are all amounts that directly increase the accumulated or current profit in the balance sheet in accordance with IAS.

Capital gains that increase the CIT base are also considered to be gains from transactions of sales or transfers of assets if such profit is not included in the balance sheet. Such capital gains are determined as the difference between the value of the transaction and the purchase value, deducted for tax depreciation. If such difference is negative, it is considered as a capital loss.

For the purpose of determining the capital gains, the price of the transaction is the price stipulated in the contract, or the market price of the transaction if the stipulated price is lower than the market price.

FBiH dividend income

Dividends realised based on participation in the capital of other taxpayers shall not be included in the tax base. Shares in the profit of a business association will be considered dividends.

FBiH interest income

Interest income is generally included in the taxable base. The exception, as per FBiH government decision, is for interest income realised from state bonds issued for war claims, which should not be included in the taxable base (the CIT law does not explicitly allow for this, which may lead to discussion with the tax authority).

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FBiH royalty income

Royalty income in the Federation of Bosnia and Herzegovina is generally included in the taxable base.

FBiH foreign income

The Federation of Bosnia and Herzegovina taxes resident corporations on a worldwide basis. There are no deferral or anti-deferral provisions in the Federation of Bosnia and Herzegovina.

RS income

Taxable revenue for the purpose of computing the tax base in Republika Srpska includes total revenue presented in the income statement, with the exemption of revenue that has different tax treatment under the CIT Law.

RS inventory valuation

Inventory includes goods used for resale, final goods produced by the taxpayer, semi-final goods used for further production, as well as main and auxiliary materials for production.

Purchase value of inventories at the beginning and end of a fiscal year has to be expressed using the same method for determination of purchase value of inventories.

The costs of material and purchase value of sold goods can be determined by using the weighted average cost method or the first in first out (FIFO) method.

RS capital gains

Capital gain is realised through the sale or other type of transfer of capital or investment assets and represents a difference between the sales price and adjusted base of an asset. The sales price is the contracted price (i.e. the market price established by the competent tax authority in case it finds the contracted price to be lower than the market price).

Capital gains or losses realised during the fiscal year can be offset, and the realised net gain or loss is added or subtracted from the taxable base, if they are not already included in the income or expense.

RS dividend income

Income from dividends is not included in the taxable base.

RS interest income

Interest income is generally included in the taxable base.

Income in the form of interest or its functional equivalent from securities issued by Republika Srpska or by local authority is excluded from the taxable base.

RS royalty income

Royalty income in Republika Srpska is generally included in the taxable base.

RS foreign income

Republika Srpska taxes resident corporations on a worldwide basis. There are no deferral or anti-deferral provisions in Republika Srpska.

BD income

Taxable income in Brčko District includes all income from any source (domestic or foreign), whether in cash or in kind, independent of the relationship to the business activity of the legal person.

BD inventory valuation

The purchase value of inventories can be determined by using the FIFO method or the average cost method.

BD capital gains

Capital gain is realised by sale or transfer of capital and investment goods and represents the positive difference between the sales price and adjusted property base.

Capital gains or losses realised during the fiscal year can be offset, and the realised net gain or loss added or subtracted from the taxable base, if they are not already included in the income or expense.

BD dividend income

Income from dividends is not included in the taxable base.

BD interest income

Income from securities issued by or guaranteed by the state authority, Central Bank BiH, or local authority is excluded from the taxable base.

BD royalty income

Royalty income in Brčko District is generally included in the taxable base.

BD foreign income

Brčko District taxes resident corporations on a worldwide basis. There are no deferral or anti-deferral provisions in Brčko District.

Deductions

FBiH deductions

Tax deductible expenditures are all documented expenditures, decreased for the deductible VAT, that a taxpayer incurred for the purpose of generation of profit, provided they are properly presented in the financial statements.

FBiH depreciation

Depreciation cost is deductible only if it relates to the property subject to depreciation and being used.

Depreciation of fixed assets is deductible up to the amount established by proportionate application of the highest annual depreciation rates using the linear method, prescribed by the FBiH government, as follows:

Assets	Rate (%)
Buildings	5
Roads, communal objects, and upper railway rails machines	10

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Assets	Rate (%)
Equipment, vehicles, and facilities	15
Equipment for water management, water-supply, and canalisation	15
Hardware, software, and equipment for environment protection	33.3
Crops	15
Livestock units	40
Intangible non-current assets	20

Property being depreciated with a value of less than BAM 1,000 may be fully deducted in the purchase year, on condition that that the property was put in use.

Depreciated assets, once depreciated, shall not be re-included in the depreciation calculation for the purposes of the tax balance.

Expenditure arisen from devaluation of fixed assets, which are determined as the difference between current net value and the estimated retrievable value, is tax deductible in the tax period when the assets are sold or destroyed by *force majeure*.

FBiH goodwill

Amortisation of goodwill is not tax deductible.

FBiH start-up expenses

Start-up expenses are tax deductible if the expenses occurred, were necessary and related to the registered company, and if original documentation with regard to those expenses are available for inspection.

FBiH interest expenses

Interest expense is generally tax deductible, except for interest from a related-party loan, which can be tax non-deductible if it does not meet the criteria set by the thin capitalisation rule (*see Thin capitalisation in the Group taxation section*).

FBiH bad debt

The expenses occurring based on the write-off of doubtful debts are tax deductible. Debts are considered doubtful under the following conditions:

- The debts have been included in the taxpayer's revenue in the previous tax period and they have not been collected within 12 months from the due date.
- The taxpayer has started court procedures in regard to the receivable, started the enforced collection procedure, or the receivable has been registered in the liquidation or bankruptcy procedure.

FBiH charitable contributions

Costs of humanitarian, cultural, educational, scientific, and sports purposes (except professional sports) are deductible in the amount of up to 3% of total income.

FBiH tax reserves

The following costs related to provisions are tax-deductible costs:

- Provisions for future costs related to environment protection of up to 30% of taxable income before provision was made, provided there is a legal obligation for the taxpayer to undertake the measures for environment protection. The total provision

for environment protection cannot exceed the amount of the taxpayer's registered capital.

- Provisions for future costs in the guarantee period of up to 4% of the taxpayer's annual turnover relating to products subject to guarantee in the tax period.

FBiH fines and penalties

Fines and penalties are not tax deductible.

FBiH taxes

Taxes are generally tax deductible expenses, except for paid CIT.

FBiH other significant items

Representation costs pertaining to business activity are deductible in the amount of 30% of representation costs.

Expenses of membership fees to the chambers are deductible in the amount not exceeding 0.1% of total income, with the exception of membership fees regulated by the law.

Expenses based on sponsorship are deductible in the amount of 3% of total income.

FBiH net operating losses

Tax losses may be offset against profits in a future tax period, not exceeding five years. Tax losses are utilised on a FIFO basis.

Tax losses cannot be carried back.

FBiH payments to foreign affiliates

Payments to foreign affiliates are generally allowed if they relate to realised revenue.

RS deductions

Expenditures deductible from revenue in computing the RS tax base are the expenditures presented in the income statement, with the exception of expenditures that have a different tax treatment under the provisions of the CIT Law.

RS depreciation

Depreciation deductions are allowed only with respect to depreciable assets that are owned by a taxpayer or acquired through a financial lease that are being used for performance of registered business activities.

A depreciable asset is any tangible or intangible asset (except goodwill) with useful economic life longer than 12 months. Land or any other asset that does not decrease in value through wear and tear or obsolescence is not considered a depreciable asset.

Assets are depreciated using the proportional method of depreciation by applying the annual depreciation rates in the following amounts:

- 3% for property and plant.
- 10% for intangible assets, except software.

Group of assets are depreciated using the digressive method of depreciation by applying the annual depreciation rates in the following amounts:

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- 40% for computers, IT systems, software, and servers.
- 20% for equipment and other assets.

RS goodwill

Amortisation of goodwill is not tax deductible.

RS start-up expenses

Start-up expenses are tax deductible if the expenses occurred, were necessary and related to the registered company, and if original documentation with regard to those expenses are available for inspection.

RS interest expenses

Interest on loans used for generation of taxable revenue are generally tax deductible. The exceptions are interest that is not at arm's length, interest on loans for private use, and interest on overdue tax payments.

Interest expense is not tax deductible for the amount in which net interest expense exceeds 30% of the tax base, in which are not included interest income and expense. Net interest expense represents a positive difference between interest costs and interest revenue.

RS bad debts and tax reserves

Legal entities, other than banks, authorised credit institutions, or insurance companies, are entitled to a bad debt provision that arose in connection with a sale of goods or services but only if the revenue from the sale was previously included in the tax base of the legal entity. The bad debt provision is allowed in the following manner:

- Up to 25% of amount receivable that is older than 12 months.
- Up to 50% of amount receivable that is older than 18 months.
- Up to 75% of amount receivable that is older than 24 months.

Exceptionally from this, a bad debt receivable will be considered in full as a tax deductible cost if such receivable has not been collected within 12 months from the due date and if the taxpayer undertook at least one of the following activities for collection of the receivable:

- the taxpayer started court litigation for the receivables
- the taxpayer requested execution of the receivable from the competent court
- the taxpayer initiated enforced collection procedures
- the receivables are registered in the bankruptcy procedures of the debtor, or
- an agreement has been reached with the debtor who is in the bankruptcy or liquidation procedures.

In the case of a bank or other authorised credit institution, a deduction is allowed for indirect write-off of placement presented in the income statement of a tax period, maximum to the amount prescribed by the Banking Agency of Republika Srpska for loan categories B, C, D, and E.

Insurance and reinsurance companies are allowed a deduction of costs of mathematical reserves that these companies are obligated to create under the regulations of the Insurance Agency of Republika Srpska, under the condition that the reserve was included in the income statement.

Costs arising from technical reserves of insurance companies are tax deductible at up to 20% of the amount of reserves created under the regulations of the Insurance Agency of Republika Srpska, under the condition that the reserve was included in the income statement.

The tax savings resulting from a reduction or cancellation of any reserve that is collected later on will be included in taxable revenue at the moment of collection in accordance with this law.

RS charitable contributions

Contributions to public institutions and humanitarian, cultural, and educational organisations are deductible in an amount not exceeding 3% of the fiscal year's total revenue. Any excess contribution may be carried forward three years.

RS fines and penalties

Fines and penalties are not tax deductible.

RS taxes

Taxes are generally tax deductible expenses, except for paid CIT.

RS other significant items

Expenditures that are recognised and deductible from revenue also include the following:

- 30% of the cost of entertainment, meals, and amusements related to the legal person's economic activity.
- Sponsorship expenses in an amount not exceeding 2% of the fiscal year's total revenue.
- Costs of reclamation of goods and services in the amount not exceeding 3% of the business revenue in that tax year.

RS net operating losses

Losses may be carried forward and offset against income in the following five years. Tax losses are utilised on a FIFO basis.

Tax losses cannot be carried back.

RS payments to foreign affiliates

Payments to foreign affiliates are generally allowed if they relate to realised revenue.

BD deductions

Expenditures are deductible from revenue in computing the BD tax base if the expenditures directly relate to the realised revenue.

BD depreciation

Depreciation deductions are allowed only with respect to depreciable assets that are being used.

A depreciable asset is any tangible or intangible asset that is held for use in the production or supply of goods and services, for rental to others, or for administrative

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purposes. Land or any other asset that does not decrease in value through wear and tear or obsolescence is not considered a depreciable asset.

Assets are depreciated using the linear method of depreciation, except for machines and equipment, which can be depreciated with acceleration (first year at 40%, second year at 30%, and third year at 30%). The CIT Rulebook prescribes a wide range of accepted depreciation rates, depending on type of assets.

The calculation of depreciation for newly purchased property starts the following month from the day when it was put to use. The calculation of depreciation for newly constructed buildings starts from the first day of the following year in which it was put to use.

BD goodwill

Amortisation of goodwill is not tax deductible.

BD start-up expenses

Start-up expenses are tax deductible if the expenses occurred, were necessary and related to the registered company, and if original documentation with regard to those expenses are available for inspection.

BD interest expense

Interest on loans used for business purposes are tax deductible. The exceptions are interest that is not at arm's length, interest on loans for private use, and interest on overdue tax payments.

BD bad debts and tax reserves

Legal persons, other than banks, authorised credit institutions, or insurance companies, shall be entitled to a bad debt deduction that arose in connection with a sale of goods or services but only if the revenue from the sale was previously included in the tax base of the legal person. For this purpose, a credit or trade receivable is considered a bad debt only if one of the following is true:

- It is more than 12 months past the due date for payment of the invoiced receivable and the creditor has sued for the receivables or an enforced collection procedure is initiated due to receivables.
- The receivables are registered in the bankruptcy procedure of the debtor or an agreement has been reached with the debtor who is not a physical or related person in the bankruptcy or liquidation procedure.

In the case of a bank or other authorised credit institution, a deduction is allowed for increases in the reserve account for customary losses due to unpaid loans, and the amount may not exceed 20% of the tax base.

In the case of an insurance or reinsurance company, a deduction is allowed for increases in reserves as registered in accounting documents and as authorised according to applicable law. For insurance contracts pertaining to reinsurance, reserves are to be reduced so that they cover only part of the risk remaining with the insurer, and the amount may not exceed 20% of the tax base.

BD charitable contributions

Contributions to public institutions and humanitarian, cultural, and educational organisations are deductible in an amount not exceeding 3% of the fiscal year's total revenue.

BD fines and penalties

Fines and penalties are not tax deductible.

BD taxes

Taxes are generally tax deductible expenses, except for paid CIT.

BD other significant items

Expenditures that are recognised and deductible from revenue also include the following:

- 30% of the cost of entertainment related to the legal person's economic activity.
- Awards to employees, up to the prescribed amount.
- Costs of business trips, meal allowance, transportation, and holiday allowance, up to the prescribed amount.
- Sponsorship expenses in an amount not exceeding 2% of the fiscal year's total revenue.
- Scholarships to students in an amount up to 75% of average monthly net salary in Brčko District.
- Committee membership fees, up to 0.2% of total revenue in the tax year.
- Expenses for research and development (R&D) in accordance with the Rulebook.

BD net operating losses

Losses may be carried forward and offset against income in the following five years. Tax losses are utilised on a FIFO basis.

Tax losses cannot be carried back.

BD payments to foreign affiliates

Payment to foreign affiliates is generally allowed if it relates to realised revenue.

Group taxation

FBiH group taxation

A business association has the right to request tax consolidation on the condition that all businesses in the group are residents of the Federation of Bosnia and Herzegovina.

A headquarters company and its branches may form a business association when there is direct or indirect control between them with no less than 50% share.

A request for tax consolidation must be filed to the authorised branch office of the tax authorities by a headquarters company.

Each group member is required to file its tax balance, and the headquarters of the business association may file a consolidated tax balance for the group.

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The consolidated tax balance may offset losses of one or more businesses against the profit of other businesses in the association.

Individual group members are liable for the tax calculated on the consolidated balance proportionately to the profit from the individual tax balance, and the headquarters is the payer of the tax calculated on the consolidated balance.

Once approved, tax consolidation shall be applied for the consecutive period of no less than five years.

When one, several, or all the businesses in the association later opt for individual taxation, all group members shall be obligated to pay the difference proportionately on behalf of the tax privilege they have used.

RS group taxation

The CIT Law of Republika Srpska does not envisage a possibility of group taxation in Republika Srpska.

BD group taxation

An affiliated group of legal persons located within Brčko District may elect to file a consolidated annual tax declaration.

An affiliated group of legal persons is a group of one or more legal entities from Brčko District that are connected through the ownership of stock with a common parent, provided that the common parent owns at least 80% of the stock in a legal person that is included in the affiliated group.

Transfer pricing

Transfer pricing requirements are imposed at the entity level. The Federation of Bosnia and Herzegovina, Republika Srpska, and Brčko District have different regulations in place, including different rules in regard to applicable methods, related parties, and documentation. The regulations in place do not differ if the transactions are within one entity, cross-border, or international. Basically, this means that all transactions can fall under the transfer pricing scope.

With Bosnia and Herzegovina not being an EU or an Organisation for Economic Co-operation and Development (OECD) member, the local legislation does not have the same requirements with respect to transfer pricing documentation as in EU countries nor does the legislation refer to the OECD guidelines.

FBiH related parties

In the Federation of Bosnia and Herzegovina, a related party is considered to be an individual or legal person who has the possibility of control or significant influence on the business decisions of the taxpayer. Owning more than 25% of stocks or shares in a company is considered to be enabled control.

Significant influence is considered to be mutually high sales turnover, technical dependence, or otherwise gained control over the management.

FBiH prescribed methods

The FBiH CIT law recognises the following methods:

- Comparable uncontrolled price (CUP) method (primary method).
- Cost plus method.
- Resale price method.

Alternatively, in case these methods cannot be applied, the following methods can be used:

- Profit split method.
- Transaction net margin method.

In case that none of the above-mentioned methods can be applied, any other method that can reasonably be applied for determination of the arm's-length principle is allowed.

FBiH country-by-country (CbC) reporting regime

The parent company is required to submit Form CBC-901 if the company is a resident of the Federation of Bosnia and Herzegovina and generates gross consolidated income of a minimum of BAM 1.5 billion.

RS related parties

Under the CIT Law of Republika Srpska, a related party is a person or legal entity that directly or indirectly participates in management, control, or capital of another legal entity. Also, two legal entities are considered to be related if the same person(s) directly or indirectly participates in management, control, or capital of both legal entities.

It is considered that a person directly or indirectly participates in management, control, or capital of a legal entity when it directly or indirectly owns at least 25% of the shares in that legal entity or when it has a factual possibility to control business decisions of that other legal entity.

A person is considered to have a factual possibility of control on business decisions of another legal entity when one:

- has or controls 25% or more of the voting rights in another legal entity
- has a control on assembly of the management board of another legal entity
- has a right to participate in the profit of another legal entity of 25% or more
- is a family member or a related person to a family member, or
- in any other way has a factual control on business decisions of another legal entity.

RS CbC reporting regime

The transfer pricing documentation must provide an overview of the distribution of income, taxes, and business activities and a list of all units of the group by area of tax jurisdiction, the CbC form, if the income of the group to which the taxpayer belongs is more than 750 million euros (EUR).

BD related parties

Under the CIT Law of Brčko District, related parties of a legal person are considered to be physical or legal persons if those persons possess more than 10% of active shares with voting rights.

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A legal person can be a related party if it directly or indirectly possesses more than 10% active shares in the other person. Indirect ownership is considered to be:

- If a legal person possesses more than 10% of a dependent company, and that dependent company possesses more than 10% in the other legal person.
- If both legal persons have a common shareholder who possesses more than 10% active shares with voting rights in both legal persons.

BD CbC reporting regime

The Brčko District has not enacted a CbC reporting regime.

RS and BD prescribed methods

The RS and BD regulations prescribe the following five methods that can be used in order to establish whether the prices are in accordance with the arm's-length principle:

- CUP method (primary method).
- Cost plus method.
- Resale price method.
- Profit split method.
- Transactional net margin method.

FBiH thin capitalisation

Under the thin capitalisation rule of the CIT Law of the Federation of Bosnia and Herzegovina, in order to be entitled to deduct interest expenses on loans received from a related party, a company's ratio between total liabilities from related-party loans and the company's registered equity should not exceed 4:1. Interest expense related to the liabilities from related-party loans exceeding the ratio 4:1 shall be non-deductible for CIT purposes.

The CIT Law prescribes that this rule does not apply to banks and insurance companies.

RS thin capitalisation

There are no thin capitalisation rules in Republika Srpska.

BD thin capitalisation

There are no thin capitalisation rules in Brčko District.

Controlled foreign companies (CFCs)

Bosnia and Herzegovina has no rules on CFCs.

Tax credits and incentives

FBiH tax incentives

FBiH foreign tax credit

When a taxpayer generates income or profit through business activities outside of the Federation of Bosnia and Herzegovina (directly or through a business unit) and pays the profit tax on such activities, the tax paid abroad shall be credited, up to the amount of the profit tax that would have been paid for the income or profit generated by the same activities in the Federation of Bosnia and Herzegovina.

FBiH investment incentive

Taxpayers who invested their own resources in production equipment worth more than 50% of realised profit in the tax period shall be relieved from 30% of taxation for the year of the investment.

A taxpayer who invested in production within the territory of the Federation of Bosnia and Herzegovina for five consecutive years for a minimum fee of BAM 20 million will be relieved from 50% of taxation for a period of five years, starting with the first year in which it has invested at least BAM 4 million.

FBiH employment incentive

A taxpayer who employed new employees is entitled to a tax-deductible expense in the double amount of gross salary paid to newly employed employees if the following conditions are met:

- Employment contract has to be concluded on a full-time basis for period of minimum 12 months.
- Newly employed employee has not been employed by the taxpayer or by a related legal entity in the past five years.

RS tax incentives

RS foreign tax credit

If a legal entity resident of Republika Srpska generates revenue in a foreign state and that revenue is taxable both in Republika Srpska and in the foreign state, then the tax paid in the foreign state will be deducted from the tax liability of the resident in Republika Srpska.

RS investment incentive for production companies

For a taxpayer who in the territory of Republika Srpska invests in property, plant, and equipment (PPE) for performing its own registered production activity in an amount greater than 50% of generated profit (tax base) of a current tax period, the tax liability will be decreased for 30%.

If the taxpayer disposes of the PPE within three years of the year for which the tax incentive was used, the taxpayer will have to pay the additional tax as if they never used the incentive, as well as penalty interest for late payments.

BD tax incentives

BD foreign tax credit

If a legal entity from Brčko District obtains revenue from a foreign state and the revenue is taxed both in Brčko District and in the foreign state, then the tax paid to the foreign state, whether paid directly or withheld and remitted by another person, is to be credited from the BD CIT, unless such legal entity from Brčko District elects to treat the foreign tax as a deductible expenditure in determining the fiscal year tax base.

BD investment incentive

For a taxpayer who invests in machines and equipment for performing its own registered business activity on the territory of Brčko District, a deduction is allowed for the amount of the investment.

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BD employment incentive

For a taxpayer who employs new employees for an indefinite period of time during the tax period, a second deduction is allowed for the total amount of paid gross salaries for the new employees.

Withholding taxes

FBiH WHT

WHT in the Federation of Bosnia and Herzegovina is calculated on income generated by a non-resident through performance of occasional business activity in the territory of the Federation of Bosnia and Herzegovina. WHT is due on payment or any other settlement of the following:

- Dividends (i.e. shares in profit).
- Interest or the functional equivalent to interest.
- Royalties and intellectual property (IP) rights.
- Fees for management, technical, and educational services (including fees for market research, tax consulting, audit services, and consulting services).
- Compensations for lease of movable and immovable property.
- Compensation for fun and sport events.
- Insurance or reinsurance premiums from risks in the Federation of Bosnia and Herzegovina.
- Compensation for telecommunication services.
- Other service fees, but only for non-residents from the countries that do not have a signed DTT with Bosnia and Herzegovina.

WHT shall be paid at the rate of 5% on dividend payments and 10% for interest, royalties, and other, if not reduced under a tax treaty.

RS WHT

As per the CIT Law of Republika Srpska, WHT in Republika Srpska is due on the following income payments to a foreign legal entity:

- Payment of dividends and shares in profit.
- Payment of interest.
- Payment of royalties and other payments for IP rights.
- Payment for performance of entertainment, art, or sports program in Republika Srpska.
- Payment for professional, scientific, technical, and educational services (market research, advertising and promotion, management, consulting, tax and business consulting, services of auditors, accountants, lawyers, education, and other similar services).
- Payments for market research, advertising and promotion, management, consulting, tax and business consulting, and services of auditors, accountants, and lawyers.
- Payments for insurance and reinsurance premiums in Republika Srpska.
- Payments for telecommunication services between Republika Srpska and another country.
- Payments for lease of movable property.

WHT is also due on the income from services that is paid by a resident of Republika Srpska to a resident of a country that has not concluded a DTT with Bosnia and

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Herzegovina. WHT is also due in case that income subject to WHT is settled to a non-resident in some other way.

The WHT rate in Republika Srpska is 10%.

BD WHT

Any legal or physical person from Brčko District, as well as any non-resident legal or physical person with PE in Brčko District, who pays revenue to a non-resident legal person is to withhold tax from the total payment of revenue and is to remit the withheld tax to the Public Revenues Account of Brčko District.

The WHT applies to the following revenue payments, regardless of whether the revenue is received in Brčko District or abroad:

- Payment of interest or its functional equivalent under financial instruments and arrangements from a resident.
- Payment for entertainment or sporting activities carried out in Brčko District, regardless of whether the revenue is received by the entertainer or sportsman or by another person.
- Payment for the performance of management, consulting, financial, technical, or administrative services if the revenue is from a resident or if the revenue is paid by or included in the books and records of a PE in Brčko District or if such payment is deducted for the purpose of determining the tax base.
- Payment in the form of insurance premiums for the insuring or reinsuring of risks in Brčko District.
- Payment for telecommunication services between Brčko District and a foreign state.
- Payment of royalties.
- Payment of lease for movable property.
- Payment for the performance of other services in Brčko District.

WHT is not due on dividend payments.

The WHT rate in Brčko District is 10%.

WHT rates based on available DTTs

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Albania	5/10 (1)	10	10
Algeria	10	10	10
Austria	5/10 (1)	5	5
Azerbaijan	10	10	10
Belgium	10/15 (1)	15	10
China	10	10	10
Croatia	5/10 (1)	10	10
Cyprus	10	10	10
Czech Republic	5	0	10
Egypt	5/15 (1)	15	15
Finland	5/15 (1)	0	10
France	5/15 (1)	0	0
Germany	15	0	10
Greece	5/15 (1)	10	10

Bosnia and Herzegovina

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Hungary	10	0	10
Iran	10	10	15
Ireland	0	0	0
Italy	10	10	10
Jordan	5/10 (1)	10	10
Kuwait	5	5	10
Macedonia	5/15 (1)	10	10
Malaysia	5/10 (2)	10	8
Moldova	5/10 (1)	10	10
Netherlands	5/15 (1)	0	10
Norway	15	0	10
Pakistan	10	20	15
Poland	5/15 (1)	10	10
Qatar	5/10 (2)	7	7
Romania	5	7.5	10
Serbia and Montenegro	5/10 (1)	10	10
Slovakia	5/15 (1)	0	10
Slovenia	5/10 (1)	7	5
Spain	5/10 (2)	7	7
Sri Lanka	12.5	10	10
Sweden	5/15 (1)	0	0
Turkey	5/15 (1)	10	10
United Arab Emirates	0/5/10 (3)	10	10
United Kingdom	5/15 (1)	10	10

Notes

1. The lower rate applies if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends.
2. The lower rate applies if the beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the company paying the dividends.
3. The lower rates apply if the beneficial owner is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends. The competent authorities of the contracting state shall, by mutual agreement, settle the mode of application of these concessions.

Tax administration

FBiH tax administration

FBiH taxable period

The taxable period is considered to be the calendar month.

FBiH tax returns

An FBiH taxpayer is obligated to file correctly and accurately a completed tax return (declaration) with the tax balance to the authorised branch office of the tax administration by 31 March of the following year.

The deadline for submission of annual calculation of business results is 28 February of the following year.

FBiH payment of tax

A taxpayer shall pay FBiH CIT pursuant to the final tax declaration. CIT prepayments are determined based on the tax return from the prior year and have to be paid monthly (by the last day of the month) for the previous month.

FBiH tax audit process

The tax system is generally based on self-assessment; however, many large and mid-size businesses are under continuous audit by the tax authority and the indirect tax authorities. The audits may include the entire list of taxes for which the business is liable. Smaller businesses with lower incomes are generally subject to audit on a random basis.

FBiH statute of limitations

The statute of limitations is five years.

FBiH topics of focus for tax authorities

The tax authorities focus increasingly on transactions with related parties with respect to transfer pricing and deductibility of expenses in general.

RS tax administration

RS taxable period

The taxable period is considered to be the calendar month.

RS tax returns

The RS tax declaration for a tax year shall be filed no later than 90 days upon the end of the tax year, and in case of a calendar year, no later than 31 March of the current year for the previous year.

RS payment of tax

A taxpayer shall pay RS CIT pursuant to the final tax declaration. CIT prepayments are determined based on the tax return from the prior year and have to be paid monthly (by the tenth day of the month) for the previous month.

RS tax audit process

The tax system is generally based on self-assessment; however, many large and mid-size businesses are under continuous audit by the tax authority and the indirect tax authorities. The audits may include the entire list of taxes for which the business is liable. Smaller businesses with lower incomes are generally subject to audit on a random basis.

RS statute of limitations

The statute of limitations is five years.

RS topics of focus for tax authorities

The tax authorities focus increasingly on transactions with related parties with respect to transfer pricing and deductibility of expenses in general.

Bosnia and Herzegovina

BD tax administration

BD taxable period

The taxable period is considered to be the calendar month.

BD tax returns

The BD tax declaration for a tax year shall be filed no later than 90 days upon the end of the tax year, and in case of a calendar year, no later than 31 March of the current year for the previous year.

BD payment of tax

A taxpayer shall pay BD CIT pursuant to the final tax declaration. CIT prepayments are determined based on the tax return from the prior year and have to be paid monthly (by the tenth day of the month) for the previous month.

BD tax audit process

The tax system is generally based on self-assessment; however, many large and mid-size businesses are under continuous audit by the tax authority and the indirect tax authorities. The audits may include the entire list of taxes for which the business is liable. Smaller businesses with lower incomes are generally subject to audit on a random basis.

BD statute of limitations

The statute of limitations is five years.

BD topics of focus for tax authorities

The tax authorities focus increasingly on transactions with related parties with respect to transfer pricing and deductibility of expenses in general.

Additionally, the BD authority scrutinises allocation of expenses for bank branches operating in the district, often decreasing or not allowing the allocated expenses of the headquarters.

Bulgaria

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Significant developments

New mandatory country-by-country (CbC) reporting obligations and notification requirements

On 4 August 2017, the amendments to the Tax and Social Security Procedures Code (TSSPC) introducing the CbC reporting requirements in Bulgaria were published in the State Gazette. The rules regulate the mandatory CbC reporting by multinational enterprise groups (MNE groups) with consolidated group revenue exceeding 750 million euros (EUR). Once submitted, the CbC reports will be subject to automatic exchange between the tax administrations of the jurisdictions in which the MNE group operates.

Specific rules have been enacted with respect to MNE groups with total consolidated group revenue exceeding 100 million Bulgarian lev (BGN), whose ultimate parent company is a Bulgarian tax resident. Those groups are now obligated to file CbC reports to the National Revenue Agency (NRA) that will not be subject to automatic exchange of information with other jurisdictions. Bulgarian tax residents that are part of an MNE group shall notify the executive director of the NRA of the group entity that will submit the CbC report. The notification deadline is the last day of the reporting fiscal year (FY) of the MNE group (e.g. 31 December 2018 for FY 2017).

The first year for which CbC reports and CbC notifications should have been submitted was FY 2016 (FY 2017 in case of secondary reporting mechanism).

Amendments of the rules on mandatory value-added tax (VAT) registration (shorter deadlines apply in some cases as of 1 January 2018)

As of 1 January 2018, some amendments have been introduced into the rules on mandatory VAT registration under the Bulgarian VAT Act. The VAT Act previously provided for mandatory VAT registration upon reaching a statutory threshold of BGN 50,000 taxable turnover in Bulgaria for a period of 12 months. As of 1 January 2018, if said threshold of BGN 50,000 taxable turnover in Bulgaria is reached for a period not longer than two consecutive months, including the current month, the taxable person shall apply for a mandatory VAT registration within seven days.

Mandatory registrations in the electronic system of the Customs Agency under a new regime as of 1 February 2018

As of 1 February 2018, an entity should have a registration in the electronic system of the Customs Agency under a new regime in order to submit customs declarations and applications (or to have such submitted on its behalf). The registration is required for all entities that are holders of customs procedures (import, export, inward or outward processing, and others).

Bulgaria

Introduction of new garbage collection fee calculation mechanism

Amendments to the Local Taxes and Fees Act have determined that local municipalities will no longer be able to set the amount of the garbage collection fee based on the taxable value of the immovable property, as was permitted before. Instead, local municipalities will calculate the garbage collection fee based on either the actual volume of the garbage produced by the individual property (or alternatively, based on the estimated volume taking into account the volume of the garbage containers and the collection frequency) or on the number of garbage collection service users at the given immovable property.

The new garbage collection fee calculation rules will be applicable as of 1 January 2020.

Taxes on corporate income

Bulgarian tax residents are taxed on their worldwide income. Non-residents are taxed on their income from Bulgarian sources only, through a permanent establishment (PE) and/or via withholding tax (WHT), depending on the case (*see the Branch income section*).

In general, corporate income is subject to corporate income tax (CIT) at a flat rate of 10%.

Alternative tax

Income earned by organisers of gambling games for which the bet is included in the price of a phone or other telecommunication service is subject to 15% alternative tax, applied on the increase in the price of the phone or other telecommunication service (i.e. the difference between the regular price of the service and the new higher price due to the gambling game). A fixed-sum tax is applied to the operation of gaming machines.

Online gambling games are exempt from the alternative tax (and are subject to standard CIT instead), as are a significant part of the other land-based gambling games (i.e. totto; lotto sports betting, including horse and dog racing; and betting on random events or related to the knowledge of facts).

Tonnage tax regime

A special alternative tax regime applies to the operation of commercial maritime vessels, as per their net tonnage, at a rate of 10%.

Local income taxes

There are no provincial or local government corporate income taxes in Bulgaria.

Corporate residence

A corporation is resident in Bulgaria for tax purposes if it is incorporated in Bulgaria.

Permanent establishment (PE)

PEs of foreign tax residents (e.g. branches) are treated as separate entities similar to Bulgarian residents for tax and accounting purposes.

The definition of a PE in the Bulgarian legislation follows, in general, the Organisation for Economic Co-operation and Development (OECD) model; however, it covers a broader scope of activities leading to a tax presence in Bulgaria. A PE is generally defined as a fixed place (own, rented, or otherwise used) through which a foreign entity partly or wholly carries out business activities in the country.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 20%. A reduced VAT rate of 9% applies to certain tourist services. Some activities are zero-rated, including intra-Community supplies, exports of goods to countries outside the European Union (EU), international transport of goods (i.e. transport to or from countries outside of the European Union), and supplies of goods and services related to aircraft and vessels, subject to statutory limitations.

Some supplies are VAT exempt without the right to a VAT credit, including (but not limited to) certain land transactions; leasing of residential property to individuals; financial, insurance, gambling, educational, and health services; and provision of food products to a food bank free of charge, subject to certain statutory conditions. Options to charge VAT exist for certain land transactions, leasing of residential property to individuals, and finance lease contracts.

Input VAT shall be deducted proportionately depending on the percentage of the use of the goods or the immovable property for business purposes.

The VAT Act provides for mandatory VAT registration upon certain conditions (e.g. for all companies upon reaching a statutory threshold of BGN 50,000 taxable turnover in Bulgaria for a period not longer than two consecutive months, including the current month). Voluntary VAT registration is also available. The Bulgarian legislation does not provide for retroactive VAT registration.

The following mechanism for VAT recovery applies to VAT-registered companies: the positive or negative difference between the output VAT charged by the company and the input VAT for the respective month results, respectively, in a VAT payable or a VAT refundable position. The VAT payable should be remitted to the state budget not later than the 14th day of the month following the respective month. VAT refundable is offset against any VAT payable in the following two months, and any remainder is effectively recovered within 30 days thereafter.

The following statutory periods for VAT refunds apply:

- 30 days for persons that have performed supplies subject to zero-rate (e.g. exports) within the last 12 months exceeding 30% of the total value of all taxable supplies performed by them in the same period, as well as by large investors meeting certain specific conditions.
- Two months and 30 days in all other cases.

Bulgaria

It is possible to claim a refund for VAT paid with respect to assets acquired not earlier than five years prior to the VAT registration, under certain conditions. In the case of real estate, the term is 20 years.

The cash accounting regime may be applied by persons with a taxable turnover below EUR 500,000 for a period of 12 months and a number of other requirements. Taxpayers authorised to apply this regime remit VAT upon receiving a payment from their counterparts and are entitled to VAT credit when they make a payment to their suppliers. Under this regime, a person who has received an invoice from a supplier that is using the cash accounting regime will be entitled to VAT credit upon payment of the invoiced amount.

The telecommunications, broadcasting, and electronically supplied services rendered to EU non-taxable persons (e.g. private individuals, public bodies) are subject to VAT in the country where the customer is established, has its permanent address, or usually resides. This rule has a significant impact on the pricing strategies and the profit margins of the suppliers. In order to apply the correct VAT rate, the suppliers need to collect information to identify the location of their customers. In addition, under this rule, the suppliers are required to register for VAT purposes and pay VAT in different EU countries where they have customers. In order to avoid such administrative difficulties, a possibility for registration under the Mini One Stop Shop (MOSS) is available. Examples of services that are impacted by this VAT rule include the following:

- Fixed and mobile telephone services.
- Access to internet, website supply, and webhosting.
- Radio and television programmes transmitted over a network or distributed via the internet.
- Supply of software and associated updates.
- Supply of music, films, games, images, texts, and information.
- Distance maintenance of programmes and equipment.
- Supply of distance teaching.

Customs duties

Customs duties are calculated in accordance with the EU customs tariff and regulations.

All entities that are holders of customs procedures shall be registered in the electronic system of the Customs Agency.

Excise duties

Excise duties are charged as a percentage of the sales price or customs value or as a flat amount in Bulgarian lev per unit (or per other quantity measures, depending on the type of the excisable good), unless a suspension regime applies. Excisable products include petrol and diesel fuel, liquefied petroleum gas (LPG), heavy oil, kerosene, beer and spirits, tobacco and tobacco products, and electricity.

The applicable rates include the following:

- Unleaded petrol: BGN 710 per 1,000 litres.
- Diesel: BGN 646 per 1,000 litres if used as motor fuel and BGN 646 per 1,000 litres if used for heating purposes.

- LPG: BGN 340 per 1,000 kg if used as motor fuel and BGN 0 per 1,000 kg if used for heating purposes.
- Kerosene: BGN 646 per 1,000 litres if used as motor fuel and BGN 646 per 1,000 litres if used for heating purposes.
- Natural gas: BGN 0.85 per gigajoule if used as motor fuel (may be increased to BGN 5.10 if the European Commission (EC) rules that the rate is incompatible with the state aid rules); BGN 0.60 per gigajoule if used for production purposes; and BGN 0 per gigajoule if used by households.
- Biogas: Zero rate.
- Heavy oil: BGN 646 per 1,000 kg if used as motor fuel for vessels.
- Electricity: BGN 2 per MWh (zero rate if used by households).
- Beer: BGN 1.50/hl/°Plato.
- Wine: Zero rate.
- Ethyl alcohol: BGN 1,100 per hectolitre.
- Cigarettes: 25% *ad valorem* plus BGN 109/1,000 pieces (minimum total of BGN 177 per 1,000 pieces).

Lower rates may apply in certain cases (e.g. beer produced by independent small breweries).

The Excise Duties and Tax Warehouse Act provides for the tax warehousing regime and regulates the production, storage, and movement of excisable products under duty suspension.

Property tax

The annual property tax rate is determined by each municipality and ranges from 0.01% to 0.45% of the tax value of property. Individuals and legal entities that are owners of immovable property (i.e. land and buildings) are liable for property tax. For individuals and residential properties of enterprises, the taxable base is the tax value as determined by the municipal authorities based on certain statutory criteria. The taxable base for properties of enterprises is the higher of the property's gross book value and its tax value determined by the respective municipal authorities.

A garbage collection fee is payable for immovable property at a rate determined by the local municipal council annually.

New rules on the garbage collection fee calculation are to apply as of 1 January 2020. Local municipalities will calculate the garbage collection fee based on either the actual volume of the garbage produced by the individual property (or alternatively, based on the estimated volume taking into account the volume of the garbage containers and the collection frequency) or on the number of garbage collection service users at the given immovable property.

Transfer tax

A transfer tax is due on the value of transferred real estate or motor vehicles, subject to certain exemptions (e.g. contributions in-kind, acquisitions under the Law on Privatisation and Post-privatisation Control). The rate of the transfer tax ranges from 0.1% to 3% and is determined by each municipality.

Stamp duties

There are no stamp duties in Bulgaria.

Bulgaria

Payroll taxes

Upon payment of salaries, the employer should withhold PIT at a flat rate of 10% due on employment remuneration, bonuses, and certain fringe benefits and should remit it to the tax authorities by the 25th day of the following month.

National insurance contributions

National insurance contributions include social security and health insurance contributions.

The aggregate rate of social security contributions is 23.7% to 24.4%*, of which 13.56% to 14.26%* is payable by the employer and 10.14% is payable by the employee.

The aggregate rate of health insurance contributions is 8%, out of which 4.8% is payable by the employer and 3.2% is payable by the employee.

The total national insurance contribution rate (social security and health insurance) is 31.7% to 32.4%*, out of which 18.36% to 19.06%* is payable by the employer and 13.34% is payable by the employee.

* The range is due to the rate of contributions payable to the 'Accident at Work and Occupational Illness Fund', which is due only by the employer and can vary from 0.4% to 1.1%, depending on the employer's economic activity. The rate for the administration and services sector is 0.5%.

Insurance premium tax

A tax of 2% is levied on all insurance premiums paid under insurance agreements covering risks insured in Bulgaria. Life insurance, reinsurance, aircraft, vessels, and international transport insurance agreements are exempt from this tax. The taxable base is the insurance premium received by an insurance company under an insurance agreement.

Insurance companies and their tax representatives are liable to collect the tax and remit it to the budget quarterly by the end of the month following the quarter when the insurance premium was collected.

Tourist tax

The tourist tax is levied with respect to the number of nights spent in hotels and other places for accommodation. The municipalities may determine the tax within a range of BGN 0.20 to BGN 3 per night, depending on the type of accommodation facility.

The tax is payable on a monthly basis by the 15th day of the following month.

One-off taxes

The following corporate expenses are subject to a one-off tax:

- Representative expenses related to a company's business.
- Social expenses provided to employees in kind (monetary social expenses are subject to PIT).
- Expenses in-kind related to the private use of company assets.

The rate of the one-off tax with respect to the above expenses is 10%. Both the expenses and the related one-off taxes are deductible for CIT purposes.

Branch income

Although branches are not deemed to be separate legal persons, branches of non-resident companies have separate balance sheets and profit and loss accounts and are subject to CIT at the standard rate of 10% as well as other general taxes (e.g. VAT, property tax).

Representative offices of foreign entities are not allowed to carry out business activities and are not subject to CIT. A representative office registered under the Encouragement of Investments Act may perform only those activities that are not regarded as 'economic activities' (e.g. marketing activities normally carried out by a representative office and auxiliary to the activities of its head office). Representative offices do not constitute PEs of the non-resident entities unless they engage in business activities in breach of the law.

Profits repatriated by a branch to its head office abroad are not subject to WHT. However, certain income payable by a Bulgarian branch or a PE to other parts of the enterprise abroad may trigger WHT (e.g. income from technical services, interest, royalties) unless the respective expenses are not deductible to the branch or the PE, or are recharged at cost.

Income determination

The taxable result is based on the statutory accounting principles relating to profit/loss and adjusted for tax purposes. Statutory accounting is maintained on an accrual basis in line with the applicable accounting standards.

Small and medium-sized companies may apply specific national standards for the financial statements of small and medium-sized companies or, optionally, International Financial Reporting Standards (IFRS). The principles provided by the standards for the financial statements of small and medium-sized companies are similar to those provided by IFRS. Certain types of companies, including banks and insurance companies, are obligated to apply IFRS.

Inventory valuation

The tax legislation follows the accounting rules for inventory valuation methods. The accounting rules may restrict the application of certain methods (e.g. last in first out [LIFO] is not allowed under IFRS).

Inventory valuation and revaluation methods applicable under accounting standards may be used for tax purposes. Companies may choose the method of inventory valuation but must apply the chosen method consistently throughout the accounting period. An inventory of assets and liabilities is carried out in each accounting period. Accounting gains and losses realised upon revaluation of inventory will not be recognised for tax purposes and will form a temporary tax difference. These gains and losses will be recognised for tax purposes in the period in which the inventory is disposed of.

Capital gains

Realised capital gains are included in corporate income and are taxed at the full CIT rate.

Bulgaria

Note that capital gains from securities will not be subject to taxation if resulting from shares in listed companies and tradable rights in such shares on a regulated securities market in the EU/European Economic Area (EEA). Assets distributed as dividends are deemed realised at market value, and any capital gains arising from this will be subject to tax.

Dividend income

Dividends distributed by Bulgarian companies to foreign shareholders and resident individuals are subject to 5% WHT under the domestic legislation (*see the Withholding taxes section for exceptions for payments to EU/EEA tax residents and under double tax treaties [DTTs]*).

Inter-company dividends

Inter-company dividend payments between Bulgarian companies and dividends distributed by EU/EEA residents to Bulgarian companies (except for dividends from special purpose investment companies or in case of 'hidden distribution of profits') are not included in the tax base of the recipient company.

Note that dividends distributed to a Bulgarian company by its EU or EEA subsidiary are exempt from CIT only if the distribution is not treated as a tax-deductible expense by the distributing company.

Stock dividends

No explicit regulation with respect to stock dividends exists in the Bulgarian CIT Act. Rather, the tax treatment of stock dividends follows the accounting treatment.

Interest income

Interest income is included in the financial results of the company and is subject to 10% CIT.

Royalty income

Royalty income is included in the financial results of the company and is subject to 10% CIT.

Exchange rate gains/losses

Exchange rate gains and losses are reported in the profit and loss account and reflected in the assessment of taxable profit.

Foreign income

Income derived outside Bulgaria by resident legal entities and income derived in Bulgaria by Bulgarian branches of non-residents is included in the taxable base for the purpose of CIT, regardless of whether such income is subject to taxation abroad.

In instances where the provisions of a DTT are applicable, a tax credit or exemption for the foreign tax paid may be allowed. There is also a unilateral tax credit that may not exceed the amount of the tax that would be payable in Bulgaria for the same type of income.

Undistributed income of foreign subsidiaries of a Bulgarian resident company is not taxed.

Deductions

Depreciation and depletion

For accounting purposes, depreciation is calculated in accordance with the straight-line, progressive, or declining-balance methods. Accounting regulations permit Bulgarian companies to establish a depreciation schedule for each tangible and intangible fixed asset on the basis of the method chosen by the company.

For tax purposes, only the straight-line method is permitted. For machines and equipment that are part of the initial investment, accelerated depreciation may also apply, subject to certain conditions.

For tax purposes, fixed assets are divided into the following seven categories:

Category	Assets	Maximum rates (%)
I	Massive buildings, industrial constructions/equipment, transmission facilities/lines (including electricity)	4
II	Machinery, production facilities, apparatuses	30/50
III	Vehicles (except cars), coverage of roads and runways	10
IV	Computers, peripherals to computers, software and rights to use software, mobile phones	50
V	Cars	25
VI	Long-term intangibles with legal or contractual limitations on the period of use	33⅓
VII	Other assets	15

Under certain conditions, assets classified in Category II that are new may be depreciated at a maximum rate of 50% for tax purposes.

The depreciation rate for Category VI is determined by the period of limitations, but not more than 33⅓%.

Depletion is not specifically regulated for tax purposes.

Goodwill

Goodwill is not amortisable under Bulgarian tax law.

Start-up expenses

Start-up expenses may be recognised as deductible in the year of establishment of the company.

Interest expenses

Interest expenses are recognised as deductible expenses, subject to the thin capitalisation rules applicable in Bulgaria (*see Thin capitalisation in the Group taxation section*).

Bad debt

Bad debt impairment costs can be deducted upon expiration of the statute of limitation period. Also, the impairment costs can be recognised for tax purposes upon transferring the receivables. Such impairment costs are tax deductible for financial institutions in the year of recognition.

Bulgaria

Charitable contributions

Generally, charitable contributions to certain organisations or persons, specified by law, can be deductible at up to 10% of a company's accounting profit.

Fines and penalties

Expenses for fines and penalties for violation of the legislation are not deductible.

Taxes

CIT is not deductible for tax purposes. However, other taxes, such as one-off taxes on certain expenses (e.g. representative expenses, certain types of fringe benefits) or local taxes and fees may be recognised as deductible for CIT purposes.

Net operating losses

The taxpayer has the right to carry forward tax losses incurred in a given year over the following five years. The loss subject to carryforward is the negative amount of the financial result adjusted for tax purposes, with certain add-backs and deductions specified in the tax legislation.

Tax losses may be reversed up to the amount of the positive financial result after tax adjustments (without the effect of the loss subject to be carried forward itself).

Carryforwards of foreign-source losses may only offset income from the same source. However, EU/EEA-source losses may offset income from other sources, including Bulgarian sources.

Loss carryback is permitted in very specific cases.

Payments to foreign affiliates

Payments to foreign affiliates may be subject to recalculation by the tax authorities if such payments are not made at arm's length.

Group taxation

No group consolidation is permitted for tax purposes in Bulgaria. All companies must pay tax on the basis of individually assessable profits and losses.

Transfer pricing

Bulgarian law requires that taxpayers determine their taxable profits and incomes applying the arm's-length principle to prices at which they exchange goods, services, and intangibles with related parties (transfer prices). Bulgarian transfer pricing rules generally follow OECD Transfer Pricing Guidelines.

Transfer prices are not set in compliance with the arm's-length principle where:

- prices of the supply of goods or services differ from the market prices or
- loans are received or granted against an interest rate that differs from the market interest rate effective at the time the loan agreement is concluded.

The market interest rate is defined as the interest payable under the same conditions for a loan provided or received, notwithstanding the form of the loan, between non-related parties. The market interest is determined according to the market conditions.

The taxable person should be able to evidence that its relations with related parties are in line with the arm's-length principle.

For the purposes of transfer pricing rules, market prices are determined by the following methods:

- Comparable uncontrolled price method.
- Resale price method.
- Cost plus method.
- Transactional net margin method.
- Profit split method.

Preparation of transfer pricing documentation is not mandatory but is recommendable for material related party transactions. Recently, the revenue authorities have tended to focus more on the transfer pricing area.

Currently, there is no possibility to obtain an Advance Pricing Agreement (APA). However, it is possible to obtain an opinion from the revenue authorities on a case-by-case basis. Such opinions are not binding, but they may provide protection from assessment of interest for late payment and penalties.

Mandatory country-by-country (CbC) reporting obligations and notification requirements

The following entities have the obligation to submit CbC reports to the NRA:

- An ultimate parent company of an MNE group that is a tax resident in Bulgaria (if the consolidated group revenue exceeds BGN 100 million in the year preceding the reporting fiscal year).
- A Bulgarian subsidiary or a PE of an MNE group, with consolidated group revenue exceeding BGN 1,466,872,500 (EUR 750 million) in the year preceding the reporting fiscal year when:
 - the Bulgarian tax administration does not have an available mechanism to receive the CbC reports filed by the ultimate parent entity of the MNE group or another designated reporting group entity, or
 - the MNE group has appointed the Bulgarian subsidiary/PE to act as a surrogate parent company or on behalf of all EU group members, subject to the requirements envisaged in the law.

The CbC reports shall contain certain types of financial information, as well as information on the business activities of all group entities.

The reports will be automatically exchanged between the EU member states or other jurisdictions with which Bulgaria has signed international agreements. An exception exists for the reports submitted by MNEs with group revenue exceeding BGN 100 million whose ultimate parent company is a Bulgarian tax resident, which will not be subject to the automatic exchange of information with other jurisdictions.

The first year for which CbC reports should have been filed by Bulgarian ultimate parent companies or surrogate parent entities was FY 2016. In the other cases, the first reporting year is FY 2017.

Bulgaria

Notification requirements

Bulgarian tax residents that are part of an MNE group shall notify the NRA of the group entity that will submit the CbC report. The notification deadline is the last day of the reporting fiscal year of the MNE group.

The first year for which CbC notifications should have been submitted was FY 2016 (the notification deadline for FY 2016 was 31 December 2017).

Thin capitalisation

Interest payable by local companies to local or foreign persons may be restricted by the thin capitalisation rules (which also apply to interest due to non-affiliated companies).

The tax deductibility for interest expenses that exceed interest income is restricted to 75% of the accounting result of the company, exclusive of interest income and expense. If the accounting result of the company before including the effect of the interest income and expenses is a loss, none of the net interest expense will be deductible for tax purposes. Interest on bank loans and interest under financial lease agreements are subject to thin capitalisation regulations only when the agreements are between related parties or guaranteed by or extended at the order of a related party.

The thin capitalisation rules do not apply if the debt-to-equity ratio does not exceed 3:1 for the respective tax period.

Interest expenses restricted in a given year under the thin capitalisation rules may be deducted from the financial result for tax purposes during the following five consecutive years. This reversal may be made up to the tax allowed interest expenses, as per the above formula.

Controlled foreign companies (CFCs)

The Bulgarian tax legislation does not provide for any CFC rules.

Tax credits and incentives

Tax incentives may apply in certain circumstances, including:

- Partial granting of the CIT due for performance of agricultural activities.
- Additional tax deductions for hiring of long-term unemployed, handicapped, or elderly persons.
- Granting back of up to 100% of the CIT due for investment in regions with high unemployment.

Foreign tax credit

See Foreign income in the Income determination section for a description of the foreign tax credit regime.

Withholding taxes

Bulgarian companies are required to withhold tax on payments of dividends and liquidation proceeds; interest (including that incurred under finance lease agreements and on bank deposits); royalties; fees for technical services; payments for the use

of properties; payments made under operating leasing, franchising, and factoring agreements; and management fees payable to non-residents.

Capital gains from the transfer of shares in a Bulgarian company or immovable property located in Bulgaria realised by a non-resident are also subject to domestic WHT; however, the tax is payable by the non-resident. Capital gains from securities are not subject to WHT if they result from shares in listed companies and tradable rights in such shares on a regulated securities market in the EU/EEA. Capital gains from disposal of governmental bonds are also exempt from WHT realised on a regulated market in the EU/EEA.

Dividends and liquidation proceeds are also taxed where payments are made to resident individuals and non-profit organisations (*for details on dividend payments between domestic companies, see Dividend income in the Income determination section*). Dividends capitalised into shares (stock dividends) are not subject to WHT.

Interest and royalties payable to EU-based associated companies are subject to full WHT exemption in Bulgaria. Associated company criteria are identical to those in the EU Interest and Royalty Directive and require a holding of at least 25% of the capital for at least two years. The WHT exemption on income from interests and royalties can be applied before the expiration of the two-year participation period, provided that the participation in the capital does not fall below the required minimum before the end of this period (i.e. the direct participation is kept for at least two years).

Any fees for services and use of rights (in addition to technical services fees and royalties) accrued to entities in low-tax jurisdictions will attract 10% Bulgarian WHT unless there is proof of the effective provision of the supply. Subject to 10% WHT would also be any accruals for penalties or damages payments to entities in low-tax jurisdictions, except for insurance compensations. The tax legislation introduces a list of low-tax jurisdictions. These are certain off-shore territories that are explicitly listed, as well as countries with which Bulgaria has not signed a DTT and in which the applicable corporate tax rates are more than 60% lower than the applicable rate in Bulgaria.

Certain types of income (other than dividends) accrued by a PE of a foreign person to other parts of its enterprise located outside the country are subject to WHT (*except for that mentioned in the Branch income section*).

Dividends

When a dividend is accrued to a non-resident company or an individual (both resident and foreign), it is subject to WHT at a rate of 5%, unless the rate is reduced by an applicable DTT. No differentiation is made between portfolio and substantial holdings for purposes of this WHT on dividends.

Dividends distributed by a Bulgarian resident company to an entity that is a tax resident in an EU/EEA member state are not subject to Bulgarian WHT.

Interest

A 10% rate applies to interest (including interest from bank deposits) payable to a non-resident, unless the rate is reduced by an applicable DTT.

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Interest on borrowings by the government or the Bulgarian National Bank from international financial institutions is not taxable if the respective loan agreements contain relevant exemption arrangements (international treaties override domestic legislation).

Interest paid to an associated EU-based related company is subject to WHT exemption (requiring at least 25% holding for at least two years, *see above for a description of relief from the two-year participation period*).

An exemption from WHT is provided for income from interests on bonds and other debt securities emitted by a local tax resident and admitted to a regulated stock exchange in an EU/EEA member state.

An exemption from WHT is also provided for income from interests on loans extended by a tax resident of an EU/EEA member state, issuer of bonds or other debt securities, provided that the bonds/debt securities are issued for the purposes of extending a loan to a local legal entity and are admitted to a regulated stock exchange in an EU/EEA member state.

Royalties

Royalties payable to foreign persons are taxed at a rate of 10% at source, unless the rate is reduced by an applicable DTT.

Royalty payments to an associated EU-based related company are exempt from WHT (requiring at least 25% holding for at least two years, *see above for a description of relief from the two-year participation period*).

Capital gains and technical services

Capital gains and technical service fees payable to foreign residents are subject to 10% WHT, unless the rate is reduced by an applicable DTT. As per the domestic legislation, technical services include installation and assembly of tangible assets as well as consultancy services and marketing research.

Application of DTT relief

Applying DTT relief is generally possible only after completing an advance clearance procedure with the Bulgarian tax authorities. Companies have to evidence that they satisfy the requirements for applying the DTT (e.g. tax residence, beneficial ownership, existence of contractual relationship, actual accrual/payment of the income). The procedure usually takes 60 days to complete.

The above procedure has to be followed only if the annual income payable by a Bulgarian resident exceeds BGN 500,000. In all other cases, DTT relief can be applied directly, through submitting a tax residence certificate and a beneficial ownership declaration with the payer of the income.

Beneficial ownership is explicitly defined in Bulgarian legislation. A company is considered a beneficial owner of the income if it has the right to dispose of the income, has discretion over its use, bears the whole or a significant part of the risk of the activity from which the income is realised, and does not qualify as a conduit company.

A conduit company is a company that is controlled by persons who would not benefit from the same type and amount exemption if the income was realised directly by them,

does not carry out any economic activity except for owning and/or administering the rights or the assets from which the income was realised, and does not own assets, capital, or personnel relevant to its economic activity or does not control the use of the rights or assets from which the income was realised.

The conduit company restriction does not apply to companies that have more than a half of their voting shares traded on a registered stock exchange.

The following is a summary of the main parameters of the Bulgarian DTTs as of 1 January 2018:

Recipient	WHT (%)			
	Dividends*	Interest**	Royalties**	Capital gains
Non-treaty	5	10	10	10
Treaty:				
Albania (3, 6, 9, 28)	5/15	0/10	10	0/10
Algeria (24)	10	0/10	10	0
Armenia (1, 2, 6, 28, 36)	5/10	0/5/10	5/10	0/10
Austria (6, 10, 27, 35)	0/5	0/5	5	0/10
Azerbaijan (6, 28, 34)	8	7	5/10	0
Bahrain (6)	5	0/5	5	0
Belarus (6)	10	0/10	10	0
Belgium (6, 10, 27)	10	0/10	5	0
Canada (6, 9, 16, 28, 42)	10/15	0/10	0/10	0/10
China (2, 6, 9, 28)	10	0/10	7/10	0/10
Croatia (27)	5	5	0	0
Cyprus (3, 6, 26, 27)	5/10	0/7	10	0/10
Czech Republic (11, 27)	10	0/10	10	0
Denmark (3, 27)	5/15	0	0	0
Egypt (6)	10	0/12.5	12.5	10
Estonia (9, 16, 27)	0/5	5	5	0/10
Finland (4, 9, 12, 27)	10	0	0/5	0/10
France (5, 27)	5/15	0	5	0
Georgia (6)	10	0/10	10	0
Germany (11, 16, 26, 27, 36, 39)	5/15	0/5	5	0/10
Greece (27)	10	10	10	0
Hungary (6, 27)	10	0/10	10	0
India (6)	15	0/15	15/20	10
Indonesia (6)	15	0/10	10	0
Iran (6, 9, 28)	7.5	0/5	5	0/10
Ireland (3, 6, 9, 27, 28)	5/10	0/5	10	0/10
Israel (18, 19, 20, 21)	10/7.5 to 12.5	0/5/10	7.5 to 12.5	7.5 to 12.5
Italy (27)	10	0	5	0
Japan (3, 6)	10/15	0/10	10	10
Jordan (6, 28)	10	0/10	10	0
Kazakhstan (8, 9, 28)	10	0/10	10	0/10
Kuwait (3, 22)	0/5	0/5	10	0
Latvia (3, 9, 24, 25, 27, 28)	5/10	0/5	5/7	0/10
Lebanon (6)	5	0/7	5	0
Lithuania (16, 27, 28, 29)	0/10	0/10	10	0/10
Luxembourg (3, 10, 27)	5/15	0/10	5	0

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Recipient	WHT (%)			
	Dividends*	Interest**	Royalties**	Capital gains
Macedonia (3, 6)	5/15	0/10	10	0
Malta (12, 17, 27)	0/30	0	10	0
Moldova (3, 6, 9, 28)	5/15	0/10	10	0/10
Mongolia (6)	10	0/10	10	0
Morocco (5, 9, 28)	7/10	10	10	0/10
The Netherlands (3, 7, 9, 27)	5/15	0	0/5	0/10
North Korea (6)	10	0/10	10	0
Norway (16, 22, 28, 41)	0/5/15	0/5	5	0/10
Poland (6, 27)	10	0/10	5	0
Portugal (3, 6, 27)	10/15	0/10	10	0
Qatar (6, 36)	0	0/3	5	0
Romania (6, 27)	5	0/5	5	0
Russian Federation (6)	15	0/15	15	0
Serbia (3)	5/15	10	10	0
Singapore (6, 22)	0/5	0/5	5	0
Slovak Republic (6, 27)	10	0/10	10	0
Slovenia (3, 23, 27, 28)	5/10	0/5	5/10	0/10
South Africa (3, 6, 23, 24)	5/15	0/5	5/10	0/10
South Korea (5, 6)	5/10	0/10	5	0
Spain (3, 27)	5/15	0	0	0
Sweden (9, 27, 28)	10	0	5	0/10
Switzerland (10, 13, 37, 38)	0/10	0/5	0/5	0
Syria	10	0/10	18	0
Thailand (6, 14, 15)	10	0/10/15	5/15	10
Turkey (3, 6, 9)	10/15	0/10	10	0/10
Ukraine (3, 6, 9, 28)	5/15	0/10	10	0/10
United Arab Emirates (6, 22, 34)	0/5	0/2	0/5	0
United Kingdom (27, 28, 38, 40)	5/15	0/5	5	0/10
United States (16, 24, 28, 30, 31, 32, 33)	5/10	0/5/10	5	0/10
Uzbekistan (6, 28)	10	0/10	10	0/10
Vietnam (6, 9)	15	0/10	15	0/10
Zimbabwe (3, 6, 9, 28)	10/20	0/10	10	0/10

Notes

* Under Bulgarian domestic legislation, dividends distributed to non-residents are subject to 5% WHT, unless the recipient is a resident of an EU/EEA member state (in which case the recipient is not subject to WHT).

** Under Bulgarian domestic legislation, interest and royalty payments accrued to EU-resident companies, satisfying the Interest and Royalty Directive requirements, are exempt from WHT.

1. The lower rate applies to dividends paid out to a non-resident that is the direct owner of at least the equivalent of 100,000 United States dollars (USD) forming part of the capital of the company making the payment.
2. The reduced rate for royalties is available for the use of (or right to use) industrial, commercial, or scientific equipment.
3. The lower rate applies to dividends paid out to a foreign company that directly controls at least 25% of the share capital of the payer of the dividends. In the specific cases of the different countries, more requirements may be in place.
4. There is no WHT on royalties for the use of (or the right to use) scientific or cultural works.
5. The lower rate applies to dividends paid out to a foreign company that directly controls at least 15% of the share capital of the payer of the dividends.

6. There is no WHT on interest when paid to public bodies (government, the central bank, and, in several cases, certain governmental bodies).
7. 5% royalties are applicable if the Netherlands applies WHT under its domestic law.
8. Up to 10% branch tax may be imposed on PE profits.
9. The 10% rate on capital gains from securities applies in specific cases that are described in the respective treaty.
10. The zero rate on interest applies if the loan is extended by a bank and also for industrial, trade, and scientific equipment on credit.
11. The zero rate on interest applies if the interest is paid to public bodies (government, municipality, the central bank, or any financial institution owned entirely by the government), to residents of the other country when the loan or the credit is guaranteed by its government, or if the loan is extended by a company for any equipment or goods.
12. The Council of Ministers has stated its intention to renegotiate the DTTs with Malta and Finland.
13. A 5% rate on royalties applies if the Swiss Confederation introduces in its domestic law WHT on royalties paid to non-residents.
14. The 10% rate on interest applies if the interest is received from a financial institution, including an insurance company.
15. The 5% rate on royalties applies if the royalties are paid for the use of copyright for literary, art, or scientific work.
16. The lower rate applies to dividends paid out to a foreign company that directly controls at least 10% of the share capital of the payer of the dividends.
17. The zero rate applies to dividends payable by a Bulgarian resident entity to an entity resident in Malta. The 30% rate applies to dividends payable by a Maltese entity to a Bulgarian entity.
18. The 10% rate applies to dividends distributed by companies that enjoy a reduced or zero CIT by virtue of a tax incentive for investments. In all other cases, the rate is equal to one half of the applicable rate as per the national legislations of Bulgaria and Israel. Nevertheless, the WHT rate may not be less than 7.5% or more than 12.5%.
19. The 5% rate applies to interest payable to banks or other financial institutions. The zero rate applies to interest payable to certain public bodies (governments, municipalities, central banks) or to residents of the other country when the loan or credit is guaranteed, insured, or financed by a public body of that country or by the Israeli International Trade Insurance Company.
20. The rate on royalties is equal to one half of the applicable rate as per the national legislations of Bulgaria and Israel. Nevertheless, the WHT rate may not be less than 7.5% or more than 12.5%.
21. The rate on capital gains from securities is equal to one half of the applicable rate as per the national legislations of Bulgaria and Israel. Nevertheless, the WHT rate may not be less than 7.5% or more than 12.5%. However, capital gains from transfers of shares in entities whose real estate properties exceed 50% of their assets are taxed in the country in which the real estate is located.
22. The zero rate applies to dividends and interest paid to certain public governmental and local bodies as well as entities fully owned by the state.
23. The 5% rate on royalties applies if the royalties are paid for the use of copyright for literary, art, or scientific work as well as for the use of industrial, commercial, or scientific equipment.
24. There is no WHT on interest when paid to and beneficially owned by public bodies (government, local public authorities, the central bank, or any financial institution wholly owned by the government), as well as on interest derived on loans guaranteed by the foreign government or based on an agreement between the governments of the states.
25. The 7% rate on royalties applies if the royalties are paid for the use of, or the right to use, cinematograph films and films or tapes for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula, or process.
26. The zero rate applies for capital gains from shares in a Bulgarian resident company that are traded on the Bulgarian Stock Exchange.
27. In accordance with the EU Parent-Subsidiary Directive implemented in the Bulgarian legislation, dividends distributed by a Bulgarian resident company to an entity that is a tax resident in an EU member state may not be subject to Bulgarian WHT.
28. Full WHT at source may be levied on capital gains from the sale of shares in companies, the main assets of which are direct or indirect holdings in real estate situated in Bulgaria, and in some other cases (subject to the specifics stipulated in the respective treaty).
29. There is no WHT on interest when paid to public bodies (government, the central bank, governmental institutions) or any financial institution wholly owned by the government.
30. Pension funds and charities are considered resident persons.
31. The zero rate does not apply to dividends distributed to real estate investment trusts (REITs).
32. The zero rate does not apply to interest paid under a back-to-back loan.
33. The benefits of the treaty are limited to entities that satisfy certain criteria (Limitation of Benefits clause).
34. The 5% rate on royalties applies if the royalties are paid for the use of, or the right to use, any patent, design, model, plan, secret formula, process, or know-how.
35. The treaty provides for 10% WHT on capital gains unless shares were sold on a recognised stock exchange or seller owned at least 20% of the issuing company's capital.
36. The reduced rate for interest is available for bank loans (subject to specifics in the treaty).
37. The zero rate applies to dividends paid to a pension fund, central bank, or a foreign company (other than a partnership) if the company directly controls at least 10% of the share capital of the payer for at least one year.

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38. The zero rate applies to interest paid to a pension fund, a public body (i.e. the government, a political subdivision, a local authority, or a central bank), in relation to a liability for the sale on credit of goods, equipment or services, as well as to a company with a minimum direct participation of at least 10% in the payer of the interest for at least one year or where a third company holds a 10% minimum direct participation in both the payer and the recipient of the interest.
39. The use or right of use of industrial, economic, and scientific equipment has been excluded from the definition of royalty and is subject to full WHT exemption.
40. The zero rate on dividends applies on dividends distributed to and beneficially owned by a company resident of a contracting state or a pension fund. The 5% rate would apply in all other cases, unless the dividends are paid out of income that is derived from immovable property by an investment vehicle that distributes most of this income annually and whose income from such property is exempted from tax (i.e. real estate investment trust). 15% WHT would apply to a dividend paid out by a real estate investment trust.
41. The zero rate applies to interest paid to certain public bodies (i.e. the government, a political subdivision, a local authority, or a central bank) under a loan extended by a bank or in relation to a sale of industrial, commercial, or scientific equipment on credit or a loan of any kind extended or guaranteed by a governmental institution for the encouragement of exports.
42. The zero rate applies to copyright royalties and other like payments in respect of the production or reproduction of cultural, dramatic, musical, or other artistic work (not including royalties in respect of motion picture films and works on film or videotape or other means of reproduction for use in connection with television), arising in one state and paid to a resident of the other state who is subject to tax thereon.

Under some DTTs, technical service payments fall within the definition of royalty payments and are taxed accordingly.

Tax administration

Taxable period

The financial and tax years coincide with the calendar year.

Tax returns

Annual profit must be declared no later than 31 March of the year following the financial (tax) year. Along with their annual CIT returns, companies are required to file financial information for their business activities during the year in a standard statistical form not subject to a financial audit. The self-assessment principle is applied.

Payment of tax

If a company realised net revenue from sales of more than BGN 3 million in the preceding year, it is liable for monthly CIT payments for each month in the current year. If the net revenue from sales for the preceding year is below BGN 3 million but above BGN 300,000, the company is liable for quarterly advance CIT payments for each quarter of the year except the fourth quarter. The amount of the monthly or quarterly CIT instalments is calculated based on the forecasted taxable profit for the current year.

Companies established during the current year and companies with net revenue from sales below BGN 300,000 for the preceding year are not required to pay advance CIT instalments.

The overpaid amount of CIT can be offset against advance and annual payments due for the next period. The overpaid amount may also be effectively claimed for refund by the taxpayer. The difference between the annual tax declared in the CIT return and the advance tax paid for the corresponding year must be paid by the deadline for submitting the tax return on 31 March of the following year.

Priority order for settlement of tax and social security liabilities

Payment of tax liabilities and social security contributions should be made to four separate accounts: for tax liabilities, for general mandatory social security contributions, for supplementary mandatory retirement provisions, and for health insurance contributions.

If a taxpayer has several public liabilities (e.g. tax and/or social security liabilities) to one of the four accounts of the NRA, the one with the earlier payment date will be settled first.

Tax audit process

Tax audits are usually performed every four to five years, corresponding to the period of the statute of limitations.

Statute of limitations

The statute of limitations (i.e. the period within which the state authorities are entitled to collect the tax liabilities and other related mandatory payments) is five years from the beginning of the year following the year in which the tax liabilities became payable. The above periods can be extended in certain cases. However, the maximum period of the statute of limitations is ten years.

Topics of focus for tax authorities

Transfer pricing is likely to become an area of focus for the tax authorities.

Other issues

Intergovernmental agreements (IGAs)

In December 2014, Bulgaria and the United States signed and disclosed a non-reciprocal Model 1B IGA to implement the tax reporting and withholding procedures associated with the Foreign Account Tax Compliance Act (FATCA).

As of 1 January 2016, Bulgaria has implemented the rules on automatic exchange of financial information in compliance with the EU law, OECD recommendations, and FATCA. The tax authorities will exchange financial information with foreign tax offices on an annual basis.

The information concerns individual and company accounts (including trusts, foundations, and pass-through foreign control entities), account balances, and fund movements related to dividends, interest, sales proceeds, assets, etc.

Base erosion and profit shifting (BEPS)

Bulgaria has incorporated measures tackling hybrid mismatches in its Corporate Income Tax Act (e.g. non-taxable dividends from EU/EEA subsidiaries become taxable if the dividend payment is deductible at the level of the paying entity).

The Bulgarian tax authorities generally follow the other BEPS developments and consider them in their approach.

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Multilateral Instrument (MLI)

Bulgaria is a signatory to the MLI, as of 7 June 2017. As at 1 January 2018, the MLI has not been ratified by Bulgaria. Detailed information regarding the position/reservations of Bulgaria on the provisions of the MLI can be found in the country's List of Reservations and Notifications at the Time of Signature, available on the official OECD website.

Common reporting standard (CRS)

Bulgaria has incorporated the CRS in its domestic Tax and Social Security Procedure Code, effective as of 1 January 2016. Detailed information can be found in the OECD's Automatic Exchange Portal at the OECD BEPS portal.

EU state aid investigations

Currently, there are no investigations on the part of the European Commission (EC) with regard to Bulgarian tax law or Bulgarian companies.

However, in case SA.39869 (2014/N), the EC examined a tax incentive scheme that aims at attracting investments into manufacturing activities in certain of the assisted regions of Bulgaria. The measure allows enterprises to retain up to 100% of the CIT in respect of the tax profit derived from the manufacturing activities carried out in municipalities where the rate of unemployment for the year preceding the current year exceeded by 25% (or more) the national average unemployment rate for the same period.

The EC concluded that the measure meets all the compatibility criteria of the Regional Aid Guidelines, and is therefore compatible with the internal market pursuant to Art. 107(3)(a) TFEU.

Croatia

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Significant developments

There have been no significant corporate tax developments in Croatia during the past year.

Taxes on corporate income

Corporate income tax (CIT) is generally paid at a rate of 18%. For taxpayers with revenues in the tax period lower than 3 million Croatian kuna (HRK), the rate of 12% is applied. This is applicable for the tax years starting from 1 January 2017 (previously, the CIT rate was a flat 20%). The CIT payers are enterprises engaged in independent activities on a long-term basis for the purpose of deriving profit, branches of foreign enterprises, enterprises that control shares in capital (unless the object of investment itself pays CIT), and natural persons who choose to pay CIT instead of personal income tax (PIT).

The CIT base is the accounting profit adjusted for deductions and disallowed items. Croatian residents pay CIT on profit derived in Croatia and abroad, and non-residents (e.g. branches) pay CIT only on profits derived in Croatia. The tax base also includes gains arising from liquidation, sale, change of legal form, and division of the taxpayer if it is determined at the market values.

Payments into voluntarily pension funds paid by an employer for an employee under certain conditions prescribed by the CIT Act are also considered as deductible expenditures.

Expenditures are not considered to be deductible expenditures if they are not related to the taxpayer's business activity.

Taxpayers who realise less than HRK 3 million in revenues can determine the tax base according to the cash principle.

The CIT base is reduced by the following items:

- Income from dividends and profit sharing (i.e. dividends and shares in capital that are paid by the company that pays CIT that is identical to Croatian CIT, has a prescribed legal form, and which the payer didn't use as recognised cost [i.e. deduction] in one's CIT return).
- Unrealised gains from value adjustments of shares (increase of financial asset value) if they were included as income in the profit and loss (P&L) account in the current year and offset previously recognised tax non-deductible unrealised losses from the same financial asset.

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- Income from collected written-off claims that were included in the tax base in the previous tax periods but not excluded from the tax base as recognised expenditure.
- The amount of depreciation not recognised in previous tax periods, up to the amount prescribed by the CIT Act.
- The amount of tax relief or tax exemption in line with special regulations (i.e. costs of education, costs of research and development [R&D], and costs of a new employee's salary).

The CIT base is increased by the following items:

- Unrealised losses from value adjustments of shares (decrease of financial asset value) if they were included as expenses in the P&L account and do not offset previously recognised unrealised gains from value adjustments from the same financial asset.
- The amount of depreciation in excess of the amounts prescribed by the CIT Act.
- 50% of entertainment costs (food and drink, gifts with or without the printed firm logo or product brand, and expenses for vacation, sport, recreation, renting cars, vessels, airplanes, and holiday cottages). Entertainment costs do not include the costs of goods and merchandise adapted by a taxpayer for business entertainment purposes, labelled 'not for sale', and other promotional objects with the name of the firm or merchandise or other advertising objects (e.g. glasses, ashtrays, table cloths, mats, pencils, business diaries, cigarette lighters, tags) put to use in the selling area of the purchaser and given to consumers, provided that their value does not exceed HRK 160 per item.
- 50% of the costs, except insurance and interest costs, incurred in connection with owned or rented motor vehicles or other means of personal transportation (e.g. personal car, vessel, helicopter, airplane) used by managerial, supervisory, and other employees, provided that the use of means of personal transportation is not defined as salary. Please note that the percentage of 50% non-deductible expenses incurred in relation to personal cars is applicable as of 1 January 2018 (previously, 30% of these expenses were non-deductible).
- Asset shortages exceeding the amount prescribed by the Croatian Chamber of Economy or Croatian Chamber of Trades and Crafts, in accordance with the Value-added Tax (VAT) Act and on the basis of which no PIT was paid.
- The costs of forced collection of taxes and other levies.
- Fines imposed by competent bodies.
- Late payment interest charged between associated persons.
- Privileges and other economic benefits granted to natural or legal persons for the purpose of causing or preventing a certain event in favour of the company (generally related to commissions paid to parties acting on behalf of the taxpayer).
- Donations in excess of the amounts prescribed by the CIT Act.
- Interest that is not tax deductible according to the CIT Act.
- Expenditures identified during tax authority's audit, including VAT and contributions related to hidden profit payments and withdrawals from shareholders, company members, and physical persons performing independent activities taxable by CIT.
- Any other expenditure not directly related to profit earning, as well as other increases in the tax base, which were not included in the tax base.

Local income taxes

There are no significant county or local taxes on income.

Corporate residence

In terms of the CIT Act, residents are legal or natural persons whose seat is recorded in the Register of Companies or other register in Croatia, or whose place of effective management and control of business is in Croatia. Residents are also entrepreneurs/natural persons with domicile or habitual residence in Croatia whose business activity is recorded in a register or other records.

A non-resident is any person who does not satisfy one of the requirements referred to above.

Permanent establishment (PE)

The definition of a business unit of a non-resident is based on the Organisation for Economic Co-operation and Development (OECD) guidelines, which provides that a non-resident's business unit is a place of management, a branch, an office, a factory, a workshop, a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources or construction site or project for a period longer than six months, including agents acting in its name, having the right to conclude contracts or hold stock of products that it distributes on the Croatian market in the name of a foreign entrepreneur. The business unit of a non-resident also includes the performance of services (i.e. advisory and business consulting services) for the same or a related project, which lasts for more than three months in a 12-month period.

Other taxes

Value-added tax (VAT)

The Croatian VAT system is in line with the provisions of the European Union (EU) VAT Directive.

VAT is payable on sales of goods and supply of services, import of goods, and intra-Community acquisition of goods.

Croatia has not introduced any VAT grouping rules.

VAT rates

The general VAT rate is 25%.

A reduced rate of 13% is applicable for:

- Organised stays (accommodation or accommodation with breakfast, full or half board, in all kinds of commercial hospitality facilities).
- Newspapers and magazines of a publisher that has a statute of media and newspapers and magazines for which there is no obligation of adoption of the statute of media according to a special law (with the exception of those that consist entirely of advertisements or are used mainly for advertising purposes).
- Edible oils and fat of animal and vegetable origin.
- Child seats for cars and children's food and processed cereal-based foods for infants and small children.
- Water delivery, except for water in bottles and other packaging on the market, in terms of public water supply and public drainage system according to a special law.
- Concert tickets.

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- Supply of electric energy to another supplier or end user, including fees related to that supply.
- Public service of mixed municipal waste, biodegradable municipal waste, and separate waste collection according to a special law.
- Urns and caskets.
- Seedlings and seeds.
- Fertilisers and pesticides and other agrochemical products.
- Animal food, other than pet food.

A reduced rate of 5% is applicable for:

- Bread and milk, including baby food used as a substitute for mother's milk.
- Books of a scholarly, scientific, artistic, cultural, and educational character, as well as school textbooks (primary, secondary, and tertiary education, on all kinds of media).
- Certain medicines and medical equipment and accessories.
- Scientific journals.
- Cinema tickets.
- Daily newspapers of a publisher that has a statute of media (with the exception of those that consist entirely of advertisements or are used mainly for advertising purposes).

Reporting obligations

Taxpayers have to electronically file monthly VAT returns by the 20th day of the month following the reporting month. Exceptionally, taxpayers who do not have any transactions with EU taxpayers (inbound or outbound) and whose aggregate value of goods delivered and services provided in the previous year does not exceed HRK 800,000 can submit the VAT return quarterly.

Any annual adjustments are made in the VAT return for December, which is the last monthly VAT return in a financial year.

In addition, both intra-Community acquisitions and supplies, as well as services provided to or received from an EU-registered taxpayer, have to be reported in a recapitulative statement, submitted by the 20th day of the month following the reporting month.

Where the amount of input tax credits exceeds the entity's VAT liability, a taxpayer is entitled to a refund of the difference or may choose to use the difference as a VAT prepayment.

VAT registration

VAT payers are defined as entrepreneurs that deliver goods or perform services in Croatia. An 'entrepreneur' is a legal entity or a natural person that continuously and independently performs an activity for the purpose of deriving profit. In addition to those that may be regarded as 'normal' taxpayers, domestic enterprises receiving services from foreign enterprises and legal entities and individuals that issue invoices or receipts including VAT without authorisation are also liable to pay VAT.

Companies have to obtain a Croatian VAT ID number in case of EU acquisition of goods in Croatia and EU supplies of goods from Croatia. Export also triggers VAT registration obligation.

Domestic companies performing or receiving services to/from the European Union also have to obtain a VAT ID number.

Foreign companies that supply goods within Croatia or perform land-related services in Croatia do not have to register if the recipient is a Croatian company or holds a Croatian VAT ID number, since Croatia has implemented Art. 194 of the VAT Directive.

A taxpayer is required to enter into the VAT system when the value of supplies in the previous year exceeded HRK 300,000 (prior to 1 January 2018, the threshold was HRK 230,000). Voluntary registration is also possible.

Reclaiming of input VAT is granted to EU-registered VAT payers. No tax representative is required.

Entrepreneurs registered in third countries can apply for a VAT refund, provided reciprocity agreements are in place and a tax representative is used.

Determination of VAT base

The VAT base for the supply of goods and services is the consideration that includes everything that the supplier has received or is supposed to receive from the buyer or a third person in connection to the supply, including the subventions directly related to price of goods and services supplied.

Where no consideration is provided, for instance where goods are exchanged, the VAT base is considered to be the market value of the goods or services. The VAT base of imports is the customs value as prescribed by customs regulations, increased by customs duties, import duties, special taxes, and other fees paid during customs clearing.

VAT-exempt supplies

VAT-exempt supplies include rental of residential property (with some exceptions); granting of credits and credit guarantees; transactions related to bank accounts, interest, winnings from special games of chance in casinos, slot machine clubs, and other forms of gambling; supplies of domestic and foreign legal tender, securities, and shares; and supply of land (other than construction land).

Other exemptions, for example, include the following:

- Services and deliveries of goods by public institutions in the field of culture, such as museums, galleries, archives, libraries, theatres, religious communities and institutions, primary and secondary schools, universities, and student catering and boarding institutions.
- Postal services.
- Public radio and television activities.
- Medical services, including services conducted by doctors, dentists, nurses, physiotherapists, and biochemistry laboratories engaged in private practices; services of medical care performed in healthcare institutions; and services performed by social care institutions and child and adolescent care institutions.
- Services closely linked to sports.

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- Supplies (transfers) of real estate (land, buildings, parts of buildings, housing premises, and other structures), with the exception of 'newly built buildings'. 'Newly built buildings' subject to VAT are buildings that have not been used for more than two years. Buildings not subject to VAT are subject to real estate transfer tax (RETT).

Customs duties

Croatian customs legislation and policies have been fully harmonised with the EU legislation. Goods imported from non-EU countries are subject to import customs clearance, and goods exported from the EU customs territory must be declared for export customs clearance. For performance of customs clearance procedures, each person has to be identified by an Economic Operator Registration and Identification (EORI) number, which is issued by the Customs office upon request.

Excise duties

There are a number of excise duties and special taxes levied on specific products. They are levied at a fixed amount and are payable by the producer or importer. VAT is applied first, after which the fixed amounts are added.

Excise taxes

Product	Excise tax rate
Oil derivatives	From HRK 100 to HRK 4,500 per 1,000 l/kg
Natural gas	HRK 4.05 per MWh for business purpose heating HRK 8.10 per MWh for non-business purpose heating
Cole and coke	HRK 2.30 per GJ
Electricity	HRK 3.75 per MWh for business use HRK 7.5 per MWh for non-business use
Tobacco products:	
Cigarettes	Specific excise duty: HRK 310 per 1,000 pieces Proportional excise duty: 34% of the retail price But not less than HRK 696 per 1,000 pieces
Cigars and cigarillos	HRK 600 per 1,000 pieces
Fine-cut tobacco	HRK 600 per kg
Other tobacco for smoking	HRK 600 per kg
Beer	HRK 40 per 1 volume percentage alcohol in 1 hectolitre (hl)
Alcohol:	
At 15% alcohol or higher	HRK 800 per hl
Less than 15% alcohol	HRK 500 per hl
Ethyl alcohol	HRK 5,300 per hl

Special taxes

Product	Special taxes
Coffee and soft drinks:	
Roasted coffee	HRK 6 per kg
Coffee extracts, essence, and concentrates	HRK 20 per kg
Roasted coffee contained in finished products	HRK 6 per kg of coffee net mass
Coffee extracts, essence, and concentrates in finished products	HRK 20 per kg of coffee net mass
Sugar or sweetener added water, aromatised water (mineral water and fruit juices exempt)	HRK 40 per hl

Product	Special taxes
Other drinks with max 1.2% alcohol (mixture of beer and soft drinks with more than 0.5% alcohol exempt)	HRK 40 per hl
Syrups and concentrates for soft drinks preparation	HRK 240 per hl
Powders and granules for soft drinks preparation	HRK 400 per 100 kg
Motor vehicles on which special tax was not already paid for the use on public roads:	Determined on the basis of purchase price of the motor vehicle, carbon dioxide (CO ₂) emissions expressed in g/km, engine power in kW, volume of the engine in cm ³ , and the level of emission of exhaust gases
Motor vehicles on diesel fuel	From 5% to 21% depending on the purchase price, from HRK 55 to HRK 1,450 depending on 1 g/km CO ₂
Motor vehicles on petrol, liquefied petroleum gas, natural gas, and other fuels except diesel fuel	From 5% to 21% depending on the purchase price, from HRK 35 to HRK 1,300 depending on 1 g/km CO ₂
Motorcycles, mopeds, bicycles and 'ATV' vehicles	Determined on the basis of calculation of the volume of the engine in cm ³ multiplied by the engine volume ratio increased by 5, 10, or 15 depending on the level of emission of exhaust gases (EURO III, EURO II, EURO I)
Fully electric vehicles, motor vehicles with 0 g/km CO ₂ , and motor vehicles produced 30 years ago and older ('oldtimers')	Not subject to taxation
Producers, dealers, and dealers of used motor vehicles	Obligated to register in the registry of motor vehicle producers and dealers eight days before the beginning of the activities. Also, they are obligated to deposit a security instrument for the payment of special taxes.
Acquisition of used motor vehicles on which special tax on motor vehicles was paid, which applies if supply was not subject to VAT, gift, or inheritance tax	Administrative fee payable in HRK/kW, depending on the age of the used motor vehicle according to the special legislation
Liability and comprehensive road vehicle insurance premiums	15% of the contractual amount for obligatory motor vehicle insurance premium 10% of the contractual amount for comprehensive motor vehicle insurance premium

Property taxes

There are no property taxes in Croatia.

Real estate transfer tax (RETT)

The acquisition of real estate is subject to taxation. 'Real estate' generally includes agricultural, construction, and other land, as well as residential, commercial, and other buildings. Transactions include the sale, exchange, and any other means of acquiring real estate for consideration. The acquisition of real estate on which the VAT is paid is not subject to the RETT.

Tax is charged at 4% of the market value of the real estate on the contract date and is paid by the acquirer.

Stamp tax

There are no stamp taxation provisions in Croatia.

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Payroll taxes

Employers are required to withhold a percentage of their employees' salaries and benefits as a payment on account of their PIT. The rate of withholding is a progressive rate between 24% and 36%, depending on the employee's personal circumstances and income.

Social security contributions

The Croatian social security system covers pension, health, and unemployment insurance. In case of dependently employed individuals, social security charges are borne by the employee and employer.

Employers make social contributions at the rate of 17.2% for the following social security benefits:

- Health insurance: 15%.
- Health insurance for health protection while at work: 0.5%.
- Unemployment insurance: 1.7%.

The basis for payment of employer's social security contributions is gross salary, which is not capped.

Employers have certain obligations with respect to disabled individuals. Apart from some exceptions, employers employing 20 or more employees are obligated to employ a prescribed number of disabled individuals. The number depends on the total number of employees and nature of activities the employer carries out but it cannot be lower than 2% or higher than 6% of the total number of employees.

Employers who do not comply with prescribed requirements are obligated to pay a monthly fee amounting to 30% of minimal salary (minimal salary for 2017 amounts to HRK 3,276) for each disabled individual that employer was due to employ.

Chamber of Commerce contribution

Employers pay a mandatory contribution to the Croatian Chamber of Commerce. The amount varies between HRK 42 and HRK 3,973, depending on company size.

Branch income

Foreign corporations carrying on business in Croatia are taxed on their Croatian-source income at the rate of 18% or 12%, depending on the amount of realised revenues.

Income determination

Inventory valuation

Inventories are generally valued at the lower of their acquisition cost or net realisable value. Taking into consideration the accounting principles set out in the Accounting Act and the International Financial Reporting Standards (IFRS) or Croatian Financial Reporting Standards (CFRS), a company can choose to adopt the most favourable method.

Capital gains

Capital gains or losses are covered by the CIT regime. They are either an increasing or decreasing item to the CIT base.

Dividend income

Dividend and profit shares payments made to resident companies are not taxable. Dividends and profit shares paid to non-resident companies are taxed at the withholding tax (WHT) rate of 12%. *Please see the Withholding taxes section for more information.*

Interest income

Interest income is taxable at the applicable CIT rate, as a part of total income stated in the P&L account. Interest paid to non-resident companies can be taxed at the WHT rate of 15%. *Please see the Withholding taxes section for more information.*

Interest income on loans between related companies has to be determined at the minimum interest rate prescribed by the Ministry of Finance as calculated and published by the Croatian National Bank (4.55% as of 1 January 2018). An alternative approach (instead of the interest rate prescribed by the Ministry of Finance) is the interest rate determined according to the transfer pricing rules, if applied to all contracts.

Royalty income

Royalty income is taxable at the applicable CIT rate, as a part of total income stated in the P&L account. Royalties paid to non-resident companies can be taxed at the WHT rate of 15%. *Please see the Withholding taxes section for more information.*

Foreign income

The tax base of a resident taxpayer subject to CIT is the profit earned both in Croatia and abroad, excluding the case where the taxpayer has registered a branch office abroad and taking into account the provisions of respective double tax treaties (DTTs).

Deductions

Depreciation

Most companies depreciate assets on a straight-line basis; this is because depreciation calculated this way, at the prescribed rates, is recognised for tax purposes. Companies are, however, free to use any depreciation method defined in the IFRS or CFRS and to estimate the useful lives of all fixed assets in accordance with their accounting policies.

Prescribed annual depreciation rates are as follows:

Assets	Depreciation period (years)	Depreciation rate (%)
Buildings and ships of over 1,000 gross registered tonnage (GRT)	20	5
Basic herd and personal cars	5	20
Intangible assets, equipment, vehicles (except personal cars), and machinery	4	25
Computers, computer hardware and software, mobile telephones, and computer network accessories	2	50

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Assets	Depreciation period (years)	Depreciation rate (%)
Other non-mentioned assets	10	10

However, depreciation expenses in excess of the amount allowed for tax purposes are taxable. The value adjustment expenses of tangible fixed assets are non-deductible if such expenses exceed the amount of expense calculated by using the prescribed depreciation rate.

The cost of depreciation of assets that are not used for business purposes is not deductible.

Plant and equipment are considered to be acquired in the period in which installed or ready for use. Plant and equipment includes tools of trade, information technology infrastructure (including software), furniture and fittings, and motor vehicles (excluding vehicles for personal use).

If the taxpayer writes off a portion of a depreciable asset, the remaining undepreciated portion will be depreciated at the rate prescribed by law. According to the CIT Act, the taxpayer can double the depreciation rates.

Land and forests (renewable resources) are not depreciated.

Financial assets, cultural monuments, and art work are not depreciated.

Depreciation of vessels, aircraft, condominiums, and vacation houses can be tax deductible only if certain conditions are met.

Goodwill

Goodwill is usually the difference between the consideration paid and the fair value of acquired identifiable net assets. If the taxpayer applies CFRS for its financial reporting, then goodwill must be amortised over five years.

The amortisation of goodwill is not recognised for tax purposes.

If the taxpayer applies IFRS for its financial reporting, goodwill impairment (if any) is considered as a non-deductible expense for tax purposes.

Start-up expenses

Generally, start-up expenses are considered to be expenses in the financial year in which they are incurred. As no special rule is provided for tax purposes, they are considered as tax deductible expenses for CIT purposes in the year in which they are incurred.

Interest expenses

According to the CIT Act, late payment interests are tax deductible, unless those interests are due to related companies, regardless of whether the late payment interests are charged by resident or non-resident related parties.

Interest expenses on loans between related companies is also deductible, up to the amount prescribed by the Ministry of Finance as calculated and published by the Croatian National Bank (4.55% for 2018) and if compliant with thin capitalisation

rules (4:1 ratio). An alternative approach (instead of the interest rate prescribed by the Ministry of Finance) is the interest rate determined according to the transfer pricing rules, if applied to all contracts.

See Thin capitalisation and Interest rate charged between related parties in the Group taxation section.

Bad debt

Value adjustments arising from the adjustment of the value of claims against customers for goods delivered and services rendered are recognised as deductible expenses if more than 60 days elapsed between the maturity of the claim and the end of the tax period, and if the claims were not collected up to 15 days before filing the CIT return. The claim needs to be recorded in the business books as revenue, and all measures for debt collection have to be taken (legal actions) in accordance with best management practices.

These expenses are permanently deductible if a settlement has been reached with the debtor CIT payer who is not a related person, in case of bankruptcy, arbitration, or conciliation, based on a special regulation.

In addition, the law introduces a possibility of permanent tax deductibility of expenses from write-offs of receivables recognised from an unrelated person. It applies if a taxpayer proves that costs of initiating a procedure to collect the receivable are higher than the amount of the receivable itself. It also applies if it proves that it took the necessary actions with due care and diligence of a prudent businessperson with the aim of collecting the receivable, whereby one determined the final inability to collect the amount of the receivable being written off.

Moreover, for the purpose of accelerating the debt reduction procedure, the new regulations introduced a provision encouraging credit institutions to implement the debt reduction procedure during 2017. This relates to bad debt or difficult-to-collect receivables determined as on 31 December 2015, whereby the total expense of a write-off of the receivable, without initiating court or enforcement proceedings, or other proceedings aimed at receivable collection, is recognised as a tax deductible expense. This measure could be applied only in the tax return for 2017 (or for the tax period which begins in 2017 for taxpayers whose fiscal year is different than the calendar year). In other words, it is a one-off measure.

Charitable contributions

Donations in a form of gifts in kind or cash for cultural, scientific, educational, health, humanitarian, sports, religious, environmental, or other socially beneficial purposes are tax deductible by 2% of the revenues generated in the previous year. Exceptionally, the amount may exceed 2% of the revenues generated in the previous year, provided that it is granted pursuant to the decisions of competent ministries on the financing of special programs and activities.

The donations of food to prescribed persons for social, humanitarian, and other purposes, and to people affected by natural disasters, made by taxpayers that are food producers and food traders can also be considered as tax deductible (provided the donations are in line with the relevant regulations of the Ministry of Agriculture).

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Fines and penalties

Fines and penalties prescribed by Croatian administrative and judicial authorities are considered to be non-deductible expenses.

Taxes

There are no provisions for tax treatment of taxes paid/accrued. *For foreign tax credits, please see the Tax credits and incentives section.*

Net operating losses

Tax losses may be carried forward and utilised within five years following the year in which the losses were incurred and must be utilised in the order in which they occurred. The losses may not be transferred to any third party except in the case of merger, de-merger, or acquisition. Tax losses cannot be carried back.

Utilisation of tax losses from previous years in case of statutory changes of legal entities is prescribed in detail in the CIT Act, limiting the entitlement where the legal predecessor is inactive and in case of a significant change in business activity or ownership structure.

Payments to foreign affiliates

The treatment of payments made to foreign affiliates is dealt with through the mechanism of the CIT base. The CIT base is increased for any concealed profit payments made. The tax authorities may audit the expenditure of non-resident taxpayers, examining expenditure on goods and services abroad as well as management, intellectual property (IP), and other fees and payments that may have the character of a profit transfer. If the tax authorities discover that transactions have been used to conceal profit transfers, the difference between the declared price/fee and the average market price/fee will be added back into the taxpayer's tax base.

Group taxation

There are no group taxation provisions in Croatia.

Transfer pricing

Prices between a Croatian entity and its foreign related parties must be set at fair market value (the arm's-length principle). Provisions on transfer pricing and interests are also introduced in transactions between resident related parties if one of the parties has:

- beneficial tax status (i.e. reduced tax rates) or
- entitlement to carry forward tax losses from previous years.

If the prices between related entities are different than those between non-related resident and non-resident entities, the tax base must be calculated with prices that would be charged between unrelated companies. In order to determine the market value of the related party's transaction, the following methods can be used:

- Comparable uncontrolled price.
- Resale price.
- Cost plus.
- Profit split.

- Net profit.

Advance pricing agreements (APAs)

The possibility of concluding an APA between the taxpayer and the tax administration and administrative bodies of other states where related entities involved in transactions with domestic taxpayers are residing is available. The APA determines certain criteria (e.g. methods, comparables, adjustments, key assumptions) applicable to future transactions in order to determine transfer prices for such transactions during a certain period.

Country-by-country (CbC) reporting

Croatia has taken its first steps in harmonising its legislation with Action 13 of the OECD's Base Erosion and Profit Shifting (BEPS) plan by introducing CbC reporting requirements. The new provisions are implemented in the Act on administrative cooperation in the tax field (Official Gazette 115/16) and in the Rulebook on automatic exchange of information in the tax area (NN 18/2017). On the basis of the Act (Article 34) and Rulebook (Articles 101-122), taxpayers (members of multinational enterprises whose global consolidated turnover exceeded 750 million euros [EUR] in 2016) are required, for tax periods beginning 1 January 2016 or after that date, to submit to the tax authorities the following reports and information:

- CbC report notification, or
- CbC report.

In the majority of cases, local companies/branches that are not ultimate parents are obligated to notify the tax authorities that they are not the ultimate parent company and:

- whether they are a surrogate parent company that will file a CbC report instead of the ultimate parent company, or
- they are a constituent entity of the group.

This is done through CbC report notification, which also includes information on the taxpayer responsible for submission of the CbC report (either the ultimate parent or surrogate parent), its identity, and its tax residence.

CbC report notification is submitted to the tax authorities together with the annual CIT return, and the deadline to file the notification is the same as for a CIT return.

In addition, there are some specific cases where a constituent entity of the group (besides the ultimate parent or surrogate parent companies) could become liable to file a CbC report, which are:

- if the ultimate parent company is not required to file a CbC report per its country of residence legislation (we assume that it is not required to nor will it voluntarily file the report via a surrogate parent company)
- the Multilateral Competent Authority Agreement on the Automatic Exchange of Information in the Field of Taxation (the Agreement) between Croatia and the country of residency of the entity that will file the CbC report did not enter into force, or
- due to an error in the exchange of information system.

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Thin capitalisation

Interest on loans from a shareholder or a member of a company holding at least 25% of shares or voting power of the taxpayer will not be recognised for tax purposes in relation to the amount of the loan that exceeds four times the amount of the shareholder's share in the capital or their voting power. Interest on loans obtained from financial institutions is exempt from this provision. Loans from a shareholder or a member of a company are considered to be:

- Third-party loans if guaranteed by a shareholder.
- Loans from related parties.

Interest rate charged between related parties

It is possible for the taxpayer to determine the interest charged between related parties in a way stipulated for determining the fees agreed between unrelated parties in general (i.e. in accordance with the arm's-length principle), under the condition that the same modality of determining interest applies to all financial agreements that taxpayer has with related parties. This possibility is very beneficial to taxpayers since it allows them to determine on their own what the market interest rate is in the relations between related entities, which is in accordance with requirements on the application of the arm's-length principle in business activities with related taxpayers. Previously, the regulations stipulated the deemed market interest rate in relations between related entities, and that interest rate did not necessarily correspond to actual market interest rates.

Controlled foreign companies (CFCs)

No CFC regulations exist in Croatia.

Tax credits and incentives

The Act on Investment Incentives provides the following relief and incentives for taxpayers.

Investment promotion incentives

Incentive measures for investment projects in Croatia are regulated by the Act on Investment Promotion and pertain to investment projects in:

- Manufacturing and processing activities.
- Development and innovation activities.
- Business support activities.
- High added value services.

Incentive measures can be used by enterprises registered in Croatia investing in fixed assets the minimum amount of:

- EUR 50,000 together with creating at least three new jobs for micro enterprises.
- EUR 150,000 together with creating at least five new jobs for small, medium, and large enterprises.
- EUR 50,000 together with creating at least ten new jobs for ICT system and software development centres.

The amount of aid shall be calculated as a percentage of investment value, which is determined on the basis of eligible investment costs. Eligible investment costs are:

- tangible (value of land/buildings and plant/machinery) and intangible assets (patent rights, licences, know-how), or
- gross wage calculated over a period of two years.

The larger of these two amounts constitutes the baseline for calculating the amount of aid.

The percentage of investment value used for calculating the aid amount for large enterprises is 40%, for medium enterprises 50%, and for small and micro enterprises is 60%.

The minimum period for maintaining the investment and newly created jobs linked to an investment is five years for large enterprises, and three years for small and medium-sized enterprises, but no less than the period of use of the incentive measures.

The following incentive measures are available:

- Tax incentives.
- Employment incentives.
- Incentives for education and training.
- Incentives for investments in development and innovation activities.
- Incentives for the capital expenses of investment projects.
- Incentives for labour intensive investment projects.
- Incentives for investment projects through economic activation of inactive property owned by Croatia.

Tax incentives

Tax incentives decrease the CIT rate, depending on the amount of the investment and the number of new jobs created.

Tax incentives for micro entrepreneurs require a minimum investment of EUR 50,000 and allow tax incentives in the form of a 50% decrease of the tax rate over a period of five years, with a minimum of creating three new jobs. Tax incentives for small, medium, and large entrepreneurs can be obtained under the following conditions:

Investment amount (EUR)	Number of newly employed persons	CIT rate reduction (%)
150,000 to 1,000,000	5	50
1,000,000 to 3,000,000	10	75
More than 3,000,000	15	100

Employment incentives

Employment subsidies are incentives for creating new jobs in relation to the investment project. Non-refundable subsidy for eligible costs of new jobs created depends on the unemployment rate in the county in which the investment is located. The incentive rate is applied to eligible costs of jobs creation.

County unemployment rate	Incentive rate
Up to 10%	10% (maximum EUR 3,000 per employee)

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County unemployment rate	Incentive rate
10% to 20%	20% (maximum EUR 6,000 per employee)
More than 20%	30% (maximum EUR 9,000 per employee)

The specified amount of the grant refers to employment of persons that are the long-term unemployed, regardless of length of service and level of education, who are registered as unemployed with Croatian Employment Service that are either: unemployed for at least 6 months, older than 50 years, or persons without work experience. Grant also applies to persons whose contract was cancelled because of the bankruptcy proceedings.

For other categories of workers, the incentive rate is 40% of the amount presented in the table.

The incentive rate is increased by 50% for development and innovation activities and 25% for business support activities and high added value activities.

Incentives for education and training

The non-refundable subsidy shall not exceed 50% of the eligible costs. It may be increased, up to a maximum aid intensity of 70% of the eligible costs, as follows:

- By 10 percentage points if the training is given to workers with disabilities or disadvantaged workers.
- By 10 percentage points if the aid is granted to medium-sized enterprises and by 20 percentage points if the aid is granted to small and micro enterprises.

Incentives for investments in development and innovation activities

For investment in development and innovation activities, a non-refundable grant shall be approved for the purchase of plant/machinery amounting to 20% of the actual eligible costs for purchasing plant/machinery, in the maximum amount of EUR 500,000, provided that the purchased plant/machinery represents high technology equipment.

Incentives for the capital expenses of investment projects

An incentive can be granted for the investment project if the minimum investment in fixed assets is EUR 5 million and 50 new jobs are created within a three-year period from the start of the project.

Those projects can benefit from additional non-refundable subsidies between 10% and 20% of the eligible costs of investments for:

- Construction of a new factory, production facility, or tourist facility.
- Buying of new machines (i.e. production equipment).

The percentage of non-refundable subsidies depend on the unemployment rate of the county where investment is located.

The non-refundable subsidies could be up to EUR 1 million, depending on the applied percentage of the eligible costs, with the condition that the part of investment in the machines/equipment equals at least 40% of the investment and that at least 50% of those machines/equipment are of high technology.

Incentives for the labour intensive investment projects

Labour intensive investment projects in fixed assets are those with at least 100 new jobs created within a three-year period from the start of the project.

Initial employment incentives can be increased by an additional 25% for up to 300 new jobs, 50% for a minimum of 300 new jobs, and up to 100% for minimum 500 new jobs.

Incentives for investment projects through economic activation of inactive property owned by Croatia

Requirement for this incentive is invested amount of at least EUR 3 million in the fixed assets and 15 new jobs created within a three-year period from the start of the project.

Incentive is free lease of inactive property for up to ten years from the start of investment.

In addition, investor has to achieve a 50% increase in the value of the inactive property within three years in relation to the estimated value of the inactive property at the time of starting the lease.

Foreign tax credit

If a domestic taxpayer has paid tax abroad on profit derived abroad, the tax paid can be included in its CIT return, up to the CIT rate in Croatia. The amount of paid tax abroad, which can be offset with the domestic tax, is calculated in the following way:

- The domestic tax rate is charged on the revenues/profit derived from abroad, and the result represents the highest amount of tax that can be offset with the domestic tax.

In practice, it means that if the amount of tax paid abroad was charged at a rate equal to or lower than 18%, only the actual amount of foreign tax paid can be offset with the domestic tax.

Withholding taxes

General rules

Taxpayers who pay fees for the use of IP rights (the right to reproduction, patents, licences, copyrights, designs or models, manufacturing procedures, production formulas, blueprints, plans, industrial or scientific experience, and such other rights); fees for market research services, tax consulting services, business consulting services, or auditing services; or interest to foreign legal entities, natural persons excluded, shall, when making the payment, calculate and withhold tax at a rate of 15%.

Interest payments are subject to WHT at a 15% rate, unless they relate to the following:

- Commodity loans for the purchase of goods used for carrying out a taxpayer's business activity.
- Loans granted by a non-resident bank or other financial institution.
- Holders of government or corporate bonds who are non-resident legal persons.

Exceptionally, WHT on dividends and profit shares are taxed at the rate of 12%. If the company uses a tax allowance for reinvested profit, other than that earned in the

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banking or the financial non-banking sector, WHT on such dividends and profit shares is not applied. WHT does not apply on dividends and profit shares if they are paid out from the profit realised before 29 February 2012.

Generally, taxpayers who pay fees for the use of IP rights, pay interest, or pay out dividends and shares in profit to natural persons have to withhold 24% in the case of IP rights, 12% for interest, and 12% for dividends and shares in profit.

EU Directives

The CIT Act provisions and certain EU Directives provide special treatment for dividends, interest, and royalties paid to related companies in EU member states.

Regarding interest and royalty payments, full exemption only applies to payments between related companies if:

- there is a direct minimum holding of 25% for an uninterrupted period of at least two years, and
- the beneficial owner of the interest or royalties is a company of another member state or a PE situated in another member state of a company of a member state.

Regarding dividend and profit shares payments, full exemption applies when dividends and shares of profits are distributed to a parent company of different EU member state, provided that:

- the recipient of the dividend or profit share has a minimum holding of 10% in the capital of a company distributing the dividend or profit share, and
- the minimum holding is held for an uninterrupted period of at least two years.

The recipient of a dividend or profit share is any company:

- that takes one of the forms that are subject to the common system of taxation applicable to parent companies and subsidiaries of different EU member states
- resident in a member state for tax purposes and, under the terms of a DTT concluded with a third state, not considered to be resident for tax purposes outside the European Union, and
- subject to one of the taxes in the common system of taxation applicable to parent companies and subsidiaries of different EU member states, without the possibility of an option or of being exempt.

Treaty rates

If a country has a DTT signed with Croatia, WHT rates are lowered if the treaty rate is lower than the non-treaty rate. There are specific applications that need to be fulfilled in order to benefit from a DTT between countries.

The following countries have a DTT with Croatia:

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	12	15	15
Treaty:			
Albania	10	0/10 (23)	10
Armenia	0/10 (15)	10	5

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Austria	0/15 (1)	5	0
Azerbaijan	5/10 (16)	0/10 (36)	10
Belarus	5/15 (2)	10	10
Belgium	5/15 (3)	0/10 (24)	0
Bosnia and Herzegovina	5/10 (4)	10	10
Bulgaria	5	5	0
Canada	5/15 (5)	10	10
Chile	5/15 (6)	5/15 (25)	5/10 (38)
China	5	0/10 (26)	10
Czech Republic	5	0	10
Denmark	5/10 (18)	5	10
Estonia	5/15 (8)	0/10 (27)	10
Finland	5/15 (2)	0	10
France	0/15 (9)	0	0
Georgia	5	0/5 (37)	5
Germany	5/15 (8)	0	0
Greece	5/10 (4)	10	10
Hungary	5/10 (4)	0	0
Iceland	5/10 (12)	0/10 (27)	10
India	5/15 (39)	10	10
Indonesia	10	0/10 (28)	10
Iran	5/10 (4)	5	5
Ireland	5/10 (10)	0	10
Italy	15	0/10 (29)	5
Israel	5/10/15 (14)	0/5/10 (30)	5
Jordan	5/10 (11)	10	10
Korea	5/10 (4)	5	0
Kosovo *	5/10 (45)	5	5
Kuwait	0	0	10
Latvia	5/10 (4)	0/10 (27)	10
Lithuania	5/15 (8)	0/10 (27)	10
Luxembourg	5/15 (42)	0/10 (43)	5
Macedonia	5/15 (2)	0/10 (26)	10
Malaysia	5/10 (12)	10	10
Malta	5 (19)	0	0
Mauritius	0	0	0
Moldova	5/10 (4)	5	10
Montenegro	5/10 (4)	10	10
Morocco	8/10 (17)	0/10 (31)	10
Netherlands	0/15 (1)	0	0
Norway	15	0	10
Oman	0	0/5 (32)	10
Poland	5/15 (2)	0/10 (26)	10
Portugal	5/10 (40)	10	10
Qatar	0	0	10
Romania	5	0/10 (26)	10
Russia	5/10 (20)	10	10
San Marino	5/10 (4)	0/10 (33)	5
Serbia	5/10 (4)	10	10

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Recipient	WHT (%)		
	Dividends	Interest	Royalties
Slovakia	5/10 (4)	10	10
Slovenia	5	0/5 (34)	5
South Africa	5/10 (21)	0	5
Spain (35)	0/15 (13)	0	0
Sweden	5/15 (7)	0	0
Switzerland	5/15 (2)	5	0
Syria	5/10 (10)	10	12
Turkey	10	10	10
Turkmenistan	10	0/10 (41)	10
Ukraine	5/10 (4)	10	10
United Kingdom	5/10/15 (22)	0/5 (44)	5

* DTT is applicable as of 1 January 2018.

Notes

1. The 0% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 10% of the capital of the payer. The 15% rate applies to other dividends.
2. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer. The 15% rate applies to other dividends.
3. The 5% rate applies if the recipient (beneficial owner) is an entity that directly or indirectly holds at least 10% of the capital of the payer. The 15% rate applies to other dividends.
4. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer. The 10% rate applies to other dividends.
5. The 5% rate applies if the recipient (beneficial owner) is an entity that directly or indirectly controls at least 10% of the voting power of the payer, or directly holds at least 25% of the capital of the payer. The 15% rate applies to dividends paid by an investment corporation resident of Canada that is owned by a non-resident and in all other cases.
6. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 20% of the capital of the payer. The 15% applies to other dividends.
7. The 5% rate applies if the recipient is an entity that directly holds at least 25% of the voting power of the payer. The 15% applies to other dividends.
8. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 10% of the capital of the payer. The 15% rate applies to other dividends.
9. The 0% rate applies if the recipient (beneficial owner) is an entity that directly or indirectly holds at least 10% of the capital of the payer. The 15% rate applies to other dividends.
10. The 5% rate applies if the recipient (beneficial owner) is an entity that directly controls at least 10% of the voting power of the payer. The 10% rate applies to other dividends.
11. The 5% rate applies if the recipient (beneficial owner) is an entity that holds at least 25% of the capital of the payer, provided that ownership is not achieved for the purposes of exploiting these provisions. The 10% rate applies to other dividends.
12. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 10% of the capital of the payer. The 10% rate applies to other dividends.
13. The 0% rate applies if the recipient is an entity that directly holds at least 25% of the capital of the payer. The 15% rate applies to other dividends.
14. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer. The 10% rate applies if the recipient is an entity (beneficial owner) that directly holds at least 10% of the capital of the payer, which is a resident of Israel and dividends are paid out of the profit that is subject to lower corporate tax rate than usual. The 15% rate applies to other dividends.
15. The 0% rate applies if the recipient (beneficial owner) is an entity that directly or indirectly holds at least 25% of the capital of the payer and if the dividends aren't subject to CIT in the other contracting state. The 10% rate applies to other dividends.
16. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer and has invested in the payer at least EUR 150,000. The 10% rate applies to other dividends.
17. The 8% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer. The 10% rate applies to other dividends.
18. The 5% rate applies if the recipient (beneficial owner) is an entity (except a partnership) that directly holds at least 25% of the capital of the payer if dividends are held for at least one year without interruption and are published within this period. The 5% also applies if the beneficial owner is a pension fund or other similar institution. The 10% rate applies to other dividends.

19. The 5% rate applies if dividends are paid from a Croatian resident to a resident in Malta. If a resident from Malta pays dividends to a Croatian resident the rate cannot be higher than the CIT on profit from which dividends are paid out.
20. The 5% rate applies if the recipient (beneficial owner) is an entity that directly holds at least 25% of the capital of the payer and that share shall be at least 100,000 United States dollars (USD). The 10% rate applies to other dividends.
21. The 5% rate applies if the recipient (beneficial owner) is an entity that holds at least 25% of the capital of the payer. The 10% rate applies to other dividends.
22. The 5% rate applies if the recipient of dividends (beneficial owner) is an entity that directly or indirectly holds at least 25% of the capital of the payer. The 15% rate applies for the dividends that are paid out of the profit derived directly or indirectly from the real estate from an investment company (that distributes most of the profit on an annual basis and when income from such real estate is not taxable). The 10% rate applies to other dividends.
23. Interest to the government, local authority, and the Central Bank is exempt from WHT.
24. Interest on commercial claims for debts, interest on an issued, guaranteed, or insured loan or credit with the purpose of promotion of export, interest on loan from banks, interest on deposits held in banks, and interest that is paid to the state or local authority is exempt from WHT.
25. The 5% rate applies to interests on loans granted by bank and insurance companies. The 15% rate applies to other interest.
26. Interest arising in a contracting state and derived by the government of the other contracting state, a local authority, and the Central Bank thereof or any financial institution wholly owned by that government, or by any resident of that other contracting state with respect to debt and claims indirectly financed by the government of that other contracting state, or the local authority, or the Central Bank thereof or any financial institution wholly owned by the government is exempt from WHT.
27. Interest arising in a contracting state and derived by the government of the other contracting state, local authority, and the Central Bank thereof or any financial institution wholly owned by that government, or interest on loans from the government is exempt from WHT.
28. Interest arising in the contracting state and derived by the government of the other contracting state, local authority, the Central Bank, or any other financial institution wholly owned by the government is exempt from WHT.
29. Interest is exempt from WHT when the payer of interest is the government or local authority in the contracting state or when interest is paid to the government, local authority, or agency of the other contracting state that is wholly owned by the government or local authority, or when interest is paid to any other agency on loans arising from the application of contracts between contracting states.
30. The 5% rate applies to interest on all type of loans granted by banks. The rate of 10% applies to other interest. Interest arising in a contracting state and derived by the government of the other contracting state, a local authority, and the Central Bank thereof, or on a loan that is approved, guaranteed, or insured by an insurance institution, or financing of international business transactions to the extent that it acts on behalf of the other contracting state is exempt from WHT. Interest arising in a contracting state and paid to a resident of the other contracting state who is the beneficial owner is also exempt from WHT to the extent that such interest is paid to the seller of any industrial, commercial, or scientific equipment or other property that is sold on credit.
31. Interest paid to the government or Central Bank of the other contracting state is exempt from WHT.
32. Interest paid to the government is exempt from WHT.
33. Interest is exempt from WHT when the payer is the government or local authority, when the receiver is the government, local authority, or body wholly owned by the government or the local authority, and when interest is paid in the name of the government to the other bodies (including financial institutions) related with a loan that the government received under the agreement between the governments of the contracting states.
34. Interest on loans that give, approve, or guarantee the government, local authority, Central Bank, or institution authorised for insurance and financing of international business transactions is exempt from WHT.
35. Reduced WHT rates or exemptions are not levied/applied if the income is paid to a company resident in a contracting state more than 50% of whose shares are directly or indirectly held by non-residents. This clause will not apply if the company can prove that it carries out important industrial or commercial activities and does not merely manage or hold shares.
36. Interest arising in a contracting state and derived by the government of the other contracting state, a local authority, and the Central Bank thereof, or on a loan that is approved, guaranteed, or insured by the government of the contracting state, Central Bank, or the agency (including financial institution) that is owned or controlled by the government is exempt from WHT.
37. Interest is exempt from WHT when the payer of interest is the government, Central Bank, or government agency or institution.
38. The 5% rate applies on royalties for use or the right to use any type of industrial, commercial, or scientific equipment. The 10% rate applies to other royalties.
39. The 5% rate applies if the recipient of dividends (beneficial owner) (except partnership) is an entity that directly holds at least 10% of the capital of the payer. The 15% rate applies to other dividends.
40. The 5% rate applies if the recipient of dividends (beneficial owner) (except partnership) is an entity that directly holds at least 10% of the assets of the payer. The 10% rate applies to other dividends.
41. Interest is exempt from WHT when sourced in one contracting party and paid to another contracting party or to central bank of the contracting party.
42. The 5% rate applies if the recipient of dividends (beneficial owner), except a partnership, is an entity that directly holds at least 10% of the assets of the payer. The 15% rate applies to other dividends.

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43. Interest is exempt from WHT when paid by the government, Central Bank, or local authority if interest is paid by the country, local authority, or official body in which interest occurs, if interest is paid on loan or receivables owned or guaranteed by that country, local authority, or export financial agency, or if paid to a financial institution or subject for joint investment.
44. Interest is exempt from WHT when paid regarding the sale on credit of industrial, commercial, and scientific equipment, the sale on credit of any commodity between two companies, or on bank loans.
45. The 5% rate applies if the recipient of dividends (beneficial owner) (except partnership) is an entity that directly holds at least 25% of the assets of the payer. The 10% rate applies to other dividends.

In addition to the current WHT rates of 15% and 12%, an increased rate of 20% applies to all services not listed under 'General rules' (*see above*) paid to foreign entities whose place of seat or management is in countries considered to be tax havens or financial centres on the list of countries published by the Ministry of Finance. This provision does not apply to EU member countries and countries with which Croatia has signed a DTT.

Countries listed by the Ministry of Finance are as follows:

- | | | |
|-----------------------------|------------------------|-------------------------------------|
| • Andorra | • Fiji | • Niue |
| • Anguilla | • Gibraltar | • Palau |
| • Antigua and Barbuda | • Grenada | • Panama |
| • Aruba | • Guam | • Saint Kitts and Nevis |
| • Bahamas | • Guernsey | • Saint Lucia |
| • Bahrain | • Guyana | • Saint Vincent and the Grenadines |
| • Barbados | • Hong Kong | • Samoa |
| • Belize | • Isle of Man | • Seychelles |
| • Bermuda | • Jersey | • Solomon Islands |
| • British Virgin Islands | • Liberia | • Tonga |
| • Brunei Darussalam | • Liechtenstein | • Trinidad and Tobago |
| • Cayman Islands | • Macau | • Turks and Caicos Islands |
| • Christmas Island | • Maldives | • Tuvalu |
| • Cook Islands | • Marshall Islands | • United States (US) Virgin Islands |
| • Dominica, Commonwealth of | • Monaco | • Vanuatu |
| • Dominican Republic | • Monserrat | |
| • Falkland Islands | • Nauru | |
| | • Netherlands Antilles | |

Tax administration

Taxable period

The CIT shall be assessed for a period that is normally a calendar year. The tax authorities may agree, at the request of a taxpayer, that the tax period should not correspond with the calendar year, where the tax period may not exceed 12 months. The chosen tax period cannot be changed for three years.

Tax returns

All CIT payers are obligated to submit an annual CIT return to the tax authorities no later than four months after the end of the tax period for which CIT is assessed.

The Ministry of Finance administers taxation matters through the tax administration. These organisations have responsibilities and powers defined by law.

Payment of tax

Every taxpayer is required to pay monthly CIT advances (by the end of the month for the previous month) on the basis of the previous year's tax return.

In the first year of operation, taxpayers are not obligated to pay any CIT advances.

CIT is assessed at the end of the tax period, and the assessed amount, less any instalments made, is payable by the day of submission of the tax return.

Tax audit process

The Inspection Sector of the Croatian tax authority performs a tax audit of a taxpayer.

The tax audit process is usually performed as follows:

- Notification of a tax audit is sent to the taxpayer.
- Tax audit is conducted.
- Minutes of the tax audit are issued.
- Taxpayer can object to the minutes within a prescribed filing deadline. If objection shows new facts and evidence, the tax inspector will prepare supplementary minutes.
- Resolution of the tax audit is issued within 60 days as of the day (supplementary) minutes have been provided to the taxpayer.
- Appeal against the resolution can be filed within 30 days as of the day the taxpayer received the resolution. It needs to be replied to within two months as of the day the appeal has been filed.
- After a rejected appeal, the taxpayer can initiate court litigation procedures.

Statute of limitations

The Croatian tax authority is entitled to review the tax returns of a company within six years following the end of the year in which the tax return is submitted.

Topic of focus for tax authorities

Tax authorities are focusing on business relations with related parties. Also, after the accession of Croatia to the European Union, transactions between member states within the European Union are of focus for the tax authorities. In this regard, the tax authority stipulated the obligation of preparation of a report on transactions with related parties (PD-IPO form) in case the taxpayer recorded transactions with related parties in its business ledgers during the tax period, and to deliver that report along with the CIT return (PD form).

Binding opinions

Opinions and instructions issued by tax authority central offices are binding for all tax authority regional offices, and the goal is to ensure uniformity of the tax authority representatives' treatment of taxpayers.

Other issues

US Foreign Account Tax Compliance Act (FATCA)

On 2 April 2014, the US Treasury announced that an intergovernmental agreement (IGA) was 'in effect', and, on 20 March 2015, the US Treasury and Croatia signed and

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released the IGA. The FATCA Agreement entered into force on 27 December 2016 (as published in the Official Gazette).

Base erosion and profit shifting (BEPS)

Even though Croatia is not a member of the OECD, a BEPS plan will become applicable according to the EU Directives. For example, Action 13 of the BEPS plan is incorporated in the Croatian legislation and applicable as of the beginning of 2017.

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Significant developments

There have been no significant corporate tax developments in Georgia during the past year.

Taxes on corporate income

Resident enterprises are subject to corporate income tax (CIT) on worldwide income.

Non-resident enterprises carrying out economic activities in Georgia through a permanent establishment (PE) are subject to CIT with respect to its Georgian-source income.

The CIT rate is a flat 15%.

Non-resident enterprises earning income from Georgian sources, other than through a PE, are subject to withholding taxes (WHTs) (*see the Withholding taxes section for more information*).

New CIT system

From 1 January 2017, Georgia has switched to a new CIT system. The new system represents the adoption of the Estonian model of CIT to the Georgian tax system. As such, retained profits are no longer taxable until they are distributed. The new regime is not aimed to exempt the profits from taxation, but is designed to defer the taxation moment. Consequently, taxpayers no longer need to determine taxable gross income and allowable deductions in order to arrive at the taxable profits, but rather a standard CIT rate of 15% is applicable to the grossed-up value of the following transactions:

- Profit distribution.
- Costs incurred not related to economic activity.
- Free of charge distributions.
- Over limit representative expenses.

Note that commercial banks, credit unions, insurance companies, microfinance organisations, and pawn shops will be affected by the new CIT regime after 1 January 2019.

Distributed profit

Distributed profit encompasses distribution of profits by an enterprise to its partner as a dividend in a monetary or non-monetary form.

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Distribution of dividends between Georgian legal entities and distribution of dividends received from a foreign enterprise (except for a person registered in a country with preferential tax treatment) are not subject to CIT.

Distributed profit of a PE of a non-resident enterprise shall be a deemed distribution of profits attributable to the PE for its activities. A PE shall be allotted a profit it might have gained as an independent enterprise conducting the same or similar activity and being in the same or similar conditions.

Costs incurred not related to economic activity

Costs not related to economic activity shall be:

- Non-documented expenses.
- Expenses, the purpose of which is not to gain profit, income, or compensation.
- The interest paid for a credit (loan) above the annual interest rate established by the Minister of Finance of Georgia (i.e. 24%).

Certain transaction are deemed as non-business expense, which, *inter alia*, include:

- Payments for acquisition of shares/interest of a non-resident enterprise or contributions made in the capital of a non-resident enterprise.
- Granting of a loan to a natural person or a non-resident.

Certain transaction with persons registered in the countries with preferential tax regimes are also subject to immediate taxation of CIT. Among them are:

- Provision of loans to such persons.
- Purchase of debt securities issued by such persons.
- Payment of contractual penalties and fines to such persons.
- Payment of advances to such persons.
- Acquisition of debt claim towards such persons.
- Loss derived as a result of transferring the right of claim to such entities.
- Loss incurred from waiving the claim receivable from such entities.

The main purpose of the listed taxable objects is to mitigate hidden distribution of profit without taxation. That said, the tax law requires taxation of such cash outflow, which may be embodied with profit distribution, though in turn it allows one to claim back the paid CIT when the cash is returned. Specifically, the Georgian tax code sets that companies have the right to credit the CIT paid previously in the following cases:

- When compensation is received as a result of supply of debt securities.
- When compensation is received from supply of shares or transfer of right of claim.
- When issued loan/paid advances is fully or partially returned (in proportion of returned amount).
- When goods/services are received in exchange for the paid advances.
- When security of issued loan from the third party is cancelled.

Free of charge delivery of goods/services and/or transfer of funds

Free of charge delivery of goods/services and transfer of funds will be subject to CIT. Additionally, shortage of inventory and/or fixed assets will be considered as free of charge supply at the moment of its revealing and will be taxed accordingly by CIT.

Representative expenses

Representative expenses exceeding the specific limit will be subject to CIT. The limit determined for these purposes is 1% of the company's total revenues derived or expenses incurred in the previous calendar year, whichever is greater.

Old CIT system

Commercial banks, credit unions, insurance companies, microfinance organisations, and pawn shops are continuing to operate under the old CIT system until 1 January 2019.

Under the old system, CIT in Georgia is applied to taxable profit at a rate of 15%. Taxable profit is defined as gross income minus deductible expenses.

Local income taxes

There are no regional or local income taxes imposed on the profit of legal entities.

Corporate residence

A resident enterprise is any legal entity that is established under the laws of Georgia or has its place of effective management in Georgia.

Permanent establishment (PE)

The domestic definition for a PE essentially adopts the definition for PE found in the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention.

Local legislation provides the definition for economic activity to be any activity undertaken with the intent to gain profit, income, or compensation, regardless of the results of such activity, unless otherwise provided by the tax code.

Other taxes

Value-added tax (VAT)

The standard VAT rate is 18% and applies to the sale of all goods and services supplied in Georgia carried out as an economic activity. Goods are considered to be supplied in Georgia if they are transferred in or their shipment originates in Georgia. Services generally are considered to be supplied in Georgia if they are performed in Georgia. However, special rules apply for services relating to immovable property and certain services provided to non-residents.

The export and re-export of goods is exempt from VAT with the right to credit input tax (formerly referred to as zero-rated). VAT-exempt supplies include financial services, goods and services required for oil and gas operations, and medical services.

Reverse-charge VAT applies to services provided to Georgian taxpayers by a non-resident entity.

A VAT payer is a person who is registered or required to be registered as a VAT payer. Any person whose annual taxable turnover exceeds 100,000 Georgian lari (GEL) in any continuous period up to 12 months or who produces or imports excisable goods

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must register as a VAT payer. In addition, an enterprise that expects to perform one-off taxable transaction of more than GEL 100,000 must also register as a VAT payer no later than the second day after effecting the transaction.

Generally, VAT is chargeable on the supply of goods and services. VAT is also applied on the advances received on goods and services to be supplied. When goods and services are supplied, VAT is charged on the value of provided goods and services reduced by advance payment.

Customs duties

Import tax is levied on goods that cross the economical borders of Georgia (except export). Depending on the types of products, general rates on imported goods are: 0%, 5%, and 12%. Imported cars are taxed at GEL 0.05 multiplied by the volume of the engine, plus 5% of import tax on each additional year of ownership.

Excise tax

Excise tax is levied on specified goods that are produced in Georgia or imported into Georgia. Excise tax generally is calculated with reference to the quantity of goods (e.g. volume, weight) or, in the case of automobiles, on the basis of the engine capacity and vehicle age. Excise tax rate varies from GEL 0.15 to GEL 400 for one unit.

Excise tax applies to the following goods:

- Alcoholic drinks (i.e. GEL 5 per litre of whiskey).
- Condensed natural gas, except for pipeline.
- Oil distillates.
- Goods produced from crude oil.
- Tobacco products.
- Automobiles.

The export of excisable goods is exempt from excise tax with the right to credit.

Apart from goods, mobile telecommunication services and termination service of international calls in mobile and fixed networks are also subject to excise tax in Georgia.

The applicable excise rate for mobile telecommunication services is 3%.

International calls termination is taxable based on the call duration with the following rates:

- Call termination within mobile network: GEL 0.15 per minute.
- Call termination within fixed network: GEL 0.08 per minute.

Property tax

Property tax is payable at the rate of 1% on the annual average residual value of fixed assets (except for land) and investment property on the balance sheet as well as on leased out property of Georgian entities or foreign entities with taxable property in Georgia. For immovable property acquired before 2005, the average residual value must be multiplied by a coefficient of between 1.5 and 3, depending on the acquisition date.

Land tax

The annual land tax rate for agricultural land varies according to the administrative unit and the land quality.

The base tax rate per 1 hectare of agricultural land varies from GEL 5 to GEL 100. The tax is further adjusted by a territorial coefficient of up to 150%, depending on the location.

The base tax rate payable on non-agricultural land is GEL 0.24 per square metre, which is further adjusted by a territorial coefficient not exceeding 150%.

Transfer taxes

There are no transfer taxes in Georgia.

Stamp taxes

There are no stamp taxes in Georgia.

Payroll taxes

Payroll tax in Georgia represents a normal personal income tax (PIT), which is withheld by an employer at the source of payment of salary to an employee at a 20% rate of gross payment.

Social security contributions

There are no social security contributions in Georgia.

Branch income

Branch income is taxed at the general rate of 15% upon its distribution. Distributed profit of a PE of a non-resident enterprise shall be a deemed distribution of profits attributable to the PE for its activities. A PE shall be allotted a profit it might have gained as an independent enterprise conducting the same or similar activity and being in the same or similar conditions.

Income determination

Under the new CIT system, the income is recognised as per International Financial Reporting Standards (IFRS).

Under the old CIT system, taxable income is determined as the difference between the gross income of a taxpayer and the relevant deductions granted under the Georgian tax code.

Inventory valuation

A taxpayer is required to record the value of goods produced or acquired as the outlays (except for depreciation charges) or the purchase price in tax accounting. Furthermore, the taxpayer shall include the storage and transportation expenses in the value of such goods.

A taxpayer is entitled to record the cost of inventory using the individual accounting method, the average weighted cost method, or first in first out (FIFO).

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Capital gains

The Georgian tax code does not define any separate tax for capital gains. Capital gains are taxable as normal business income at the general CIT rate.

Dividend income

Dividends received by local legal entities (except for sole enterprises and entrepreneur partnerships) are not subject to taxation at source and shall not be included in gross income.

Dividends received by non-resident enterprises from resident enterprises are subject to WHT at source (*see the Withholding taxes section for more information*).

Interest income

Resident legal entities and PEs of non-residents that received interest income that was taxed at source in Georgia are entitled to a credit on tax paid to the state budget.

Interest income received from a licensed financial institution is not subject to WHT at source, and it should not be included in the gross income of a recipient unless the recipient is another licensed financial institution.

Rent/royalty income

Rent and royalty income received by resident companies and/or PEs of non-resident enterprises should be subject to CIT upon its distribution in the form of dividends if the taxpayer is under the new CIT system. Under the old CIT system, such income should be included in the taxable gross income of the enterprises.

Foreign income

Resident legal entities are subject to CIT on their worldwide income. Under the new CIT system, foreign income is subject to CIT at 15% upon its distribution in the form of dividends. Taxes withheld abroad can be offset against CIT charged on distribution of foreign income.

Deductions

The concept of deduction is no longer applicable for the companies and PEs operating under the new CIT system, since they follow IFRS.

Under the old CIT system, expenses connected with the receipt of income generally are deductible from income, provided sufficient primary documentation is available.

Note that the deduction rules provided below are applicable for taxpayers who continue operating under the old CIT system.

Depreciation

The declining-balance method of depreciation applies to fixed assets for tax purposes. The maximum rate of depreciation is 20% for most fixed assets, though buildings and construction are subject to depreciation at the rate of 5% (please contact us for additional information regarding other groups and rates).

A taxpayer is entitled to fully deduct costs of fixed assets (excluding those contributed to capital) in the year when the fixed assets are put into operation (a form of capital

allowance). In case the taxpayer employs the right of full deduction in this manner, this method may not be changed for five years.

Amortisation of intangible assets

Intangible assets (e.g. goodwill) are amortisable in proportion with the period of beneficial use. However, intangible assets of value less than GEL 1,000 are fully deductible from gross income.

If the period of beneficial use of an intangible asset cannot be defined, it is amortisable at the rate of 15%.

Start-up expenses

Expenses incurred before registration of an entity as a taxpayer (e.g. public registry fee) are not deductible under Georgian tax legislation.

Interest expenses

Interest paid on loans is deductible within the limits established by the Finance Minister, unless it is paid on loans received from domestic licensed banks and microfinance organisations. The annual deductible interest rate limitation established by the Minister of Finance of Georgia for the year 2018 is 24%. No limits are established on loans received from domestic licensed banks and microfinance organisations.

Bad debt

A taxpayer is entitled to deduct bad debt only if all of the following conditions are met:

- The bad debt is related to the taxpayer's goods or services sold.
- Income receivable from the sale of goods or services was previously included in taxable gross income.
- The bad debt has been written off and recorded as such in the taxpayer's accounting records.
- Certain documents prescribed under the Georgian tax code are available confirming that the debt is irrecoverable.

Charitable contributions

Charitable contributions are deductible, up to 10% of taxable profit.

Fines and penalties

Fines and penalties paid to the state budget are not deductible.

Taxes

CIT is disallowed for deduction.

Other significant items

The following other expenses are not deductible:

- Expenses not related to the generation of income.
- Expenses related to the receipt of income exempted from CIT.

The deduction of certain expenses is subject to limitations, including:

- Representation expenses, up to 1% of gross income.

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- Repair expenses, up to 5% of the book value of the relevant asset at the end of the year. Any excess must be capitalised and deducted through depreciation.

Net operating losses

Losses may be carried forward for five years but may not be carried back.

A taxpayer may elect to extend the carryforward period to ten years. However, this also results in the statute of limitations period being extended from six to 11 years.

International financial companies, free industrial zone (FIZ) enterprises, and Special Trading Companies are not entitled to carry forward losses.

An international financial company is a financial institution that, on behalf of the application of plenipotentiary representative, gets state registered, is granted as an 'international financial company', and is given a status confirming certificate. These are resident companies that, after application, were granted the status of international financial company.

An FIZ enterprise is an enterprise operating in the FIZ, which, for the purposes of tax exemption, is granted the status of an FIZ enterprise.

Payments to foreign affiliates

There is no special tax regime in Georgia for payments made to foreign affiliates; as such, general rules will apply. Payments may be classified as equity, financing, or service fee. Any such transaction will need to be at arm's length in accordance with the Georgian transfer pricing rules.

Group taxation

Georgian law does not provide for taxation of groups.

Transfer pricing

The transfer pricing rules introduced in the tax code are broadly based on the OECD arm's-length principle adopted in tax treaties and by most countries when they implement domestic transfer pricing rules.

The law recognises the five OECD transfer pricing methods for evaluating whether prices are at arm's length:

- Comparable uncontrolled price method.
- Resale price method.
- Cost plus method.
- Net profit margin method.
- Profit split method.

The tax code stipulates that in accordance with the Ministry of Finance (MoF) instructions, the tax authority may recalculate the taxes if they can prove that the prices applied by related parties to transactions differ from the market prices.

According to the instructions issued by the MoF, the methods for assessing the transfer pricing assessment rules have been explained, and the following procedures have been established:

- Determination of comparability of independent transactions.
- Transaction adjustment procedure.
- Information to be represented by the parties of the transaction to the tax authority.
- Documentation list.
- Sources of information on market prices.
- Price range application procedure.

The taxpayer becomes liable to present documentation to the tax authority in support of one's position in considering income received to be consistent with market principles within 30 days of the formal request of the Revenue Service. The report can be written in both Georgian and English but should be translated to Georgian in case it is requested by the Revenue Service. The companies also have an option to sign an Advance Pricing Agreement (APA) in which the transfer pricing methodology will be agreed for specific transactions with the tax authority, who will no longer have the right to charge fines/taxes on these transactions.

Under the new CIT system, transfer pricing adjustment is subject to immediate taxation.

The following general penalties, determined by tax legislation, apply for non-compliance with the arm's-length principle or failing to prepare or submit transfer pricing documentation:

- An understated tax liability (e.g. VAT, CIT) is subject to a penalty of 50% of the understated tax.
- Late payment of taxes is subject to interest at a rate of 0.05% per overdue day.
- Failing to submit a required document is generally subject to a penalty of GEL 400.

Thin capitalisation

No thin capitalisation rules are applicable in Georgia.

Controlled foreign companies (CFCs)

Georgia tax legislation does not provide CFC rules.

Tax credits and incentives

Foreign tax credit

Income tax or profit tax paid on income earned from outside Georgia may be credited against CIT payable in Georgia. The amount of credited taxes may not exceed the Georgian tax payable on the foreign income. The rule is also applicable under the new CIT system on CIT due from dividend distribution.

CIT exemptions

The following are exempt from CIT (the list is not exhaustive):

- Income of budgetary, international, and charitable organisations (including grants, membership fees, and donations), except for the profit from commercial activity.
- Profit received from financial services conducted by international financial companies.
- Gains on sales of securities issued by international financial companies.

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Free industrial zone (FIZ)

The following rules apply for enterprises located in an FIZ:

- Income received by an FIZ enterprise from its permitted activities conducted in an FIZ is exempt from CIT.
- The importation of foreign goods into an FIZ is free of customs duties and VAT-exempt.
- Operations carried out in an FIZ are VAT-exempt without the right to credit.
- Property located in an FIZ is exempt from property tax.
- The PIT of employees is paid by those individuals through self-reporting.

An FIZ enterprise should pay tax at a rate of 4% on the market price of the goods supplied/received to/from a person registered under the Georgian law (excluding on the supplies to/from other FIZ enterprises).

Withholding taxes

Non-resident enterprises earning income from Georgian sources, other than through a PE, are subject to WHT at the following rates:

Income	WHT (%)
Dividends	5
Interest	5
Royalties	5
Oil and gas subcontractor income	4
International transportation/communication	10
Income from services rendered in Georgia	10
Other Georgian-source income	10
Insurance and re-insurance	0

Payments of interest, royalties, or other Georgian-source income to non-residents registered in so called 'black listed' countries are subject to WHT at a 15% rate.

The list of such countries is determined by the MoF of Georgia.

Double tax treaties (DTTs)

For those countries with which Georgia has entered into DTTs, the WHT rates are the following:

Recipient	WHT (%)		
	Dividends	Interest (1)	Royalties
Non-treaty (14)	5	5	5
Treaty:			
Armenia	5/10 (15)	10	5
Austria	0/5/10 (2)	0	0
Azerbaijan	10	10	10
Bahrain	0	0	0
Belarus	5/10 (15)	5	5
Belgium	5/15 (15)	10	5/10 (3)
Bulgaria	10	10	10

Recipient	WHT (%)		
	Dividends	Interest (1)	Royalties
China, People's Republic of	0/5/10 (2)	10	5
Croatia	5	5	5
Cyprus	0	0	0
Czech Republic	5/10 (15)	8	0/5/10 (4)
Denmark	0/5/10 (2)	0	0
Egypt	10	10	10
Estonia	0	0	0
Finland	0/5/10 (2)	0	0
France	0/5/10 (6)	0 (5)	0
Germany	0/5/10 (6)	0	0
Greece	8	8	5
Hungary	0/5 (8)	0	0
Iceland	5/10 (15)	5	5
India	10	10	10
Iran	5/10 (15)	10	5
Ireland	0/5/10 (9)	0	0
Israel	5	0/5 (10)	0
Italy	5/10 (15)	0	0
Kazakhstan	15	10	10
Korea	5/10 (15)	10	10
Kuwait	0/5 (11)	0	10
Latvia	5/10 (15)	5	5
Liechtenstein	0	0	0
Lithuania	5/15 (15)	10	10
Luxembourg	0/5/10 (2)	0	0
Malta	0	0	0
Netherlands	0/5/15 (2)	0	0
Norway	5/10 (15)	0	0
Poland	10	10	10
Portugal	5/10 (15)	10	5
Qatar	0	0	0
Romania	8	10	5
San Marino	0	0	0
Serbia	5/10 (15)	10	10
Singapore	0	0	0
Slovak Republic	0	5	5
Slovenia	5	5	5
Spain	0/10 (12)	0	0
Sweden	0/10 (13)	0	0
Switzerland	10	0	0
Turkey	10	10	10
Turkmenistan	10	10	10
Ukraine	5/10 (15)	10	10
United Arab Emirates	0	0	0
United Kingdom	0/15 (7)	0	0
Uzbekistan	5/15 (15)	10	10

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Notes

1. Some agreements provide a 0% rate on the interest paid by the government or any of its units or on the interest guaranteed by them; this table doesn't consider such provisions.
2. The 0% rate applies if the foreign company owns at least 50% of the Georgian company and has invested more than 2 million euros (EUR).
3. Royalty rate paid for the enterprise is 5%.
4. The 0% rate refers to the copyright of any literature, art, or scientific works (except software), and films and records; the 5% rate refers to lease of techniques.
5. The 0% rate applies to interest on bank loans and commercial credits.
6. The 0% rate applies if the foreign company owns at least 50% of the Georgian company and has invested more than EUR 3 million.
7. The 0% rate applies if the foreign company owns at least 50% of the Georgian company and has invested more than 2 million pound sterling (GBP).
8. The 0% rate applies if the foreign company owns at least 25% of the Georgian company in any continuous 12-month period prior to distribution of dividends.
9. The 0% rate applies if the foreign company controls at least 50% of the voting power in the Georgian company and has invested more than EUR 2 million.
10. The 0% rate applies for certain types of interest.
11. The 0% rate applies if the foreign company has invested in the Georgian company more than 3 million United States dollars (USD).
12. The 0% rate applies if the foreign company owns at least 10% of the Georgian company.
13. The 0% rate applies if the foreign company owns at least 10% of the capital or the voting power of the Georgian company.
14. Domestic WHT rates are applicable when a treaty provides a relief with more unfavourable rates.
15. Domestic WHT rate on dividends is 5%. A treaty provides a relief with the same or more unfavourable rate, thus the domestic rate is applicable.

Tax administration

The tax departments under the MoF are responsible for tax administrative matters in Georgia.

Taxable period

The tax year is the calendar year in Georgia.

Tax returns

The new CIT regime shifts from annual reporting to a monthly reporting practice.

CIT returns should be submitted on monthly basis before the 15th day following the month when the taxable transaction took place. As a result, the quarterly advance payment rule is abolished for companies subject to the new CIT system.

A CIT return should be submitted before 1 April of the year following the reporting period for companies under the old CIT system.

Payment of tax

CIT is due on a monthly basis before the 15th day following the month when the taxable transaction took place for companies working under the new CIT regime.

In case a transaction was taxed with CIT and then the amount (part of the amount) remitted on this transaction was returned back to the taxpayer, the latter may set off and recover a sum of the previously paid CIT in proportion of the returned amount. This, *inter alia*, relates to:

- If the participation in a foreign entity was disposed of or contribution into the capital of foreign entity was returned.
- When a loan granted was repaid.

Under the old CIT system, CIT is paid in advance in four equal instalments, before 15 May, 15 July, 15 September, and 15 December. The advance instalments are estimated according to the previous year's annual tax. A taxpayer with no prior-year CIT obligation is not required to make advance payments.

Final payment is due by 1 April of the year following the reporting period. Excess CIT payments may be offset against other tax liabilities.

Tax audit process

There are two types of tax audits: desk tax audit and field audit. The tax audit may be conducted based on the order of the Revenue Service of Georgia. The Revenue Service sends a notice to the taxpayer no less than ten working days before the commencement of the audit. The audit should commence no later than 30 days after receiving such notice by the taxpayer. Normally, the tax audit may last for three months, and may be extended to another two months with the approval of the head of the Revenue Service. The findings should be presented to the taxpayer in the form of a tax act.

Statute of limitations

The statute of limitations is three years in Georgia from 2017. For those taxpayers who decide to increase the loss carryforward to ten years, the statute of limitations is 11 years. The statute of limitations period was six years prior to 2015, five years in 2015, and four years in 2016.

Topics of focus for tax authorities

In recent periods, the tax authorities have become largely focused on transfer pricing issues during tax audits.

Other issues

International agreements

Georgia is a member of the North Atlantic Treaty Organization's (NATO's) Partnership for Peace Program and is actively working to join NATO and the European Union (EU). Georgia is also a member of the World Trade Organization (WTO), the United Nations (UN), the Organization for Security and Co-operation in Europe (OSCE), and the Union of Georgia, Ukraine, Uzbekistan, Azerbaijan, and Moldova (GUUAM), and an observer in the Council of Europe.

Georgia was formerly a member of the Commonwealth of Independent States (CIS). Because of the August 2008 conflict with Russia, Georgia formally notified the CIS on 18 August 2008 of its intention to withdraw from the organisation, and that withdrawal came into effect on 18 August 2009. However, Georgia's Ministry of Foreign Affairs has said it will uphold all trade and treaty agreements made between Georgia and fellow CIS countries.

Georgia has a free-trade regime with members of the CIS, including Armenia, Azerbaijan, Kazakhstan, Turkmenistan, Uzbekistan, Ukraine, and Turkey. This results in duty-free trade of goods and services.

On 18 December 2002, the GUUAM free-trade agreement was ratified by the Georgian Parliament, the goal of which is to create favourable trade conditions and to strengthen economic links among the member countries. The agreement to form a free-trade zone

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was reached at the GUUAM Presidents' Summit in July 2003 in Yalta. Uzbekistan has since left the free-trade zone.

In June 2014, the European Union and Georgia signed an unprecedented Association Agreement. This Agreement aims to deepen political and economic relations between Georgia and the European Union and to gradually integrate Georgia into the European Union.

In July 2015, an intergovernmental agreement (IGA) was signed by and between Georgia and the United States about tax reporting and withholding procedures associated with the Foreign Account Tax Compliance Act (FATCA). As a result, Georgia joined a list of countries that provide financial information to its partner country, the United States, for the deterrence of facts of tax evasion by its citizens.

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Significant developments

The Kazakhstan government adopted a new Tax Code on 25 December 2017. The new Tax Code has introduced a number of new regulations, where most provisions took effect from January 2018 and the rest will become effective within two years. The new Tax Code envisages new provisions including:

- Introduction of the principle of ‘good faith’ generally applicable during examination of a complaint against a notification on the result of a tax audit (e.g. there should be no fines and penalties if taxpayers fulfilled their tax liabilities based on personalised written clarifications issued by the tax authorities, and which are subsequently recalled, recognised to be incorrect, or replaced). Also, according to this principle, all unclearly prescribed provisions of the tax law should be interpreted in favour of the taxpayers during tax audit result examinations.
- Implementation of a so-called ‘horizontal’ monitoring starting from 2019 aimed at minimising tax risks and reducing the number of tax audits for taxpayers.
- Reduction of statute of limitation term from five to three years, from 2020 (excluding for subsurface users and large taxpayers subject to monitoring).

Other changes effective in 2018 are as follows:

- Introduction of 3-tier transfer pricing reporting requirements in Kazakhstan Transfer Pricing law (i.e. Country-by-country [CbC] report, Local file, and Master file documentation) as part of the Organisation for Economic Co-operation and Development’s (OECD’s) base erosion and profit shifting (BEPS)-related recommendations.
- Adoption of the new Kazakhstan Customs Code and Customs Code of the Eurasian Economic Union (EAEU).
- Adoption of the Code on Subsoil and Subsurface Use, which will be effective from June 2018.

Taxes on corporate income

The tax rate for corporations is 20% and is assessed for a calendar year. All Kazakhstan legal entities and branches of foreign legal entities are subject to corporate income tax (CIT). Taxable income is determined as the taxpayer’s aggregate annual income less allowable deductions.

Resident companies are taxable in Kazakhstan on their worldwide profits, while non-resident companies operating through a permanent establishment (PE) in Kazakhstan are subject to Kazakhstan CIT only on the profits attributable to that PE.

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Non-residents without a PE in Kazakhstan that receive income from sources in Kazakhstan are generally subject to income tax withheld at source of payment on Kazakhstan-sourced income (*please see the Withholding taxes section for more information*).

Reduced CIT rates

A reduced CIT rate of 6% applies to the qualified agricultural income of legal entities producing agricultural products.

In addition, taxpayers operating in special economic zones (SEZs) may enjoy full exemption from CIT if certain statutory requirements established for such benefits are met (*see the Tax credits and incentives section for more information*).

Excess profit tax (EPT)

EPT rates are progressive and range from 10% to 60%. The tax base is comprised of the portion of net income of subsurface users exceeding 25% of deductions for EPT purposes. Subsurface users may include asset acquisition costs, capital costs, and losses (with certain limitations) in immediate deductions.

Starting from 2018, EPT is abolished for subsurface users engaging in extraction of solid minerals. At that, corresponding subsurface use contracts should not envisage extraction of other groups of mineral resources.

In addition, the Tax Code introduced an alternative tax that can substitute for several types of taxes for subsurface users (*see below*).

Alternative tax

The new Tax Code introduced an alternative tax that replaces EPT, mineral extraction tax (MET), and compensation of historical costs and may be applied at the discretion of a taxpayer.

The alternative tax is applicable to subsurface use contracts on production and/or combined exploration and production of oil and gas products, the place of which should be:

- on a continental shelf, and
- at deeply folded oilfields locating not higher than 4,500 metres and with lowest point of bedding at 5,000 metres or lower.

Generally, the calculation of the tax base, the tax period, and the deadlines are similar to the existing CIT framework, except for some specifics (e.g. foreign exchange impact should be disregarded, interest expenses are not allowed for deduction). The tax rate is progressive (from 0% to 30%) and depends on the world price fluctuations of crude oil.

Local income taxes

There are no regional or local income taxes in Kazakhstan.

Corporate residence

Generally, Kazakhstan incorporated companies or other legal entities that have their place of effective management located in Kazakhstan are treated as Kazakhstan tax residents.

Permanent establishment (PE)

Non-resident legal entities having business activities in Kazakhstan may create a PE in the following cases:

- ‘Fixed place PE’: A non-resident enterprise carries on business activities in Kazakhstan through a fixed place, including, but not limited to, through a place of management.
- ‘Services PE’: A non-resident enterprise renders services in Kazakhstan through employees or other personnel engaged by the non-resident for such purposes, provided that these activities continue for more than 183 days within any consecutive 12-month period for the same or connected projects.
- ‘Construction PE’: A construction site, for instance, a shop or an assembly facility, performance of projecting work form a PE, notwithstanding the timing of performing such operations.
- ‘Agency PE’: A non-resident enterprise carries on business activities in Kazakhstan through a dependent agent. A dependent agent is an individual or a legal entity that meets all of the following criteria simultaneously:
 - Has the contractual authority to represent the non-resident’s interests in Kazakhstan and makes use of this authority by acting and signing (negotiating) contracts on behalf of the non-resident (i.e. conclusion of a contract for provision of services or playing a principal role in concluding of such contract or having the ownership right [right to use] for property belonging to the non-resident).
 - The business is carried on outside the activity of either a customs broker or a professional participant of the securities market or other brokerage type of business (except for activity of an insurance broker).
 - Carries on activities that are not limited to those of a preparatory and auxiliary nature.

Other taxes

Value-added tax (VAT)

The current VAT rate is 12%. This tax is applicable to the sales value of goods, works, and services, as well as to imports. Exports of goods and international transportation services are taxed at 0% VAT. There is a list of goods, works, and services exempt from VAT (e.g. financial services provided by financial institutions, financial leasing services, notary and advocacy services, operations with financial securities and investment gold, loan transactions).

Since 11 January 2016, taxpayers have been liable for issuance of electronic invoices (‘e-invoicing’) on certain goods listed by the government, which was the measure specifically taken by the government following Kazakhstan’s accession to the World Trade Organization (WTO), as well as lowering of customs duties on approximately 1,500 products. E-invoicing is obligatory for large taxpayers from January 2018 and will be obligatory for all categories of taxpayers from 2019.

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The new Tax Code introduced VAT control accounts (analogue of Azerbaijan VAT deposit account) as an alternative option of VAT refund from the state (which is still applicable, subject to certain criteria). This measure is aimed at tracing VAT payments between suppliers and customers and remittance of VAT to the state. Taxpayers may opt for using VAT control accounts on a voluntary basis.

The obligatory VAT registration threshold in 2018 is retained at 30,000 Monthly Calculation Indices (MCI; currently, 1 MCI = 2,405 Kazakhstan tenge [KZT]).

The VAT reporting period is a calendar quarter.

Customs duties

The new Kazakhstan Customs Code and the Customs Code of the Eurasian Economic Union implemented a number of progressive provisions intended for simplification of customs procedures, integration of information technology (IT) initiatives, and reduction of 'red tape' issues in customs control procedures from January 2018.

In April 2018, full-scale electronic declaration was launched for all customs procedures through Information System 'Astana - 1'.

The Customs Code of the Eurasian Economic Union conceptually changed the definition of a 'customs declarant', which may significantly impact business models of supply chains and logistics.

Finally, the new provisions allow an entity that is qualified as an 'authorised economic operator' to apply simplified customs procedures.

Kazakhstan is a WTO member.

Customs duties apply to goods imported to the Customs Union countries from third countries. Customs duties rates are established either based on a percentage (in general, ranging between 0% and 30%; higher rates exist for certain goods) of the customs value of goods or in absolute terms in Euros (EUR) or US dollars.

Goods of the Customs Union countries should be generally exempt from Kazakhstan customs duties.

In addition to membership in the Customs Union, Kazakhstan concluded a number of bilateral and multilateral Free Trade Agreements with the Commonwealth of Independent States (CIS), which provide for exemption of goods circulated between the CIS member states from customs duties, provided certain conditions are met.

The ATA Carnet temporary import system is launched in Kazakhstan. This system allows the duty-free temporary import and export of goods for specific purposes.

Customs fees

A customs processing fee is assessed at KZT 25,000 for the main page of a customs declaration plus KZT 11,000 for each supplemental page.

Excise taxes

Excise taxes apply to the sale and import of crude oil, gas condensate, petrol/gasoline (excluding aviation fuel), diesel fuel, spirits and alcoholic beverages, beer, tobacco, and passenger cars.

Type of excisable good	Excise tax rate
Crude oil, gas condensate, petrol/gasoline, diesel	KZT 0 to 11,000 per tonne
Alcoholic beverages and beer, tobacco	KZT 0 to 7,500 per item of measure (kilos, litres, or units)
Passenger cars	KZT 100 per each cm ³ of engine capacity

Property tax

Property tax is assessed annually at a general rate of 1.5% of the average net book value of immovable property.

Property tax objects now include buildings and constructions in actual use, even if not registered with the justice authorities.

Land tax

Entities and individuals that own land plots (or land share in cases of commonly shared ownership of land plots) must pay land tax annually. Land tax rates vary based on the purpose for which the land is used, as well as the size and quality of the land.

Transfer taxes

There are no transfer taxes in Kazakhstan.

Stamp taxes

There are no stamp taxes in Kazakhstan.

Payroll taxes

Employment income (salary, compensation, etc.) is subject to withholding individual income tax paid at source. Tax paid at source should be calculated, withheld, and remitted by the Kazakhstan company acting as a tax agent at the rate of 10%.

Social tax

Employers must pay social tax at the rate of 9.5% of gross remuneration (salaries and certain benefits provided) of all employees (local and expatriate).

Obligatory social insurance contributions

Obligatory social insurance contributions are payable by employers at the rate of 3.5% to the State Fund of Social Insurance. Obligatory social insurance contributions are capped at 3.5% of the minimum monthly wage (approximately 3 United States dollars [USD]) per month, and are deductible from social tax. Only Kazakhstan citizens and foreigners holding a residence permit in Kazakhstan are subject to obligatory social insurance.

Obligatory pension contributions

Obligatory pension contributions are withheld at a rate of 10% out of employees' gross income and paid to the State Pension Centre of Pension Payments. The gross income subject to obligatory pension contributions is capped at 75 times the minimum monthly wage (approximately USD 6,428) per employee per month. Only Kazakhstan citizens and foreigners holding a residence permit in Kazakhstan are subject to obligatory pension contributions.

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Obligatory social medical insurance contributions

Obligatory social medical insurance contributions should be made by employers at own cost based on the following rates:

- From 1 January 2018: 1.5% of employees' salary.
- From 1 January 2020: 2% of employees' salary.
- From 1 January 2022: 3% of employees' salary.

Starting from 2019, obligatory social medical insurance contributions should also be withheld from employees' gross income and paid by employers at the following rates:

- From 1 January 2019: 1% of employees' salary.
- From 1 January 2020: 2% of employees' salary.

Vehicle tax

Vehicle tax rates are based on MCI and determined in accordance with the type of vehicle, engine volume, operation period of vehicles (aircraft only), and other factors.

Mineral extraction tax (MET)

MET applies to the monetary value of extracted volume of crude oil, gas condensate, natural gas, minerals, and groundwater.

MET is calculated based on the value of the extracted content, which is computed by applying average global prices to the extracted volume (adjusted for content). The determination of average global prices is based on the list of publications that are considered as official sources for computation of MET (Platts Crude Oil Marketwire and Crude Argus).

Currently, MET rates for crude oil and gas condensate range from 5% to 18%, depending on the accumulated production volume for the calendar year. For hydrocarbons, rates can be reduced by 50% if they are supplied to domestic refineries on the basis of a sale/purchase agreement or tolling agreement.

The MET rate for natural gas is set at 10%. For domestic sales of natural gas, MET rates range from 0.5% to 1.5%.

MET rates for minerals that have undergone initial processing (except for widespread minerals) and for coal vary between 0% and 18.5%.

Branch income

Net income of a non-resident legal entity's PE, after CIT at 20%, is subject to a branch profits tax at a rate of 15%, which may be reduced under an applicable double tax treaty (DTT). As such, the effective tax rate for income of a non-resident legal entity's PE equals 32% if there is no reduction under a DTT.

Income determination

Kazakhstan legal entities are taxable on aggregate annual income earned worldwide. Non-resident legal entities, carrying out business activities through a PE in Kazakhstan,

are taxable on income attributed to the activities of that PE. All taxpayers must apply the accrual method for recognition of income.

Inventory valuation

For tax purposes, inventory is valued in accordance with International Financial Reporting Standards (IFRS) and Kazakhstan financial accounting legislation. As such, permitted inventory valuation methods include first in first out (FIFO), weighted average, and specific identification methods.

Capital gains

Capital gains are subject to ordinary CIT rates. An exemption is available for capital gains realised from the sale of shares and participation interests in Kazakhstan for legal entities or consortiums that are not engaged in subsurface activities and are held for more than three years.

From January 2018, capital gains from sale of shares/participation interest in subsurface users may be exempt from taxation in Kazakhstan if such subsurface users are engaged in further processing activities, under specific conditions.

Dividend income

Dividend income of a Kazakhstan resident company on inbound dividends is exempt from Kazakhstan taxation. Dividends from a Kazakhstan resident company to another Kazakhstan resident company are exempt from taxation, except for dividends paid by certain types of taxpayers.

Interest income

Interest income should be included in the aggregate annual income of a taxpayer and taxed at the 20% CIT rate.

Royalty income

Royalty income should be included in the aggregate annual income of a taxpayer and taxed at the 20% CIT rate.

Foreign exchange gain

Foreign exchange gain should be determined in accordance with IFRS and Kazakhstan financial accounting legislation. The excess of foreign exchange gain over foreign exchange loss should be included in the aggregate annual income of a taxpayer.

Foreign income

Foreign income is subject to ordinary CIT.

There are no provisions for tax deferrals in Kazakhstan.

For additional information, please refer to Controlled foreign companies (CFCs) in the Group taxation section.

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Deductions

Allowable deductions generally include expenses associated with activities designed to generate income, unless specifically restricted for deduction by the tax legislation. All expenses require supporting documentation.

Recognition of expenses is performed in accordance with IFRS and Kazakhstan accounting and financial reporting legislation, unless otherwise stated in new Tax Code. If recognition of expenses as per IFRS differs from the new Tax Code, the latter should prevail.

Depreciation and depletion

Tax depreciation is calculated using the declining-balance method at depreciation rates ranging from 10% to 40%, applied to the balances of four basic categories of assets:

- Buildings and facilities (except for oil and gas wells and transmission facilities): 10%.
- Machinery and equipment (except for machines and equipment for oil and gas production, computers, and equipment for information processing): 25%.
- Computers and equipment for information processing: 40%.
- Fixed assets not included in other groups, including oil and gas wells, transmission equipment, oil and gas machinery and equipment: 15%.

Goodwill

There are no special provisions in the Kazakhstan Tax Code with respect to deductibility of goodwill expenses.

In general, assets not subject to amortisation per financial accounting are not regarded as fixed assets and are not subject to deduction.

Start-up expenses

The Kazakhstan Tax Code does not specifically address deductibility of start-up expenses, but, generally, expenses incurred in relation to business activities and aimed at earning revenue occurring at start-up should be deductible.

Interest expenses

Interest payable to unrelated third parties is deducted in full, except for interest payable to banks and micro-financial institutions, which are deducted within the amounts of actually paid interest. *For information about taxation of interest paid to related parties, please refer to Thin capitalisation in the Group taxation section.*

Bad debt

Receivables that were not paid within three years are to be recognised as bad debt expenses. Such expenses can be deducted in full by a taxpayer, provided that (i) these receivables are reflected in books of the taxpayer and (ii) proper supporting documents are in place.

Charitable contributions

Charitable contributions are entitled to decrease the taxable base but are capped at 4% of a company's annual taxable income (the rate for the large taxpayers subject to monitoring is 3%).

Foreign exchange loss

Foreign exchange loss should be determined in accordance with IFRS and Kazakhstan financial accounting legislation. The excess of foreign exchange loss over foreign exchange gain is allowed for deduction.

Fines and penalties

Generally, deductions are available for forfeits, fines, and penalties that are not payable to the state budget.

Taxes

Taxes remitted to the state budget of Kazakhstan are deductible within accrued amounts, except for the following:

- Taxes excluded prior to calculation of aggregate annual income.
- Income taxes paid in Kazakhstan and other countries.
- Taxes paid in 'black-listed' jurisdictions.
- EPT.
- Alternative tax.

Net operating losses

Net operating losses may be carried forward for up to ten years. Loss carryback is not permitted under the Kazakhstan tax legislation.

Payments to foreign affiliates

Payments to foreign affiliates are deductible for CIT purposes if the payments are intended to generate income, supported by documentation, and comply with the Kazakhstan transfer pricing law.

Group taxation

Kazakhstan tax law does not permit group taxation.

Transfer pricing

Under the Kazakhstan transfer pricing law, both customs and tax authorities have the right to monitor and adjust prices used in cross-border and certain domestic transactions when prices are perceived to deviate from market prices, even if such transactions are with unrelated parties. If the authorities adjust prices, the re-assessed liability will include taxes, duties, penalty interest, and fines to the state budget.

Transfer pricing rules impact the following transactions:

- International commercial transactions.
- Domestic transactions that directly relate to international commercial operations where:
 - the sale relates to a subsurface use contract
 - either party to the transaction has tax preferences, or
 - one of the parties has losses for two years prior the year of the transaction.

Kazakhstan

Country-by-country (CbC) reporting

From 2018, the Transfer Pricing law introduces a 3-tiered approach to transfer pricing documentation for multinational enterprise (MNE) groups conducting business in Kazakhstan to file a CbC report retrospectively from January 2016, and a Master file and a Local file from January 2019, with the Kazakhstan tax authorities.

Before filing required documentation, MNE groups are liable to submit a notification about being a member of an MNE group not later than September 2018.

Non-compliance with the above requirements will lead to penalties.

Thin capitalisation

Deduction of interest paid to related parties, to unrelated parties under related parties warranties, or to parties registered in countries with privileged taxation depends on the borrower's capital structure; deductible interest will be limited with reference to an 'acceptable' proportion of debt-to-equity (7:1 for financial institutions, 4:1 for all other entities). The list of jurisdictions with privileged taxation, the so called 'black list' established by the government, includes 57 jurisdictions (*see the Group taxation section of Kazakhstan's Corporate tax summary at www.pwc.com/taxsummaries for a current list*).

Controlled foreign companies (CFCs)

The new Tax Code significantly revised the CFC rules. Currently, a CFC is deemed to be an entity that meets both of the following conditions:

- 25% or more of a non-resident's shares belong directly, indirectly, or constructively to a Kazakhstan entity, or the entity is connected with the resident by means of control, and
- the effective income tax rate of the non-resident is less than 10% or the non-resident is registered in a 'black-listed' jurisdiction (*see above*).

The consolidated profit of the CFC (and PE of the CFC) should be included in the taxable income of the Kazakhstan entity and subject to CIT on the portion of undistributed profits from the non-resident company.

In addition, the new Tax Code provides for elimination of double taxation of the CFC's financial profit (subject to certain criteria).

Tax credits and incentives

Foreign tax credit

In general, the Kazakhstan Tax Code allows taxpayers to credit the foreign income taxes paid against the income taxes payable in Kazakhstan, provided the documents confirming the payment of such taxes are available. However, a tax credit may not be granted in certain cases (e.g. for taxes paid in countries with privileged taxation).

Investment incentives

Investment incentives are available to certain Kazakhstan legal entities that fit certain criteria and possess objects (e.g. certain fixed assets) for which investment incentives may be applied. Generally, the investment incentives allow companies to fully deduct, for CIT purposes, the cost of the investment objects and the cost associated with their

reconstruction and modernisation either at once or within the first three years of their use.

Based on the Entrepreneurial Code, incentives are granted under an investment contract between the government and companies with focus on priority sectors of the economy, as determined by the government. A qualifying investment project is granted with (i) exemption from customs duties and import VAT exemptions, with some limitations, and (ii) state in-kind grants. Priority investment projects, alongside the above mentioned benefits, get (iii) tax incentives and (iv) investment subsidies. Special investment projects in the form of investment preferences are granted with (v) exemption from custom duties and (vi) tax incentives.

Special economic zones (SEZs)

Currently, the following SEZs have been established in Kazakhstan:

- 'Astana, the New City' in Astana (the expiry date is in 2027).
- 'Aktau Sea Port' in Aktau (the expiry date is on 1 January 2028).
- 'Ontustik' in Sairam district of South-Kazakhstan region (the expiry date is on 1 July 2030).
- 'National Industrial Petrochemical Park' in Atyrau region (the expiry date is on 31 December 2032).
- 'Park of Innovative Technologies' (the expiry date is 1 January 2028).
- 'Saryarka' in Karaganda region (the expiry date is 1 December 2036).
- 'Horgos - the eastern gates' in Almaty region (the expiry date is 2035).
- 'Pavlodar' in Pavlodar (the expiry date is 1 December 2036).
- 'Chemical Park Taraz' in Taraz (the expiry date is 1 January 2037).
- 'International Center for Cross-Border Cooperation Horgos' in Almaty region (the expiry date is 1 January 2041).

In order to enjoy the incentives available in SEZs, a legal entity must meet the following requirements:

- It must be registered by the tax authorities in the territories of SEZs.
- It has no structural subdivisions beyond the boundaries of the territories of the SEZs.
- It must perform activities qualified for priority types of activities within the territory of an SEZ (activities performed by a participant of the SEZ 'Park of Innovation Technologies' may be performed on an extraterritorial basis).

The general incentives available for legal entities in SEZs are:

- CIT: 100% reduction (subject to certain conditions).
- VAT: 0% rate (for goods fully consumed during performance of activities corresponding to purposes of creation of the SEZ and included in the list of goods established by the government of Kazakhstan).
- Land tax and payment for the use of land plots: 0% rate.
- Property tax: 0% rate.
- Social tax: 100% reduction (subject to certain conditions for 'Park of Innovative Technologies').

Astana International Financial Centre (AIFC)

The AIFC aims to create favourable conditions for investment and finance and to develop the securities market, ensuring its integration with international capital

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markets. The AIFC also intends to develop insurance, banking, and Islamic finance markets in Kazakhstan. The AIFC seeks to become a financial hub for the Central Asian region, member states of the Eurasian Economic Union (EAEU), the Caucasus, Western China, the Middle East, Mongolia, and Europe.

The AIFC provides a special legal regime based on the principles of English law, independent financial regulation in accordance with international standards, tax preferences for a period of 50 years, simplified visa and labour conditions, and has English as an official language. Judges of AIFC's Court have exclusive jurisdiction over disputes between the AIFC's participants.

Withholding taxes

Generally, Kazakhstan-sourced income of non-residents is subject to withholding tax (WHT) at the rates shown in the table below.

WHT on certain types of activities

Income of non-residents from provision of services in Kazakhstan is subject to WHT at 20%, including certain types of services (management, financial, consulting, engineering, marketing, auditing, and legal) that are deemed as Kazakhstan-sourced income disregarding the place of their actual performance.

WHT on dividends

A non-resident legal entity is exempt from WHT on dividends if the following are met simultaneously:

- dividends are not paid to the entities registered in the 'black-listed' jurisdictions
- the holding period of shares or participation interest is greater than three years (this should include the holding period by a previous holder if such shares/participation interest were received as a result of reorganisation of a previous holder)
- the entity paying the dividends is not a subsurface user, and
- 50% or more of the value of the entity paying the dividends is not derived from property of a subsurface user.

At that, dividend income of a non-resident paid by a subsurface user should qualify for WHT exemption (provided all the above conditions are met) if such subsurface user is engaged in further processing activities, under specific conditions.

WHT on capital gains

A non-resident legal entity is exempt from WHT on capital gains if the following are met simultaneously:

- capital gains are not paid to the entities registered in the 'black-listed' jurisdictions
- the holding period of shares or participation interest is greater than three years (this should include the holding period by a previous holder if such shares/participation interest were received as a result of reorganisation of a previous holder)
- the entity from which the shares/participation interest are disposed is not a subsurface user, and
- 50% or more of the value of the entity from which the shares/participation interest are disposed is not derived from property of a subsurface user.

At that, capital gains of a non-resident that directly or indirectly disposes of shares/ participation interest of a Kazakhstan subsurface user should qualify for WHT exemption (provided all above conditions are met) if such subsurface user is engaged in further processing activities, under specific conditions.

Types of income at source of payment	WHT rate (%)
Dividends, capital gains, interest, royalties	15
Any income of a 'black-listed' entity	20
Insurance premiums under risk insurance agreements	15
Income from international transportation services; insurance premiums under risk reinsurance agreements	5
Other income	20

Benefits paid by a company to a shareholder, founder, participant, or related party, falling under the definition of constructive dividends, are taxed at a rate of 15%.

The rate of WHT may be reduced under an applicable DTT, provided that the following conditions are met simultaneously:

- Existence of bilateral DTT ratified by both parties.
- The non-resident does not create a PE in Kazakhstan.
- The non-resident timely provides to a Kazakhstan tax agent the qualifying tax residency certificate.
- The non-resident should be a beneficial owner in respect of income earned from Kazakhstan sources.

A list of bilateral DTTs concluded and ratified by Kazakhstan is shown below:

WHT rates between Kazakhstan and treaty countries as of 1 January 2018

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	15	15	15
In-force treaties:			
Armenia	10	10	10
Austria	5/15 (4)	10	10
Azerbaijan	10	10	10
Belarus	15	10	15
Belgium	0/5/15 (4, 8)	10	10
Bulgaria	10	10	10
Canada	5/15 (1)	10	10
China	10	10	10
Czech Republic	10	10	10
Estonia	5/15 (2)	10	15
Finland	5/15 (1)	10	10
France	5/15 (4)	10	10
Georgia	15	10	10
Germany	5/15 (2)	10	10
Hungary	5/15 (2)	10	10
India	10	10	10
Iran	5/15 (5)	10	10

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Recipient	WHT (%)		
	Dividends	Interest	Royalties
Ireland	5/15 (2)	10	10
Italy	5/15 (4)	10	10
Japan	5/15 (11)	10	10
Korea	5/15 (4)	10	10
Kyrgyzstan	10	10	10
Latvia	5/15 (2)	10	10
Lithuania	5/15 (2)	10	10
Luxembourg	5/15 (12)	10	10
Macedonia	5/15 (2)	10	10
Malaysia	10	10	10
Moldova	10/15 (2)	10	10
Mongolia	10	10	10
Netherlands	0/5/15 (9, 10)	10	10
Norway	5/15 (10)	10	10
Pakistan	12.5/15 (10)	12.5	15
Poland	10/15 (3)	10	10
Qatar	5/10 (4)	10	10
Romania	10	10	10
Russia	10	10	10
Saudi Arabia	5	10	10
Serbia	10/15 (2)	10	10
Singapore	5/10 (2)	10	10
Slovakia	10/15 (7)	10	10
Slovenia	5/15 (2)	10	10
Spain	5/15 (4)	10	10
Sweden	5/15 (1)	10	10
Switzerland	0/5/15 (9, 10)	0/10 (16)	10
Tajikistan	10/15 (6)	10	10
Turkey	10	10	10
Turkmenistan	10	10	10
Ukraine	5/15 (2)	10	10
United Arab Emirates	5 (1)	10	10
United Kingdom of Great Britain and Northern Ireland	5/15 (1)	10	10
United States	5/15 (1)	10	10
Uzbekistan	10	10	10
Vietnam	5/15 (13)	10	10
Pending treaties:			
Croatia	5/10 (2)	10	10
Kuwait	0/5/5 (14)	0/10 (15)	10

Notes

- 5% if the beneficial owner is a company owning, directly (or indirectly in case of Canada and the United Kingdom), at least 10% of the voting power of the company paying the dividends.
- 5% (10% in the cases of Moldova and Serbia) if the beneficial owner is a company that directly holds at least 25% of the capital of the paying company.
- 10% if the beneficial owner is a company directly or indirectly holding at least 20% of the capital of the paying company.
- 5% if the beneficial owner is a company (other than a partnership) that owns not less than 10% of the capital of paying company.
- 5% if the recipient is a company (other than a partnership) that directly owns not less than 20% of the capital of paying company.

6. 10% if the actual owner is a legal entity that owns not less than 30% of the authorised capital of the legal entity paying the dividends.
7. 10% if the beneficial owner is a company that directly holds at least 30% of the capital of the company paying the dividends.
8. 0% if dividends are paid in consideration of an investment of at least USD 50 million in the paying company.
9. 0% if the company receiving the dividends directly or indirectly holds at least 50% of the capital of the paying company and has made an investment in the company paying the dividends of at least USD 1 million, which investment is guaranteed in full or insured in full by the government of the first contracting state, the central bank of that state, or any agency or instrumentality (including a financial institution) owned or controlled by that government, and has been approved by the government of the other contracting state.
10. 5% (or 12.5% in case of Pakistan) if the beneficial owner is a company that directly owns (or indirectly in case of the Netherlands and Pakistan) at least 10% of the capital of paying company.
11. 5% if the beneficial owner is a company directly or indirectly owning, for the period of six months ending on the date on which entitlement to the dividends is determined, at least 10% of the voting power of the company paying the dividends.
12. 5% if the beneficial owner is a company (other than a partnership) that directly owns not less than 15% of the capital of the paying company.
13. 5% if the beneficial owner is a company that directly owns at least 70% of the voting power of the paying company.
14. 0% if the beneficial owner is the government of the other contracting state or any governmental institution or any economic unit established by governmental or similar bodies; 5% if the beneficial owner is a company that directly holds at least 5% of the capital of the company paying the dividends; additionally, 5% if the beneficial owner of dividends is an individual person.
15. 0% if the beneficial owner is the government of the other contracting state or any governmental institution or any economic unit established by governmental or similar bodies.
16. 0% applies to the credit sale of industrial, commercial, or scientific equipment, and the credit sale of merchandise by one enterprise to another enterprise.

Tax administration

Taxable period

The tax year in Kazakhstan is the calendar year.

Tax returns

Annual CIT declarations are due by 31 March of the year following the tax year-end. However, a taxpayer may take a 30 calendar-day extension of the deadline upon request.

Certain taxpayers are required to submit their estimated calculations of monthly advance payments of CIT.

The deadline for the majority of other tax returns is the 15th calendar day of the second month following the reporting period (usually the calendar quarter). However, a taxpayer may take a 15 calendar-day extension of the deadline upon request.

Payment of tax

CIT advance payments are due every 25th day of the month. Taxpayers with aggregate annual income during the tax period preceding the previous tax period of less than 325,000 times the MCI established for the relevant financial year (approximately USD 2.37 million) are exempt from the obligation to calculate and pay CIT advance payments. Payment of any outstanding CIT liabilities is required within ten calendar days following the submission of the annual CIT declaration (i.e. 10 April).

Most other taxes are payable by the 25th day of the second month following the end of reporting period (calendar quarter).

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Fines and interest penalties

Late payment interest is reduced from 2.5 to 1.25 times the refinancing rate set by the National Bank per day of delay.

The National Bank refinancing rate is set at 9.5% *per annum*.

Substantial fines are imposed for understatement of tax liabilities. Generally, the fines amount to 50% of the understated tax, with lower rates for small and medium-sized businesses.

For advance CIT payments, an administrative fine of 20% applies for understated advance tax payments as compared to the finally declared CIT, provided the understated amount is greater than 20% of the final declared amount.

If a taxpayer is deemed to have concealed taxable income, a fine of up to 200% of the concealed amount may be assessed. Small and medium-sized businesses have lower rates.

Tax audit process

Kazakhstan tax authorities have the right to conduct regular tax audits (at least once a year). There are two types of audits, selective and unplanned.

The tax authorities choose taxpayers for selective audits based on special risk assessment criteria. Information about misstatements in tax returns or any other discrepancy may trigger an unplanned tax audit.

In 2019, taxpayers (tax agents) will be categorised by their activity as low, medium, or high risk, represented respectively with green, yellow, or red colour.

With respect to violations identified as a result of tax audit, the Tax Code introduced the following risk classification violations, for which various methods for elimination are provided:

- For high risk: Notification of the elimination of violations.
- For medium risk: Notification of violations.

The level of tax control for low-risk taxpayers is minimised.

Statute of limitations

The statute of limitations for tax purposes in Kazakhstan is five years; it may be extended up to seven years in the part relating to transfer pricing matters. For taxpayers operating under subsurface use contracts, the tax authorities maintain the right to assess or revise the assessed amount of EPT and other taxes and obligatory payments to the state budget, where a methodology of calculation uses one of the following indices: internal rate of return (IRR) or internal revenue rate or R-factor (earning yield), during the effective period of a subsurface use contract and five years after the end of the effective period of the subsurface use contract.

Starting from 1 January 2020, the statute of limitation period for tax liabilities will be:

- Five years for subsurface users and taxpayers subject to horizontal monitoring.
- Three years for other business entities.

Topics of focus for tax authorities

Tax audits may be comprehensive or thematic. Comprehensive tax audits cover all applicable taxes, while thematic tax audits may cover only some specific tax liabilities. As a rule, the Kazakhstan tax authorities are form, rather than substance, driven during tax audits.

Other issues

Accounting system

Kazakhstan legal entities should maintain accounts and produce financial statements in accordance with IFRS or national accounting standards (depending on the size of the company and other factors). In most cases, tax treatment follows the accounting treatment.

United States (US) Foreign Account Tax Compliance Act (FATCA)

On 11 September 2017, Kazakhstan and the United States signed an intergovernmental agreement (IGA) under Model I to improve international tax compliance with respect to the US FATCA, which will enable the automatic exchange of financial information on each country's resident taxpayers to support tax enforcement efforts.

The IGA will be in force after the parties notify each other in writing that all necessary internal procedures have been completed.

Multilateral Convention on Mutual Administrative Assistance in Tax Matters (Strasbourg Convention)

Kazakhstan is a signatory of the Strasbourg Convention (ratified in December 2014) for administrative co-operation with other states in the assessment and collection of taxes with a view to combating tax avoidance and evasion.

Kazakhstan did not join multilateral competent authority agreements on automatic exchange of information under the Strasbourg Convention.

The Organisation for Economic Co-operation and Development (OECD) Base Erosion and Profit Shifting (BEPS) project

Kazakhstan joined the Inclusive Framework on BEPS in January 2017. By joining the framework, Kazakhstan pledged to adopt and promote the implementation of the four minimum standards designed by the OECD in the BEPS project. In 2018, Kazakhstan is planning to sign the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS and the Common Reporting Standards (CRS) approved by OECD Council.

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Significant developments

In July 2017, Kosovo introduced transfer pricing rules, which are applicable from fiscal year 2017.

These rules apply to Kosovo corporate income taxpayers that have entered into controlled transactions with related parties established in foreign tax jurisdictions.

The transfer pricing rules generally follow the Organisation for Economic Co-operation and Development (OECD) Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, whereas documentation requirements are as per the European Union (EU) Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the European Union (2006/C 176/01).

Recognised transfer pricing methods include the comparable uncontrolled price (CUP) method, resale price (RP) method, cost plus (C+) method, transactional net margin (TNM) method, and profit split (PS) method. A simplified approach is applicable for low value-adding intra-group services.

Taxpayers with controlled transactions exceeding 300,000 euros (EUR) in a calendar year are required to:

- prepare transfer pricing documentation as per the EU Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the European Union (2006/C176/01), and
- submit an Annual Controlled Transactions Notice by 31 March of the following year, along with statutory financial statements and a corporate income tax (CIT) declaration.

Taxpayers with controlled transactions of EUR 300,000 or less in a calendar year are required to prepare documentation, but are not required to submit an Annual Controlled Transactions Notice.

Taxes on corporate income

The tax system of the Republic of Kosovo consists of tax treaties, tax laws, administrative instructions, regulations, individual and public rulings, decisions, and other official documents pertaining to the application of the CIT provisions.

The CIT system in Kosovo is based on the principle of worldwide taxation.

Taxpayers subject to CIT are the following:

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- Corporations and other legal persons.
- Business organisations operating with public/state-owned assets.
- Non-resident persons with a permanent establishment (PE) in Kosovo.

Resident taxpayers are generally subject to tax on foreign and Kosovo-source income, whereas non-resident taxpayers are generally subject to tax only on their Kosovo-source income.

The CIT rate is 10%.

A special corporate tax rate of 5% is applicable for insurance companies, which is levied on total gross premiums accrued during the year and is paid on a quarterly basis.

Taxpayers whose gross annual income does not exceed EUR 50,000 are not subject to CIT but have to file quarterly payments of tax on gross receipts, as follows:

- 3% of gross income received from trade, transport, agricultural, or similar activities (subject to a minimum payment of EUR 37.50).
- 9% of gross income for the quarter from services, professional, vocational, entertainment, or similar activities (subject to a minimum payment of EUR 37.50).
- 10% of gross rent income for the quarter.

Corporate residence

Based on Kosovo legislation, a legal entity is considered to be resident in Kosovo if it has its head office or its place of effective management in Kosovo.

Permanent establishment (PE)

A PE includes any place of management, branch, office, factory, workshop, mine, oil or gas source, quarry, or other place of exploitation of natural resources.

A PE is deemed to have been created by any building site, construction, assembling or installation project, or supervisory activity in connection therewith, but only if such site, project, or activity lasts longer than 183 days within any 12-month period.

Similarly, furnishing consultancy services for a period of 90 days or more by a non-resident person triggers a PE, as well as owning immovable property by a non-resident.

For countries with which Kosovo has double tax treaties (DTTs), PE rules are as per the relevant provisions in such treaties. *See the Withholding taxes section for a list of countries with which Kosovo has a DTT.*

Other taxes

Value-added tax (VAT)

The VAT law and system in Kosovo is based on the EU Directive for VAT (Directive 2006/112/EC and its subsequent amendments). VAT legislation is regulated by Law No.05/L-037 'On Value Added Tax' and the corresponding sub-legal acts.

Registration for VAT

All taxable persons who import/export and taxable persons whose turnover is above EUR 30,000 within a calendar year are required to register for VAT.

Where turnover is less than the threshold, voluntary registration for VAT is possible.

VAT registration for foreign entities or persons not established in Kosovo should be completed from the beginning of their economic activity in Kosovo, regardless of the threshold. Nonetheless, this is not required of persons who make supplies for which the place of supply is considered to be Kosovo and the recipient is liable for the payment of VAT.

Object of taxation

VAT is levied on:

- supplies of goods or services with place of supply in Kosovo, and
- importation of goods.

VAT rates

The standard VAT rate is 18%.

A reduced rate of 8% applies to the following supplies:

- Supply of water, except bottled water.
- Supply of electricity, including transmission and distribution services, with central heating, waste collection, and other waste treatment.
- Grains, such as barley, corn, maize varieties, oats, rye, rice, and wheat.
- Products made from grain for human consumption, such as flour, pasta, bread, and similar products.
- Cooking oils made from grains or oilseeds for use in cooking for human consumption.
- Dairy and dairy products intended for human consumption.
- Salt used for human consumption.
- Eggs for consumption.
- Textbooks and serial publications.
- Supply, including lending, of books from libraries, including brochures, leaflets and similar printed materials, children's picture books, drawing and colouring books, music printed texts or manuscripts, maps, and hydro graphic charts, and similar.
- Information technology (IT) equipment.
- Supply of medicines, pharmaceutical products, instruments, and medical and surgical devices.
- Medical equipment, ambulances, aids, and other medical devices to facilitate or treat inability for exclusive use by the disabled, including the repair of such goods and supply of children's vehicle seats.

Chargeability of VAT

VAT generally becomes chargeable when the goods or services are supplied. Specific rules apply in cases where supply of goods or services occurs over a period of time, where successive payments are made, and in case of long-term contracts.

VAT becomes chargeable whichever of the following conditions is fulfilled first: payment is made, invoice is issued, or the supply of goods/services is carried out.

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VAT refunds

Taxable entities have the right to carry forward to following tax periods the VAT credit or to claim VAT refund if the following conditions are met:

- The taxable person is in VAT credit position for three consecutive months.
- At the end of the third month the amount of VAT credit exceeds EUR 3,000.
- All VAT and other tax returns for all past tax periods have been submitted.

While taxable persons that have exports may claim VAT refund on a monthly basis after each tax period if the following conditions are met:

- The amount of VAT credit exceeds EUR 3,000 at the end of the tax period.
- The taxable person complies with all applicable customs and VAT provisions.
- All VAT and other tax returns for all past tax periods have been submitted.

The Tax Administration of Kosovo (TAK) shall review the VAT refund claim request within a maximum of 30 days.

Invoicing

Invoices for supplies subject to VAT must always be issued by the 15th day of the month following that in which the chargeable event occurs, at the latest.

Place of supply of goods/services

Place of supply of goods or services is determined in line with the provisions set out in EU Directive 2006/112/EC on the Common System of Value Added Tax.

In respect of goods, special rules apply to establish the place of supply of goods with and without transport, on board ships, aircraft, or trains, and supply of natural gas and electricity through distribution systems.

In respect of services, there are two main rules: general and particular. The general rule defines the place of supply of services to a taxable person, which is where that person has established one's business. Particular rules apply to specific services related to immovable property, passenger transport, restaurant and catering services, short-term rent of transportation equipment, and cultural, artistic, or similar events.

For the supply of services to a non-taxable person, the general rule is that the place of supply is the place where the supplier has established one's business. The particular rules for supplies to non-taxable persons apply to specific services as outlined above.

The place of supply of the following services to a non-taxable person established outside of Kosovo is the place where that person is established: transfers of copyrights, patents and similar rights; advertising services; consultancy, engineering, accounting, legal, and data processing services; banking, financial, and insurance transactions; supply of staff; hiring of movable tangible property (except transport); provision of access and transport or transmission through to natural gas and electricity distribution systems; telecommunication, radio, and television broadcasting services; and electronically supplied services.

Reverse-charge mechanism

Reverse charge is applied on supplies of goods and/or services that are supplied from a taxable person not established in Kosovo.

When the recipient of such services/goods is registered for VAT in Kosovo, the place of supply of such services/goods is considered to be Kosovo, and the recipient will be liable for paying the VAT.

In cases where the recipient is not registered for VAT in Kosovo, the supplier is liable to pay VAT and is obligated to register for VAT in Kosovo via a tax representative.

A special reverse-charge scheme is applicable for the supply of construction and construction-related works, as well as supplies where personnel is engaged in construction activities.

Similar to the regular reverse-charge mechanism, the person liable to pay the VAT on the supply is the recipient of the construction services.

VAT exemptions

VAT exemptions without the right to deduction are applicable to activities in the public interest, welfare, education, culture, sports and religious activities, media, and public transportation. Other activities exempt from VAT include financial services, health and life insurance, lottery, land, housing for residential purposes, etc.

VAT exemptions with the right to deduction include exports, international transport, intermediary services, and special customs arrangements.

Importing of production lines and machinery for use in the production process, raw material used in the production process, as well as IT equipment, newspapers, and periodic publications, and equipment required for electronic and printed media benefit from VAT exemption (with crediting rights) on importation.

Supplying goods and services that are co-financed by donations from foreign governments and the Kosovo government and destined for projects with the public as the beneficiary are exempt from VAT (with deduction rights) if such exemption is foreseen between the parties and the participation from the Kosovo government is not more than 20%.

The right to deduct VAT

The right to deduct input VAT arises at the time when VAT becomes chargeable and such VAT is related to goods or services obtained for business purposes.

Input VAT is non-deductible for several goods/services, including the purchase of yachts, boats, private aircraft, cars, and motorcycles intended for recreation and used for non-business purposes, as well as representation costs related to entertainment during business or social contacts. A taxable person can, however, deduct input VAT on advertising expenses, meals, and transportation for personnel.

For cars used for both business and personal purposes, only 50% of input VAT can be deducted. The use of immovable property in the same manner allows VAT deductibility only up to the proportion of the property's use for business purposes.

In case purchased goods and services are used to make both taxable and exempt supplies, VAT shall be deducted proportionally to the transactions for which VAT is deductible.

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VAT compliance

Monthly submission of VAT returns to the TAK and monthly payment of VAT are due by the 20th day of the month following the end of each tax period.

In addition, VAT records have to be kept for six years after the end of the tax period to which they relate.

Customs import duties

The rate of customs import duty is zero on goods that originate in the territory of a country that is a party to the Central European Free Trade Agreement (CEFTA), and for some goods imported from the European Union as per the provisions of the Stabilization and Association Agreement.

Most rates of import duty on goods that originate outside of the CEFTA are 10% *ad valorem* (10% of the price paid or payable for the imported goods); however, some imported goods are exempt from the payment of the 10% import duty. The Integrated Tariff Code of Kosovo (TARIK) provides detailed information on import duty rates, VAT rates, and excise tax rates (if any), as well as any required certificates or licences that pertain to all imported goods.

Excise taxes

Excise tax is levied as a percentage of the value of the goods or represents a fixed amount per specified quantity. Excise tax in Kosovo is applicable on certain goods like beer, wines, alcohol, liquors, and other alcoholic beverages, cigarettes, other tobacco products, cars, petrol, diesel, etc.

For applicable excise taxes on these items, please see: <http://www.kuvendikosoves.org/common/docs/ligjet/2010-220-eng.pdf>

Property taxes

The property tax payable depends on the type of use of the property, on the area the property is located, and on the market value of the property. Property taxes are levied and collected at the municipal level.

Property tax rates also vary for each municipality. For the capital city of Pristina, the following rates are applicable based on the category of the real estate and activity undertaken:

- Residential: 0.15%.
- Commercial: 0.17%.
- Social/cultural/institutional: 0.17%.
- Services: 0.17%.
- Transportation: 0.17%.
- Industrial: 0.17%.
- Processing: 0.15%.
- Recreational: 0.15%.
- Uncategorised/unrecognised: 0.15%.
- Abandoned: 0.15%.
- Habitable: 0.15%.
- Agricultural: 0%.
- Unfinished: 0%.
- Garage: 0%.

- Other exempt: 0%.

The valuation of the property for property tax purposes (calculated in EUR/m²) depends on the location and type of property.

Transfer taxes

Transfer of immovable property is subject to a property transaction fee levied at the municipal level at EUR 150 per unit. One unit equals 100m² of residential/commercial building or 1 hectare of land.

Stamp taxes

There are no stamp taxes in Kosovo.

Payroll taxes

Entities are required to withhold personal income tax (PIT) from the gross salaries of their employees. Progressive tax rates ranging from 0 to 10% are applied to gross income.

Social security contributions

Both employer and employee are subject to compulsory pension contributions in Kosovo. The total compulsory contribution is 10%, where 5% represents the employee's share (withheld from gross wages) and 5% the employer's share.

Employers and employees may contribute additional pension contribution up to 30% (15% + 15%).

The compulsory pension contributions are deductible for CIT purposes of the employer, whereas voluntary contributions and those exceeding 15% of the annual salary are not deductible.

Other local taxes

Taxes are collected by the municipalities and vary on the activity and location of the business. Such taxes include vehicle tax, property tax, ecological tax, and advertising tax.

Branch income

Branch income in Kosovo is subject to the same taxes as all other forms of legal entities.

Income determination

Inventory valuation

In order to determine the cost of goods sold, the taxpayer must use one of the inventory methods prescribed by the Kosovo Accounting Standards, which permit the use of first in first out (FIFO) and average cost, but prohibit last in first out (LIFO).

Capital gains

Capital gains and losses are realised through the sale or other disposal of capital assets, including real estate and securities. Capital gains and losses are recognised as business income and business losses, respectively, and the latter can be carried forward for up to

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six successive tax periods. Capital gains are taxed at the standard CIT rate of 10% (i.e. are taxed at the same rate).

Dividend income

Dividends received by residents and non-residents are exempt from any form of taxation.

Interest income

Interest income is taxed at the CIT rate of 10%.

Rental income

Rental income is taxed at the CIT rate of 10%.

Royalty income

Royalty income is taxed at the CIT rate of 10%.

Partnership income

The partnership is not taxed itself; however, the members of the partnership are taxed separately at the standard CIT rate of 10% depending on their share in the partnership.

Foreign currency exchange gains/losses

Foreign currency exchange gains are subject to tax as capital gains.

Foreign income

Kosovo resident corporations are taxed on their worldwide income. If a DTT is in force, double taxation is avoided either through an exemption or by granting a tax credit up to the amount of the applicable Kosovo CIT rate.

Kosovo legislation does not contain any provisions under which income earned abroad may be tax deferred.

Deductions

Expenses paid or incurred in relation to business activities are deductible for CIT purposes.

Business representation expenses with elements of entertainment cannot exceed 1% of annual gross income. Bad debt expenses are allowable under certain conditions. Business travel expenses are allowable if documented properly.

Expenses that are subject to withholding tax (WHT) on rent (such as payments for lease) are only CIT deductible if the corresponding WHT is paid by 31 March of the period following that in which they were incurred, at the latest.

Depreciation and amortisation

Depreciation expenses are calculated via the straight-line method, depending on the category of asset concerned. For buildings, the rate is 5%; for vehicles, furniture, and equipment, the rate is 20%; and for plant and machinery, the rate is 10%.

Amortisation expenses are allowed in accordance with the useful life of the intangible asset, but, at most, 20 years if not specified.

Goodwill

No specific tax provisions cover the treatment of goodwill.

Start-up expenses

Only expenses incurred in the current tax period reported can be deducted.

Interest expenses

Interest expenses are deductible, provided that such expenses have been paid or incurred in relation to business activities and any WHT due has been paid on or before 31 March of the year following that in which interest expense arose.

Bad debt

A bad debt shall be considered an expense if it meets all of the following conditions:

- The amount that corresponds to the debt has previously been included in income.
- The debt is written off in the taxpayer's books as worthless for accounting purposes.
- There is no dispute of the legal validity of the debt.
- At least six months of the debt term have been exceeded.
- There is adequate evidence of substantial attempts made by the taxpayer to collect the debt (i.e. including final decision of a competent court certifying that the debt is uncollectible).
- Payment has not been received in whole or in part and has been declared as uncollectable thus initiating procedures with judicial bodies.
- For the amount up to EUR 500 treated as a bad debt, there shall not be required the initiation of procedures at judicial bodies.
- Uncollected amount shall not be considered as bad debt if:
 - transactions with the same debtor have been repeated after the announcement of bad debt, excluding public services
 - bad debt is between the related parties
 - there is no sufficient evidence that there were substantial attempts made to collect debt, including any applicable action to maximise the debt collection, or
 - the obligation for payment is 24 months overdue.

Charitable contributions

Contributions made by a taxpayer in the form of donations or sponsorship for humanitarian, health, education, religious, scientific, cultural, environmental protection, and sports in accordance with the CIT law are considered as contributions given for public interest and are allowed as a deduction up to a maximum of 10% of taxable income, computed before these contributions are deducted.

An additional 10% deduction may be applicable if prescribed so by other laws pertaining to sponsorships of certain activities.

A taxpayer who claims a deduction in respect of charitable contributions made during the tax period shall furnish receipts signed and stamped by the beneficiaries of the charitable contributions, confirming the purpose of those donations, the amounts of the donations, and the times when the donations were made.

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A charitable contribution deduction can only be claimed by a taxpayer who pays tax on an accrual or real income basis.

Pension expenses

Pension contributions are deductible up to the limit of 15% of gross salary.

Bribes, kickbacks, and illegal payments

Bribes, kickbacks, and illegal payments are non-deductible for tax purposes.

Fines and penalties

Fines and other tax-related sanctions are non-deductible expenses.

Taxes

Income taxes, VAT, and excise duties are non-deductible expenses.

Other significant items

Provision expenses are only allowable for banks as per the rules prescribed by the Central Bank of Kosovo.

Net operating losses

Tax losses can be carried forward for up to six consecutive tax years. However, restrictions may apply in cases of change of business or change of ownership; if the business changes its type of business organisation or has an ownership change of more than 50%, the tax loss is not allowed to be carried forward.

Carryback loss provisions are not allowable.

Payments to foreign affiliates

Payments to foreign affiliates are subject to WHT at 5% if they represent services provided with physical presence in Kosovo by the affiliate, unless tax relief is requested in accordance with the local legislation or any DTT in place. These payments are tax deductible if they are properly documented and incurred for business purposes only.

Payments to foreign affiliates made for the purpose of transferring profits may be subject to revaluation by the tax authorities. Any transactions/payments made to foreign affiliates shall be performed on an arm's-length basis.

Group taxation

There are no group taxation rules applicable in Kosovo.

Transfer pricing regime

In July 2017, Kosovo introduced transfer pricing rules, which are applicable from fiscal year 2017.

These rules apply to Kosovo CIT payers that have entered into controlled transactions with related parties established in foreign tax jurisdictions.

The transfer pricing rules generally follow the OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, whereas documentation

requirements are as per the EU Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the European Union (2006/C 176/01).

Recognised transfer pricing methods include the comparable uncontrolled price (CUP) method, resale price (RP) method, cost plus (C+) method, transactional net margin (TNM) method, and profit split (PS) method. A simplified approach is applicable for low value-adding intra-group services.

Taxpayers with controlled transactions exceeding EUR 300,000 in a calendar year are required to:

- prepare transfer pricing documentation as per the EU Code of Conduct on Transfer Pricing Documentation for Associated Enterprises in the European Union (2006/C 176/01), and
- submit an Annual Controlled Transactions Notice by 31 March of the following year, along with statutory financial statements and CIT declaration.

Taxpayers with controlled transactions of EUR 300,000 or less in a calendar year are required to prepare documentation, but are not required to submit an Annual Controlled Transactions Notice.

Thin capitalisation rules

There are no thin capitalisation rules applicable in Kosovo.

Controlled foreign companies (CFCs)

There is no CFC regime in Kosovo.

Tax credits and incentives

Taxpayers that purchase new heavy machinery categorised under the 10% depreciation rate group enjoy an additional one-time 10% deduction for CIT purposes.

Wages of persons with disabilities are exempt from employment taxes.

Foreign tax credit

Taxpayers who receive income from sources outside Kosovo and pay tax on such income in other countries are allowed the right to a tax credit for the amount of the tax paid abroad or up to the applicable Kosovo income tax rate, whichever is lower. Foreign tax credits can be claimed even if there is no DTT between Kosovo and the respective country where such income arose, subject to proper documentation.

Withholding taxes

Resident taxpayers paying rent, interest, royalties, and non-resident services shall withhold tax at the time of payment and shall transfer the amount of the tax withheld not later than the 15th day of the month following the tax period.

Taxpayers shall withhold tax at the time of payment or credit. A WHT obligation applies only when the underlying amount (e.g. rent, interest) is actually paid, not when it accrues.

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WHT rates are provided below:

- Interest and royalties: 10%.
- Rent: 9%.
- Services provided from non-residents: 5%.
- Payments to non-business natural persons, farmers, recycled materials collectors, etc.: 3%.

For payments made to recipients in countries with which Kosovo has a DTT, the rates of WHT may be eliminated/reduced under the terms of the treaty.

There is no WHT on dividends, as dividends received by residents and non-residents are exempt from taxation in Kosovo.

Double tax treaties (DTTs)

Currently, Kosovo has DTTs in place with the following countries:

Recipient	WHT (%)	
	Interest	Royalties
Non-treaty	10	10
Treaty:		
Albania	10	10
Belgium	10 (1)	10
Croatia	5	5
Finland	0 (2)	10
Germany	0 (2)	10
Hungary	0 (2)	0 (2)
Macedonia	10	10
Netherlands	0 (2)	10
Slovenia	5	5
Turkey	10	10
United Arab Emirates	5	0 (2)
United Kingdom	0 (2)	0 (2)

Notes

1. As per the DTT, it is not to exceed 15%, but the non-treaty domestic rate is 10%.
2. Only taxable in the state of residence.

Tax administration

Taxable period

The taxation period for which the CIT is assessed is the calendar year.

Tax returns

CIT returns are filed annually, and the deadline to submit the annual return is 31 March of the following year.

Payment of tax

Taxpayers with income from economic activities exceeding EUR 50,000 per year are obligated to make quarterly advance payments (15 April, 15 July, 15 October, and 15

January) that amount to $\frac{1}{4}$ of 110% of the total tax liability for the previous tax period. If it is the taxpayer's first year of business and/or a tax loss was incurred in the previous year, quarterly advance payments are made on the principle of estimation of that year's CIT liability.

Final CIT payment is due with the return on 31 March.

Tax audit process

The Kosovo tax system is based on self-assessment. Tax audits include all types of taxes that the business is subject to. If any discrepancies result from the tax audit, the tax authorities issue an audit report and re-assessment notices, which the taxpayer can appeal to the Appeals Department within the tax authority.

A taxpayer may submit an amended tax declaration if one subsequently discovers an error in a tax declaration that has already been submitted. The deadline for submitting an amended declaration is six years after the due date of the declaration being amended.

Statute of limitations

The statute of limitations in general circumstances is six years.

Topics of focus for tax authorities

During a tax audit, the main focus of the tax authorities is on areas relating to CIT expense deductibility, VAT crediting rights, WHT compliance, etc.

Other issues

Choice of business entity

Business entities that may be registered with the Business Registration Agency in Kosovo are the following:

- Personal business enterprise.
- General partnership.
- Limited partnership.
- Limited liability company.
- Joint stock company.

Apart from the above forms of establishment, foreign business organisations may also carry out economic activity in Kosovo through a branch office, upon registration with the Business Registration Agency in Kosovo.

Adoption of International Financial Reporting Standards (IFRS)

IFRS is adopted and recognised under Law No.04/L-014 on Accounting, Financial Reporting and Audit.

Intergovernmental agreements (IGAs)

Kosovo is a member of the Central European Free Trade Area (CEFTA).

The Stabilization and Association Agreement aimed at liberalizing trade with the European Union entered into force in April 2016.

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On 26 February 2015, the Government of the United States of America and the Government of the Republic of Kosovo signed an IGA entitled, 'Agreement between the Government of the United States of America and the Government of the Republic of Kosovo to Improve International Tax Compliance and to Implement FATCA [Foreign Account Tax Compliance Act]'. The IGA requires, in particular, the exchange of certain information with respect to US reportable accounts on an automatic basis.

Tax information exchange agreements (TIEAs)

Specific TIEAs have not been signed with any country, except for standard information exchange provisions within existing DTTs.

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Significant developments

In 2018, the rates of excise tax for tobacco goods increased to 460 Kyrgyzstani som (KGS) per 1 kg, and for cigars to KGS 115 per 1 unit. Note that the excise tax rate for cigarettes and cigarillos increased in 2018 to KGS 1,250 and KGS 920 per 1,000 units, respectively.

Consideration of the new Tax Code is postponed indefinitely.

Taxes on corporate income

Pursuant to the Tax Code, resident entities are subject to a corporate income tax, called the 'profit tax', on their aggregate annual income earned worldwide. Non-resident legal entities carrying out business activities through a permanent establishment (PE) in Kyrgyzstan are subject to profit tax on the income attributed to the activities of that PE.

Profit tax is calculated at a rate of 10% of aggregate annual income less allowed deductions.

Gold industry profit tax

The profit tax rate for taxpayers extracting and selling gold ore, gold concentrate, gold alloy, and refined gold is set at 0%.

Additionally, there is a tax ('income tax') specifically for taxpayers extracting and selling gold ore, gold concentrate, gold alloy, and refined gold.

Income tax is calculated at a varying rate of 1% to 20% (depending on the world price of a troy ounce of gold) of revenues from selling gold alloy and refined gold or of the value of gold in the gold-bearing ore and gold concentrate calculated on the basis of world prices.

Local income taxes

There are no provincial or local income taxes in Kyrgyzstan.

Corporate residence

There is no concept of corporate residence in the Kyrgyzstan tax legislation.

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Legal entities formed under the Kyrgyz law should be taxed in Kyrgyzstan on their worldwide income, whereas foreign legal entities should be taxed only in relation to Kyrgyzstan-sourced income.

Permanent establishment (PE)

Under Kyrgyzstan tax legislation, a PE is a permanent place of business through which a non-resident carries out business operations, including activities performed through an authorised person. A PE includes the following:

- Any place of management, department, office, factory, workshop, mining, oil and gas wells, land, construction site, or project.
- Any services rendered by non-residents by hiring personnel working in the territory of Kyrgyzstan for a duration of more than 183 calendar days within any consecutive 12-month period.

A PE is not created in Kyrgyzstan if a non-resident is limited to the following activities in Kyrgyzstan:

- Use of warehouses or buildings exclusively for storage or demonstration activities.
- Use of a fixed place of business exclusively for preparatory purposes.
- Performance of activities in Kyrgyzstan through an agent in cases where such agent usually performs such activities in the ordinary course of business.

Creation of a PE may be connected with the establishment of a branch or subsidiary. Both branches and subsidiaries are considered appropriate business vehicles for foreign investors, and the choice between them is determined by the business the investor is engaged in, along with various other factors.

Other taxes

Value-added tax (VAT)

As part of the gradual incorporation of Kyrgyzstan into the Eurasian Economic Union (EAEU) and the harmonisation of tax legislation between the member countries, the VAT part of the Tax Code has been amended.

In Kyrgyzstan, VAT is assessed on taxable supply and taxable imports. Input VAT assessed on purchases used for business purposes is generally offset against output VAT on taxable supplies. The VAT rate is 12%. Certain supplies are eligible for zero-rate VAT; there are also VAT-exempt turnovers (*see below*).

All taxpayers registered for VAT purposes are required to charge VAT on their taxable supply and to calculate and report their VAT liabilities. The threshold for obligatory registration as a VAT payer has been increased to KGS 8 million. Even if an entity is not required to register for VAT purposes, it may still do so voluntarily by submitting an application to the appropriate tax committee.

Place of supply of goods

Goods and services are subject to VAT if they are deemed to be supplied in Kyrgyzstan under the place of supply rules. According to these rules, transactions are deemed to be made at the place where transport of the goods begins if the goods are transported by the supplier and at the place where the goods are transferred to the customer in

all other cases. The rules regarding services are more complicated. Services that are not specifically mentioned are deemed to be supplied at the place where the service provider has established a place of business. Certain other services are deemed to be supplied at the place of the purchaser.

Import of goods

Generally, imports of goods are subject to VAT.

Non-deductible input VAT

The input VAT is not allowed for offset if it is subject to payment in connection with the receipt of goods, works, or services not related to entrepreneurial activity, or if it relates to inputs for VAT-exempt supplies.

Zero-rated supplies

Certain supplies are zero-rated for VAT purposes. These include exports (except for certain limited types of export), international transportation, and services connected with the service of transit air flights related to international transportation. Supply of goods, works, or services for official use of diplomatic and consular representations is taxable, but may be refunded, provided that certain conditions are met.

Exempt supplies

Certain supplies are VAT-exempt, including supplies and exports of gold and silver alloy and refined gold and silver; supplies of pharmaceuticals; land plots; supplies and import of jet fuel consumed by international air carrier operators; residual buildings and construction; insurance, pension, and financial services; and export of works and services. When a taxpayer generates both taxable and exempt supplies, input VAT proportional to the ratio of the exempt supply to the total supply is disallowed for offset.

VAT incentives

Certain imports are VAT-exempt, including imports of technological equipment, if used for one's own production purposes. A preferential offset method of VAT settlement in respect of certain fixed assets imported to Kyrgyzstan is also available.

Reverse-charge VAT

The current Tax Code does not have any provisions on reverse-charge VAT.

VAT liability calculation and VAT offset carryforward

In general, the VAT liability of a taxpayer is calculated as output VAT (i.e. VAT charged by a taxpayer) less input VAT (i.e. VAT paid by a taxpayer to its suppliers) in a reporting period. The excess of input VAT over output VAT may generally be carried forward against future VAT liabilities.

VAT compliance

The tax period for VAT is a calendar month. The submission of the VAT declaration is due by the 25th day of the month following the reporting period (except for major taxpayers, for which it is due by the end of the month following the reporting period). Payment of the VAT liability is due by the 25th day of the month following the reporting period.

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Sales tax

Sales tax is assessed on Kyrgyz legal entities or foreign entities operating through a PE in Kyrgyzstan for any sales of goods or rendering of services. The sales tax mechanism differs from VAT, i.e. sales tax is levied for whole sales turnover and does not take into account the purchases (input turnover).

Sales tax rates are as follows:

- In case of sale of goods, works, or services that are VATable and VAT exempt that are paid for in cash:
 - Trading activities: 1%.
 - Other activities: 2%.
- In case of sale of goods, works, or services that are VATable and VAT exempt that are paid for via non-cash settlement: 0%.
- In case of sale of goods, works, or services not outlined above:
 - Trading activities: 2%.
 - Other activities: 3%.
- 2% for banks.
- 5% for mobile communication activities.

The Kyrgyzstan Tax Code further defines ‘trading activities’ as activities on sale of goods purchased for re-sale purposes.

The tax period of sales tax is a calendar month. Taxpayers have to submit tax returns and make payments of sales tax at the place of tax registration by the 21st day of the month following the reporting month.

Customs duties and regimes

According to the Customs Code, the customs value of goods imported to the customs territory of Kyrgyzstan is determined by applying the following methods:

- Transaction value of imported goods.
- Transaction value of identical goods.
- Transaction value of similar goods.
- Deductive method.
- Computed method.
- Provisional method.

Based on the Kyrgyzstan customs legislation, the rates of customs duties may be:

- *Ad valorem* - charged in percentage to customs value of the taxable goods.
- Specific - charged within established size for unit of the taxable goods.
- Combined - including both above mentioned types.

The rates in percentage range from 0% to 65%.

Import restrictions

Generally, all entities or persons have equal rights to import and export or transfer goods into the Kyrgyzstan territory, including when carrying out foreign trade activity, except in special cases as stipulated by legislation and international treaties.

Import of certain goods (e.g. weapons, nuclear materials) is subject to licensing.

Temporary import relief

There is a temporary import regime under which foreign goods are used in Kyrgyzstan with full or partial conditional exemption from the payment of customs duties and taxes and without application of non-tariff regulatory measures. The term of the 'temporary import' customs regime may not exceed two years.

Customs duties incentives

Certain items are exempt from customs payments, including:

- Transportation vehicles used in the international conveyance of passengers and goods and items of material and technical supply in transit.
- Goods imported in the customs territory or imported from the customs territory for official and personal use by official state representatives of foreign states.

Kyrgyzstan provides preferential rates or exemptions on the importation (and export) of certain goods, including goods originating from the states that form free trade zones or a customs union with Kyrgyzstan and goods originating from developing countries, included on a special list provided by the government.

Documentation and procedures

Kyrgyzstan pays close attention to formalities/documentation, so it is necessary to furnish the customs authorities with a set of required documents. For import, such documents usually include cargo customs declaration, invoices, contracts, etc.

Warehousing and storage

There is a bonded warehouse customs regime in Kyrgyzstan. Under this regime, imports entering into Kyrgyzstan may be stored in special facilities or special areas that have the status of a customs warehouse under the customs legislation of Kyrgyzstan. This regime implies exemption from customs duties and taxes.

Generally, most goods (unless otherwise specifically provided for) can be placed under the bonded warehouse customs regime. The period for storage of goods at a bonded warehouse is determined by the person placing the goods into the customs warehouse but cannot exceed three years from the date when the goods were placed under the bonded warehouse customs regime.

Re-exports

The re-export regime is similar to that used in international practice. It is defined as a customs regime under which goods previously imported into Kyrgyzstan are exported without payment or with a refund of the paid amounts of import customs duties and taxes and without applying the non-tariff regulatory measures with respect to the goods in compliance with Kyrgyz legislation.

There are certain conditions under which goods can be re-exported. Customs duties and taxes are not charged for goods declared as goods intended for re-export. However, if the goods do not meet the re-export criteria, customs duties and taxes are paid in the amount that would be payable if the goods, at their importation, were declared for release for free circulation, as well as interest on them paid at the National Bank rates, as if deferment was provided with respect to the amounts at placement of the goods under the customs regime of re-export.

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Excise tax

Certain goods manufactured in Kyrgyzstan or imported to Kyrgyzstan are subject to excise tax. These include certain alcohol and alcoholic drinks, fortified drinks, beer, tobacco goods, platinum, and oil products.

The rates of excise tax are adopted annually by the Kyrgyzstan government and range from KGS 30 for 1 litre of beer (pre-packaged and not packaged) to KGS 5,000 for 1 ton of fuel. In 2018, the rates of excise tax for tobacco goods increased to KGS 460 per 1 kg, and for cigars to KGS 115 per 1 unit. Note that the excise tax rate for cigarettes and cigarillos increased in 2018 to KGS 1,250 and KGS 920 per 1,000 units, respectively.

Stamp taxes

There are no stamp taxes in Kyrgyzstan.

Subsurface use taxes

The subsurface use taxes consist of separate bonus and royalty taxes on subsurface users, both Kyrgyz legal entities and branches of foreign legal entities. Under Kyrgyz legislation, subsurface users are legal entities and individuals who perform exploration and/or extraction of mineral resources.

The government, depending on the type of mineral resources, establishes the bonus rates.

The royalty rates are estimated either as a percentage of sales turnover (1% to 12%) or in absolute terms in Kyrgyzstani som, depending on the type of mineral resources.

Payroll taxes

The employer is obligated to withhold and transfer to the budget the income tax from its employees' gross remuneration less allowable deductions. The income tax rate is 10%.

Social contributions

The social security system in Kyrgyzstan is comprised of the Pension Fund, Obligatory Medical Insurance Fund, and Employees Recovery Fund. The employer pays social contributions at 17.25% of employees' gross remuneration from its own funds.

The employer is also required to withhold social contributions at 10% out of the salary that is payable by the employees to the Pension Fund and State Saving Fund.

Local taxes

There are two local taxes in Kyrgyzstan, property tax and land tax.

Property tax

Property tax is a local tax payable quarterly by legal entities owning transport vehicles and immovable property in Kyrgyzstan, including apartment houses, apartments, boarding houses, holiday inns, sanatoria, resorts, production, administrative, industrial, and other buildings or facilities. Certain real estate may not be subject to this tax according to special lists approved by the government.

In respect of immovable property, the tax rate is established by the city or local authorities at a rate not to exceed 0.8% of the taxable base, except for apartment

houses and apartments designated solely for residence, for which the rate may not exceed 0.35% of the taxable base. For transport vehicles, the tax is computed in Kyrgyzstani som, depending on engine volume and year of production.

Land tax

Land tax is paid quarterly by legal entities on the area of owned land. The basic rates are provided in the Tax Code, depending on the location and purposes of the land. The basic rates may range from KGS 0.9 to KGS 2.9 per square metre.

Branch income

Branch income is subject to the profit tax. There is no special branch profits tax in addition to profit tax.

Income determination

Aggregate annual income is comprised of all types of income, including, but not limited to, the following, in addition to gross revenue from the sale of goods, works, or services:

- Dividends.
- Interest income (except for income already subject to withholding tax [WHT]).
- Royalties.
- Assets received free of charge.
- Rental income.
- Income from the reduction of liabilities.
- Foreign exchange gain.
- Write-off liability.

The Tax Code envisages some profit tax privileges aimed at developing certain areas of the business economy. Currently, these include privileges/preferences for:

- Charity organisations.
- Associations of invalids of I and II groups (i.e. persons with disability with different levels of physical disability); associations of blind and deaf persons.
- Agricultural organisations.
- Institutions of criminal-executive systems of Kyrgyzstan.
- Growing of berries, fruits, and vegetables.
- Credit unions.
- Companies that have been involved in the food industry for less than three years and included in the Kyrgyzstan government's list of exempt companies.
- Leasing companies (from 2017).
- Pre-school education organisations.
- Private medicine institutions focused on cardiac surgery.

Non-taxable revenues include, *inter alia*, the following:

- Property received as a charter capital contribution and income from realisation of shares of organisations.
- Property donated to special organisations using such property for development purposes under the government's social culture plan. Despite being designated as

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property used for social culture purposes, such property may still be used for other purposes (i.e. citizen defence projects, mining equipment, water intakes, heat networks, roads, stations).

Inventory valuation

There are no special provisions on inventory valuation in the Kyrgyzstan Tax Code. Inventory valuation is conducted in accordance with the International Financial Reporting Standards (IFRS).

Capital gains

Capital gains are subject to the ordinary profit tax rate. There is an exemption available for capital gains from selling shares that occur on the date of a given sale in the official lists of the stock exchange in the top two categories of listing.

Dividend income

Dividends from participation in Kyrgyz legal entities are exempt from profit tax. All other dividends are subject to the ordinary profit tax rate.

Interest income

Interest income should be included into the aggregate annual income and taxed at the standard profit tax rate, provided the tax has not already been withheld at the source of payment in Kyrgyzstan at the 10% rate.

Royalty income

Royalty income should be included into the aggregate annual income and taxed at the standard profit tax rate.

Partnership income

Simple partnerships are not taxpayers in their own right, and income and expenses flow through to the partners for tax reporting purposes. Kyrgyzstan limited liability partnerships are taxed as corporations.

Foreign income

Generally, Kyrgyz legal entities are taxable on income earned worldwide. Foreign income is subject to the ordinary profit tax rate.

There are no tax deferral provisions in Kyrgyzstan tax legislation.

Deductions

Depreciation

The Tax Code establishes a deduction for depreciation based on the declining-balance method. Depreciable fixed assets are divided into several groups, for which maximum depreciation rates range from 10% to 50%.

Group	Assets	Maximum rate of depreciation (%)
I	Cars, automobile and tractor equipment for use on roads, special instruments, sundries, and accessories; computers, telephone sets, peripherals, and equipment for data processing	30

Group	Assets	Maximum rate of depreciation (%)
II	Automotive transport rolling stock: trucks, buses, special automobiles, and trailers; construction equipment; machines and equipment for all sectors of industry, including the foundry; smith-pressing equipment; electronic and simple equipment, agricultural machines. Office furniture, intangible assets	25
III	Depreciable fixed assets not listed in other groups and expenses equated to them	20
IV	Railroad, sea, and river transport vehicles, power machines, and equipment: thermal-engineering equipment, turbine equipment, electric motors and diesel-generators, electricity transmission and communication facilities, pipelines	10
V	Buildings and constructions	10
VI	Taxpayer's costs of geological preparation of deposit reserves, design and engineering-research works, and obtaining the licence for the use of deposits, as well as mining-capital and mining pre-works aimed at further extraction of minerals, as well as the fixed assets of the mining and/or mining-processing enterprises put into operation and actually used in deposit exploration	50

Certain expenses are deductible within specified limits, including expenses on repairs, expenses on procuring and producing capital production assets, and certain other expenses.

Goodwill

Kyrgyzstan domestic tax legislation does not stipulate the allowance of a deduction for goodwill for profit tax purposes.

Start-up expenses

Kyrgyzstan domestic tax legislation does not stipulate the allowance of a deduction for start-up expenses for profit tax purposes.

Interest expenses

Deductions for interest actually paid on debts, where the loan proceeds were used to fund expenses incurred for the taxpayer's business activity, are allowed within limitations provided in the Tax Code, depending on methodology and nature of the debt. For example, interest on loans connected with the purchase of depreciable assets is not deducted, but increases their value.

Bad debt

Bad debt amounts are deductible in Kyrgyzstan. The Tax Code defines a 'bad debt' as the amount the taxpayer is unable to fully receive as a result of the termination of an obligation by the court, bankruptcy, liquidation, or death of the debtor, or expiry of the limitation period provided by the civil legislation of Kyrgyzstan.

Charitable contributions

Deductions for donations of assets to charity and budget organisations are limited to 10% of taxable income.

Fines and penalties

Fines and interest penalties paid to the state budget are not deductible.

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Taxes

The following taxes may be deducted:

- Land tax.
- Property tax.
- VAT not allowed for offset.
- Subsurface use taxes.

Other significant items

Generally, other expenses related to the earning of aggregate annual income are considered deductible for profit tax purposes, including:

- Business trip expenses that were actually incurred and supported by appropriate documentation (*per diems* during business trips are deductible only within the established statutory limits).
- Commissions on payroll expenses for labour.
- Material and social benefits provided to employees.
- Representational expenses connected with earning income (transportation, hotel, and translator services).
- Training and retraining of employees.
- Scientific development and exploration works (deductions are relevant for fixed assets).
- Any other costs related to earning income, which can be supported by appropriate documentation in terms of their nature and amount (e.g. invoices, payment orders, receipts).

The other categories of expenses that are not deductible include, *inter alia*:

- Capital expenses and expenses connected with the purchase, production, and installation of equipment.
- Any expenses incurred on behalf of any other third persons, except in cases where documentation proves business needs for such expenses.
- Pricing losses caused by rates, understated below-market prices, and price incentives.
- Expenses connected with purchases of services in entertainment, vacations, and leisure.

Net operating losses

Net operating losses can be carried forward for up to five years. There are no provisions in Kyrgyz legislation allowing carryback of losses.

Payments to foreign affiliates

Payments to foreign affiliates are deductible for profit tax purposes if they are aimed at earning income and supported by documentation.

Group taxation

Group taxation is not permitted in Kyrgyzstan.

Transfer pricing

While there is no special law on transfer pricing in Kyrgyzstan, rules on transfer pricing are found in the Tax Code. The general transfer pricing provisions set in the Tax Code do not follow Organisation for Economic Co-operation and Development (OECD) guidelines (thus, no advance pricing agreement [APA] mechanism is provided). According to the Kyrgyz transfer pricing regulations, the tax authorities are empowered to determine the value of the following transactions:

- Transfers between related parties.
- Barter transactions.
- Cross-border transactions.

Provisions to the transfer pricing regulations were also developed granting the tax authorities the right to carry out transfer pricing controls on operations with goods for which the minimum target price has been established.

Thin capitalisation

There are no thin capitalisation limitations under the Kyrgyzstan Tax Code.

Controlled foreign companies (CFCs)

There are no provisions for CFCs in Kyrgyzstan.

Tax credits and incentives

Foreign tax credits

There is no possibility to offset the amount of tax paid outside Kyrgyzstan against the Kyrgyz tax if there is no double taxation treaty (DTT) with the country.

Investment incentives

Kyrgyzstan has an article in the Tax Code regarding the specifics of profit taxation on earnings from large investments. Based on the article, profit earned by a local company from own-produced or re-processed goods in Kyrgyzstan using only new equipment (not used or bought before 1 May 2015) is subject to 0% profit tax if the taxpayer has:

- annual turnover exceeding KGS 170 million
- monthly profit tax exceeding KGS 150,000, or
- charter capital of the local company exceeding KGS 10 million.

Please note that companies in the tobacco, mining, alcohol, retailing, and information technology (IT) sectors are not able to apply such incentives to their profit.

Moreover, dividends of a foreign company that engaged in large investment projects in Kyrgyzstan, not related to PE activities in Kyrgyzstan, received as part of the profit with 0% profit tax are subject to 0% WHT.

Special economic zones

There are four special economic zones in Kyrgyzstan: Naryn, Karakol, Bishkek, and Maimak. The special economic zones generally provide for a tax-neutral regime, exemption from customs duties, and a liberal currency control regime. However, there is a special fee for incentives, which varies from 0.1% to 2% of sales (depending on the region).

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Park of Innovative Technologies

Activities of residents of the Park of Innovative Technologies are exempt from profits tax, sales tax, and VAT, providing they meet requirements of the Tax Code of Kyrgyzstan. The tax rate for employees of residents of the Park of Innovative Technologies and individual entrepreneurs is 5%.

Withholding taxes

Income of a non-resident deemed as income from sources in Kyrgyzstan that is not connected with a PE is subject to taxation at source of payment, without applying deductions, at the following rates:

- Dividends and interest: 10%.
- Insurance premiums received under risk insurance or re-insurance agreements: 5%.
- Authors fees and royalties: 10%.
- Income from telecommunication or freight services in international communication and transportation between Kyrgyzstan and other countries: 5%.
- Other services and activities: 10%.

WHT applies to Kyrgyzstan-source income regardless of whether the payment is made within or outside of Kyrgyzstan.

The application of DTTs often effectively provides a reduction of WHT rates or an income tax exemption. Note that the application of treaty privileges is not necessarily automatic, and taxpayers may need to comply with certain administrative procedures to secure relief.

Double taxation treaty (DTT) relief

Kyrgyzstan has enforced DTTs with 27 countries and 3 DTTs that are pending. In cases when certain DTTs envisage the tax rates applying for taxation of dividends, interest, or royalties that exceed the rates envisaged by the Kyrgyzstan domestic tax legislation, we believe that such income is subject to taxation at the rate envisaged by the above-mentioned tax legislation. Information outlined in the below table is provided for application by business entities. The below table does not represent tax provisions provided by respective DTTs for government-owned legal entities, governmental institutions, or governmental organisations (central/national banks).

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	10	10	10
Treaty:			
Austria	5 (1a)/15	10	10
Belarus	15	10	15
Canada	15	15	0 (3a, 3b)/10
China	10	10	10
Estonia (pending)	5 (1b)/10	10	5
Finland	5 (1a)/15	10	5
Georgia (pending)	5 (1a)/10	5	10
Germany	5 (1a)/15	5	10
India	10	10	15
Iran	5 (1a)/10	10	10

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Kazakhstan	10	10	10
Korea, Republic of	5 (1a)/10	0 (2a)/10	5 (3c)/10
Kuwait	0	0	10
Latvia	5 (1a)/10	5 (2b)/10	5
Lithuania	5 (1c)/15	10	10
Malaysia	5 (1d)/10	10	10
Moldova	5 (1a)/15	10	10
Mongolia	10	10	10
Pakistan	10	10	10
Poland	10	10	10
Qatar	0	0	5
Russia	10	10	10
Saudi Arabia	0	0 (2c)	7.5
Switzerland	5 (1a)/15	5	5
Tajikistan	5 (1e)/15	10	10
Turkey	10	10	10
Ukraine	5 (1e)/15	10	10
United Arab Emirates	0	0	5
United Kingdom (pending)	5 (1f)/15	0 (2d)/5	5
Uzbekistan	5	5	15

Notes

- Where the following condition is met:
 - Beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the paying company.
 - Beneficial owner is a company that directly holds at least 20% of the capital of the paying company.
 - Beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the paying company.
 - Beneficial owner is a company (other than a partnership) that owns not less than 10% of the capital of the paying company.
 - Beneficial owner is a company that owns not less than 50% of the capital of the paying company.
 - Beneficial owner is a company that directly or indirectly holds at least 25% of the capital of the paying company.
- Where the following condition is met:
 - Interest is paid in respect to credit sales of industrial, commercial, or scientific equipment, goods and merchandise, or sale of goods by an enterprise to another enterprise, given that the interest is beneficially owned by a resident of the another contracting state.
 - Recipient is a bank or any financial institute, and interest is paid in respect to provision of a loan to another bank or financial institute.
 - Interest applied to income deemed as income from debt-claim. The term 'income from debt-claim' means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds, or debentures. Penalty charges for late payment should not be considered as income from debt-claims for the purpose of corresponding DTT.
 - Interest is paid in respect of indebtedness arising as a consequence of the sale on credit of any equipment, merchandise, or services.
- Where the following condition is met:
 - Copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical, or artistic work (but not including royalties in respect of motion picture films nor royalties in respect of works on film or videotape or other means of reproduction for use in connection with television broadcasting).
 - (i) the payer and the beneficial owner of the royalties are not associated persons within the meaning of subparagraphs 1 (a) or 1 (b) of Article 9 ('associated enterprises') of corresponding DTT (*for more details, please see corresponding DTT*); (ii) royalties are paid for the use of, or the right to use, application software or any patent or for information concerning industrial, commercial, or scientific experience (but not including any such information provided in connection with a rental or franchise agreement).

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- c. Royalties are paid for the use of, or a right to use, industrial, commercial, or scientific equipment.

Tax administration

Taxable period

The taxable period for profit tax is one calendar year.

Tax returns

The Tax Code stipulates that the Aggregate Annual Income Tax Declaration must be filed with the tax authorities by 1 March of the year following the reporting year.

Tax authorities may grant an extension for filing a tax return for up to one month upon application by the taxpayer. Such extension does not relieve or prolong the taxpayer's obligation to pay the tax in a timely manner.

Payment of tax

Tax payments should be made as follows:

- Advance payments on profit tax: Taxpayers (except for zero-rated taxpayers and taxpayers exempt from profit tax) should file tax reporting and pay to budget a preliminary amount of profit tax on a quarterly basis (from the second quarter). The reporting period for the preliminary amount of the profit tax is established as the first quarter, first half year, and first nine months of the current fiscal period. The advance profit tax amount for the reporting period shall be determined in the amount of 10% of the profit calculated for the reporting period according to the rules established by Kyrgyz legislation on accounting. The advance profit tax amount payable to the budget for the reporting period shall be defined as the positive difference between the advance profit tax calculated for the reporting period and advance profit tax calculated for the previous reporting period.
- Final payments on profit tax: 1 March of the year following the reporting year.
- Tax withheld at the source of payment by a tax agent: By the 20th day of the month following the month when income was recognised.

Tax audit process

The State Tax Committee of the Ministry of Finance of Kyrgyzstan and its local tax authorities are the only state authorities that have the right to perform tax audits. The Kyrgyzstan tax service consists of relevant subdivisions of the revenue committee of the Ministry of Finance of Kyrgyzstan and its local authorities.

A tax audit is performed based on a written notification from the Head of the State Tax Inspectorate, which specifies the name of the company to audit, the scope of the audit, and the terms of the audit. Tax audits may be performed not more than once a year by one of the tax authorities (district, city, region, or the state tax authorities) and should not last more than 30 days (50 days for large level taxpayers). If necessary, however, a tax audit may be extended for ten additional days with written approval from the State Tax Inspectorate.

Statute of limitations

The period of limitation for tax liability is six years.

Topics of focus for tax authorities

Generally, the Kyrgyz tax authorities focus on the support for profit tax deductions, correctness of tax calculations, and WHT issues during the tax audits. Recently, we have also observed a rising interest from the tax authorities in transfer pricing issues as well as sales tax and VAT on telecommunication companies.

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Significant developments

There have been no significant corporate tax developments in Macedonia during the past year.

Taxes on corporate income

Generally, all resident and non-resident legal entities operating through a permanent establishment (PE) are liable to pay corporate income tax (CIT) in Macedonia.

Macedonian resident entities are taxed on their worldwide income. Non-resident entities are taxed on the profit realised through their PE in Macedonia. Non-business organisations (including governmental bodies) are taxed on income from their business activities (if any).

The CIT rate is 10%.

The tax base for CIT is the profit realised for the current year, as determined according to the applicable accounting standards, adjusted for the amount of non-deductible expenses incurred during the fiscal year (FY).

Under the previous CIT legislation, there were two separate tax bases for CIT, which were subject to filing of two separate tax returns. In the period between FY 2009 and FY 2013, CIT was payable separately on non-deductible expenses (on an annual basis) and on financial profit (only if distributed). By means of the applicable CIT Law, the accumulated profit realised for the period FY 2009 to FY 2013 is subject to taxation at the moment of distribution. Taxpayers are obligated to cover the losses from previous years prior profit distribution.

CIT is not payable on received dividend income from domestic taxpayers, under condition that such income was taxed at the level of the payer.

Simplified tax regime for companies

Companies (except companies that provide banking, financial, and insurance services, as well as services in the field of games of chance and entertainment games) can choose to benefit from the simplified tax regime based on their overall annual income. Provided other criteria prescribed in the CIT Law are met, companies will qualify for the simplified tax regime if their overall annual income from all sources is between 3 million Macedonian denars (MKD) and MKD 6 million. These companies will pay 1% CIT on their overall income from all sources as stated in their income statement and financial statements for the respective calendar year.

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Provided their overall annual income in the following three years is within the above range, companies under the simplified tax regime cannot request to be excluded from the simplified tax regime.

Under the simplified tax regime, exemption from CIT is available for companies with an overall annual income from all sources of up to MKD 3 million.

Local income taxes

There are no municipal or local government taxes levied on corporate income.

Corporate residence

A company is resident in Macedonia for tax purposes if it is established or maintains its headquarters in the territory of Macedonia. Foreign legal entities with headquarters abroad are non-residents for tax purposes, but their Macedonian branches are liable for tax on any profit generated in the territory of Macedonia if they are considered as a PE for the foreign legal entity in Macedonia.

Permanent establishment (PE)

Generally, a PE is a fixed place of business through which the business of an enterprise is wholly or partly carried on, either directly or through a dependent agent.

More specifically, the domestic law provides that a PE may include a place of management, a branch office, an office, a factory, a workshop, mining activities, or any other place of extraction of natural resources.

A building site or construction or installation project, as well as related supervision activities, may constitute a PE if it lasts longer than six months.

Furthermore, the provision of services, including consulting services with regard to one or several related projects, is deemed to give rise to a PE if such activities last longer than 90 continuous days within any 12-month period. If one or several persons establish a PE as per above, any other non-related project on which they are working on becomes part of the PE, irrespective of its duration.

The PE should be registered as a corporate taxpayer at the beginning of its activity in the country for the purposes of obtaining a tax number.

Other taxes

Value-added tax (VAT)

In general, the VAT regulations are in line with the provisions of the sixth European Union (EU) VAT directive.

The standard VAT rate is 18%. This rate applies to overall turnover and imports of goods and services. A lower rate of 5% applies to supplies of certain goods and services, such as supply of food for human consumption; food for livestock; drinking water from public supply systems; computers and software; agricultural material and equipment; wood pellets, pellet stoves, and pellet boilers; baby products; school supplies (e.g. school backpacks, notebooks, pencils); pharmaceuticals and medical equipment; publications, such as books, pamphlets, newspapers, and other printed material, except

for publications mainly used for advertising purposes; transport of passengers; and accommodation services, bed and breakfast services, as well as half-board and full-board services provided by hotelkeepers in the country, etc.

All taxpayers whose total annual turnover exceeds MKD 1 million or whose total supplies, as projected at the beginning of the business activity, will exceed this amount are liable to register for VAT purposes.

Residents that do not meet the criteria above may voluntarily register for VAT purposes at the beginning of each calendar year.

The standard VAT period is one calendar month. However, if the total turnover in the previous calendar year did not exceed MKD 25 million, the tax period is the calendar quarter. The VAT period for voluntary VAT registered taxpayers is the calendar quarter.

The taxpayer is obligated to submit a VAT return for each tax period within 25 days following the end of the relevant tax period.

Customs duties

Customs duties generally apply to most products imported into Macedonia. The customs rates under the most favoured nation treatment for agricultural products are up to 31%, whereas the customs rates for industrial products are below 23%.

Macedonia has signed trade agreements with Turkey, Ukraine, and European Free Trade Association (EFTA) member states. The country is a member state to the Central European Free Trade Agreement (CEFTA) and has signed a Stabilisation and Association Agreement with the European Community.

The import of industrial products with preferential origin and certain raw precious metals is exempt from customs duties.

According to the Stabilisation and Association Agreement 2001 signed between Macedonia and the European Union, products with Macedonian origin can generally be exported into EU countries free of customs duties.

Excise duties

Excise duties are levied with respect to a limited number of goods produced or imported in Macedonia. Petroleum products, alcohol and alcoholic beverages, tobacco products, and passenger motor vehicles are subject to an excise duty at a flat or percentage rate. The excise period is one calendar month, and excise duty is payable within 15 days as of the end of the calendar month. The excise duty for alcohol beverages and tobacco goods is levied by way of purchasing excise stamps.

The amount of excise duty for petroleum products depends on the type of petroleum product and is payable per kilo/litre.

Alcohol and alcoholic beverages are taxable per litre/percentage of alcohol. Some categories of alcoholic beverages (e.g. wine) are not subject to excise duty. Maximum excise duty payable is up to MKD 340 per litre on pure alcohol.

The excise duty for tobacco products is combined and is calculated both per unit/kilo and as a percentage from the retail price. As of July 2014 up to July 2023, the

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rate of the specific and minimum excise duty on cigars/smoking tobacco will increase gradually every year.

The excise duty for passenger motor vehicles is calculated as a percentage of the market value or the custom value of the vehicle. It ranges from 0% for vehicles valued up to 3,000 euros (EUR) to 18% for vehicles valued above EUR 30,000.

Property tax

Property tax is paid annually on the ownership of real estate, including land (agricultural, construction, forest, and pastures) and buildings (residential buildings or flats, business buildings and business premises, administrative buildings and administrative premises, buildings and flats for rest and recreation, and other construction facilities, as well as installations constructed on the buildings or below and permanently attached to the buildings).

The person liable for property tax is the legal entity or the individual owner of the property. If the owner is not known or cannot be reached, the person liable for property tax is the user of the property. A property taxpayer may also be the taxpayer who usufructs the property; and, if the property is owned by several persons, each of them is a property taxpayer proportionately for the portion owned. A property taxpayer is also the person who uses real estate owned by the state and the municipality.

The property tax base is the market value of the real estate. The market value of the real estate is determined in accordance with the methodology prescribed by the government.

Property tax rates are proportional and range from 0.10% to 0.20%. The rates may be determined on the basis of the type of the property. As an exception, property tax rates on agricultural land not used for agricultural production may be increased outside the above range (i.e. from three to five times in relation to the basic rates).

The amount of the rates is decided by the Municipal Councils.

Transfer tax

The transfer of the right to ownership of real estate for or without compensation, as well as other means of acquiring real estate for or without compensation, between legal entities or natural persons is subject to transfer tax.

The person liable for transfer tax is the seller of the real estate. As an exception, a taxpayer may also be the buyer of the real estate if agreed in the sale and purchase agreement. When replacing real estate, the taxpayer is the party that replaces the real estate of greater value.

When selling real estate in bankruptcy and law-enforcement procedure, as well as when realising agreements on mortgage, the taxpayer may be the buyer of the real estate.

In the case of transfer of ownership of an ideal share in real estate, taxpayers are each of the owners separately.

The tax base is the market value of the real estate at the moment the tax liability arises.

When replacing real estate, the tax base is the difference between the market values of the real estate being replaced.

When selling real estate in bankruptcy and law-enforcement procedure, the tax base is the attained selling price.

The market value is determined by a special municipal commission in accordance with the methodology prescribed by the government.

Tax rates are proportional and range from 2% to 4%. The tax rates are determined by the municipal councils by way of decision.

There are certain exemptions from transfer taxes available for specifically determined cases (i.e. transfer of shares, sale of securities, the first sale of residential premises for the first five years from the end of their construction, etc.).

Stamp taxes

Stamp taxes are not payable in Macedonia.

Social security contributions and payroll taxes

Employers are obligated to calculate and withhold from employees' gross salary and pay into the accounts of respective funds the compulsory social security contributions and personal income tax (PIT). The current level of the compulsory social security contributions is as follows:

- Pension and disability insurance: 18%.
- Health insurance: 7.3%.
- Employment insurance: 1.2%.
- Additional health insurance: 0.5%.

The legislation prescribes the minimum and the maximum base for calculation of the social security contributions.

The Public Revenue Office (PRO) is the authorised body to control the calculation and the payment of the compulsory social security contributions and PIT on salaries. All employers send their calculations to the PRO that controls them and, if correct, issues a declaration of acceptance that is used by the banks to perform the payment of the social security contribution, PIT, and net salaries.

Garbage collection fee

A garbage collection fee is payable for immovable property, depending on the type of property and on the surface area used. It is calculated on the basis of a tariff and is collected together with the bills for water usage.

Communal taxes

Companies and individuals are liable for paying communal taxes for usage of certain rights and services (mainly for usage of the urban space in the municipalities, posting commercials, etc.).

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Branch income

Branch offices are registered in the Trade Registry. Branches are subject to CIT in accordance with the general statutory provisions. The foreign parent company is fully liable for the obligations of its established branch office in Macedonia.

A foreign company that is entitled to carry out commercial activities pursuant to its national legislation may establish a commercial representative office in Macedonia. Representative offices are not legal entities and may not carry out any commercial activities. Representative offices are not subject to CIT.

Income determination

Capital gains, as well as income from dividends, interest, rent, and royalties are treated as ordinary income of the taxpayer and are included in its general taxable base in accordance with accounting rules and standards. Dividend income received from domestic taxpayers is excluded from the tax base under condition that such income was taxed at the level of the payer.

Inventory valuation

There are no provisions in the tax legislation regarding inventory valuation.

Deductions

The CIT Law exhaustively lists the expenses that are not recognised for CIT purposes and are part of the CIT base.

Hidden profit distribution

The following transactions with shareholders or their related parties are considered as hidden profit distribution subject to CIT:

- Sales of goods/services on terms below the market price.
- Purchase of goods/services on terms above the market price.
- Providing loans with an interest lower than the market one.
- Arrangements under which gains are realised by the shareholders or their related parties.

Unjustified shortages are also taxed as hidden profit distribution if not reimbursed from the salary of the responsible person.

Some of the transactions above may be regulated under the transfer pricing provisions in the CIT Law as well. It seems that the purpose of these provisions is to tax the non-fair transactions with shareholders and their related parties that do not fall under the 'related-party' definition as per the CIT Law.

Non-business-related expenses

Expenses that are not related to the business activity of the taxpayer are taxable.

Depreciation

Corporate taxpayers can apply depreciation methods and rates as well as perform impairment of their fixed assets under applicable accounting standards without any tax consequences.

Goodwill

There are no specific provisions in the tax legislation with regard to goodwill.

Start-up expenses

There are no specific provisions in the tax legislation with regard to start-up expenses.

Interest expenses

Interest paid on non-business related credits of the taxpayer, as well as interest on credits for purchase of passenger vehicles, furniture, carpets, works of art, and decorative objects, is a taxable expense. Interest on business-related credit is also taxable, provided it falls under the thin capitalisation or transfer pricing rules (*see Thin capitalisation or Transfer pricing in the Group taxation section for more information*).

Uncollected receivables from loans

Uncollected receivables arising from loans (or transactions that are considered loans in their economic substance) that are not repaid in the year of granting are considered as taxable expenses. On the other hand, taxpayers are allowed to reduce their tax base in the tax period when such receivable is partially or fully collected.

Impairment and write-off of receivables

Impairment of receivables is not taxable for banks, saving institutions, and insurance companies if impaired in accordance to the methods prescribed by law. As to other corporate taxpayers, impairment of receivables is a taxable expense if not based on an effective court decision or reported and confirmed as debts in liquidation or bankruptcy procedure.

Write-off of receivables is a taxable expense for all corporate taxpayers.

Taxpayers are entitled to a tax credit for the tax paid on collected impaired receivables in the year of collection.

Charitable contributions

Donations and sponsorships expenses are taxable if not pursuant to the manner, the conditions, and the procedure set forth in the Law on Donations and Sponsorships in Public Activities. If compliant with the law requirements as per above, donations are taxable if the annual amount borne by the taxpayer exceeds 5% of its overall revenue, whereas sponsorship expenses are taxable if above 3% of the overall revenue of the taxpayer.

Subject to fulfilment of certain conditions, donations towards sport federations, organisations, clubs, and individuals could decrease the CIT liability for the year, up to prescribed percentages in the CIT Law.

Compensation expenses

Employees' related expenditures (e.g. organised transportation to/from work, organised food [cantina], business trip allowance, field allowance, family separation

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allowance, one-off severance payment, retirement allowance, annual holiday allowance, anniversary awards) are taxable if paid over the amount prescribed by law and collective agreement.

Voluntary pension insurance contributions are taxable if their annual amount per employee exceeds four average monthly gross salaries paid out in the previous calendar year.

The monthly allowances and expenses to the managing board members are tax-deductible, up to 50% of the average gross monthly salary paid out in the country in the previous year.

Expenses made for accommodation and transport of non-payroll employees engaged at the taxpayer for the purposes of its business activities are CIT deductible, provided that they are properly documented.

Insurance expenses

Personal insurance premiums paid for members of the management board and the employees (if not paid out from their salary) are taxable expenses. Only the collective insurance of the employees for work-related injuries is a non-taxable expense for corporate taxpayers.

Entertainment expenses

Expenses for gifts, business dinners, recreation, and entertainment are taxable, up to 90% of the annual amount borne by the taxpayer.

Scrapping

Expenses for scrapping exceeding the standards for the particular industry set forth in the rulebook on the standardised amounts of debris, scrap, waste, wreckage, and scattering of goods and specific products are taxable. Scrapping expenses caused by *vis major* or an uncontrollable event are not taxable.

Fines, penalties, and taxes

Fines and tax penalties, penalty interest on unpaid public duties, and expenses for enforced payments, as well as withholding tax (WHT) borne by the taxpayer on behalf of third parties, are taxable.

Net operating losses

The CIT Law stipulates that the loss realised in the income statement for the year, adjusted for the amount of non-deductible expenses, can be carried forward against future profits for a maximum period of three years as of the year when the profit has been realised.

The financial loss can be carried forward for tax purposes only in cases where the accumulated losses have been offset by the taxpayer according to the provisions from the Macedonian Companies Law and if approval by the tax authorities has been obtained.

Loss carrybacks are not allowed under the Macedonian tax legislation.

Payments to foreign affiliates

There are no specific provisions in the tax legislation with regard to payments towards foreign affiliates.

Group taxation

There are no tax consolidation provisions in Macedonia.

Transfer pricing

The transfer pricing provisions cover not only the expenses but also the revenues resulting from related party transactions. If the taxpayer incurs expenses/realises revenues from transactions with related parties that are higher/lower than the market level, the difference between the market price and the transfer price shall be considered as a taxable expense or understated revenue. Consequently, this difference would be subject to CIT.

The cost plus method, in addition to the comparable uncontrolled price method, are applicable. No reference is made to other methods accepted by the Organisation for Economic Co-operation and Development (OECD).

The part of the interest paid on loans to related parties that exceeds or is below the interest payable between unrelated parties is considered taxable unless there is reasonable justification for such differences.

Penalty interest imposed between related parties shall be considered as a taxable expense.

Transfer pricing rules do not apply on expenses for interest under credits and penalty interest paid to related parties that are banks or financial institutions.

Upon request by the Macedonian tax authorities, companies should provide enough documentation as evidence that the transactions with related parties were in line with the 'arm's-length principle'.

Thin capitalisation

A proportional part of the interest related to a loan received from a non-resident shareholder, who directly holds at least 25% of the capital in the company, that exceeds three times its share in the equity in the company will be taxable during a tax period. Thin capitalisation rules do not apply to loans received from banks or other financial organisations. Also, thin capitalisation rules do not apply for newly established companies within the first three years of operation.

Controlled foreign companies (CFCs)

There are no CFC rules in Macedonia.

Tax credits and incentives

Foreign tax credit

The taxpayer is allowed a tax credit for the tax paid on foreign income abroad, up to the amount of tax payable for that income in Macedonia. However, a tax credit for the

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WHT paid abroad is allowed only if a double tax treaty (DTT) is in place and in case the Macedonian company obtains proof for the amount of tax paid in the foreign country.

Reinvested profit

The CIT Law introduces a possibility for decreasing the tax base for the year for the amount of profit reinvested for development purposes of the local taxpayer. The amounts from the reinvested profit that would be recognised for the purposes of the above tax relief cover investments both in tangible and intangible assets, except for some explicitly listed types of assets intended for administrative purposes.

In order to be able to utilise the above tax relief, the taxpayers must maintain ownership over the assets purchased with the reinvested profit for a period of five years as of the day of their purchase.

Technological industrial development zones

A taxpayer that is a registered user within a technological industrial development zone is exempt from CIT payment for a period of ten years from the commencement of the performance of the activity in the zone or until the state aid amount is fully exhausted under terms and conditions and according to a procedure determined with the Law on Technological Industrial Development Zones.

Withholding taxes

All domestic legal entities and domestic physical persons that are registered for carrying out an activity, as well as foreign legal entities or physical persons that are non-residents but have a PE in Macedonia, are obligated to withhold tax when paying certain types of income to a foreign legal person and to pay the tax withheld to a respective suspense account simultaneously with the payment of the income.

The WHT rate is 10% and is applied on the following forms of incomes payable abroad:

- Dividends.
- Interest.
- Royalties.
- Income from entertainment or sporting activities in Macedonia.
- Income from management, consulting, financial services, or services related to research and development.
- Income from insurance or reinsurance premiums.
- Income from telecommunications services between Macedonia and a foreign country.
- Income from the lease of immovable property in Macedonia.

As an exception, WHT is not applicable to the following forms of income:

- The after-tax profit of a PE transferred to its foreign headquarters.
- Interest from bonds issued or guaranteed by the government.
- Interest on deposits in banks located in Macedonia.
- Income from transactions in state securities on the international financial markets.

If a DTT is in place, WHT shall be payable in accordance with the provisions from the DTT. Taxpayers are obligated to obtain approval from the Macedonian tax authorities prior to applying the tax rates from the DTT.

Macedonia has signed DTTs with the 49 countries listed in the chart below:

Recipient	WHT (%)			
	Dividend	Interest	Royalties	Other income
Non-treaty	10	10	10	10
Treaty:				
Albania (1)	10	10	10	0
Austria (1)	0/15	0	0	0
Azerbaijan	8	8	8	0
Belarus (2)	5/15	10	10	0
Belgium (1)	5/15	10	10	0
Bosnia and Herzegovina (2)	5/15	10	10	0
Bulgaria (2)	5/15	10	10	0
China	5	10	10	0
Croatia (2)	5/15	10	10	0
Czech Republic (2)	5/15	0	10	0
Denmark (2, 3)	0/5/15	0	10	0
Egypt (4)	10	10	10	0
Estonia (2)	0/5	5	5	0
Federal Republic of Yugoslavia (2, 5)	5/15	10	10	0
Finland (1)	0/15	10	0	0
France (1)	0/15	0	0	0
Germany (1)	5/15	5	5	0
Hungary (2)	5/15	0	0	0
India (11, 12, 13)	10	0/10	10	0
Iran	10	10	10	0
Ireland (6)	0/5/10	0	0	0
Israel (4, 14)	5/15	10	5	0
Italy (2)	5/15	10	0	0
Kazakhstan (2)	5/15	10	10	0
Kosovo (2)	0/5	10	10	0
Kuwait	0	0	15	0
Latvia (1, 7)	5/10	5	5/10	0
Lithuania (1)	0/10	10	10	0
Luxembourg (2)	5/15	0	5	0
Moldova (2)	5/10	5	10	0
Morocco	10	10	10	0
Netherlands (1)	0/15	0	0	0
Norway (2)	10/15	5	5	0
Poland (2)	5/15	10	10	0
Qatar	0	0	5	0
Romania	5	10	10	0
Russia	10	10	10	0
Saudi Arabia (16)	5	0/5	10	0
Slovakia	5	10	10	0
Slovenia (2)	5/15	10	10	0
Spain (1)	5/15	5	5	0
Sweden (2)	0/15	10	0	0
Switzerland (2)	5/15	10	0	0
Taiwan	10	10	10	0
Turkey (2)	5/10	10	10	0

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Recipient	WHT (%)			
	Dividend	Interest	Royalties	Other income
Ukraine (2)	5/15	10	10	0
United Arab Emirates (15)	0/5	0/5	0/5	0
United Kingdom (9, 10)	0/5/15	0/10	0	0
Vietnam (4, 14)	5/10/15	10	10	0

Notes

1. The lower rate applies to dividends paid out to a foreign company that controls at least 10% of the share capital of the payer of the dividends.
2. The lower rate applies to dividends paid out to a foreign company that controls at least 25% of the share capital of the payer of the dividends.
3. The zero rate applies to dividends paid out to pension funds.
4. These DTTs are still not in force.
5. The DTT with Federal Republic of Yugoslavia now applies both to Serbia and Montenegro.
6. The zero rate applies to dividends paid out to recognised pension funds and to foreign companies that continuously control at least 25% of the share capital of the payer of the dividends for 12 months before the dividends payment. The 5% rate applies to dividends paid out to foreign company that controls at least 10% of the share capital of the payer of the dividends. The 10% rate applies to dividends paid out in all other cases.
7. The tax rate of 10% for royalties payments applies only for utilisation or right to utilise cinematographic films and films or tapes for radio and television transmission. The 5% rate applies on all other cases.
8. The DTT concluded by the Socialist Federal Republic of Yugoslavia (SFRY) is still applicable for Macedonia.
9. The zero rate applies to dividends paid out to pension schemes and to foreign companies that continuously control at least 25% of the share capital of the payer of the dividends for 12 months before the dividends payment. The 5% rate applies to dividends paid out to foreign company that controls at least 10% of the share capital of the payer of the dividends. The 15% rate applies to dividends paid out in all other cases.
10. The zero rate applies on interest paid on loans or prolonged credit paid from one enterprise to another enterprise and, on interest paid to the other contracting state, to one of its political divisions or municipalities or public entities of that state.
11. The zero rate applies in case the beneficial owner of the interest is the government, political or municipality subdivision; the Indian Reserve Bank, the Indian Export-Import Bank, and National Housing Bank; or any other institution based on additional agreement via exchange of letters by the authorised institutions.
12. The 10% rate applies on gross income from royalty or income from technical services (compensation for managerial, technical, and consulting services, income from services of technical and consulting personnel that is different from the income derived under article 14 and article 15 of the DTT).
13. The zero rate does not apply to income from lottery, races and horse races, card games, and other games of chance.
14. The 5% of the gross amount of dividends applies if the beneficial owner directly holds at least 70% of the share capital of the company paying the dividend. 10% applies if the beneficial owner directly holds at least 25% but less than 70% of the share capital of the company paying the dividend. 15% applies in all other cases.
15. Interest, royalties, and dividends paid to a resident of the other contracting state shall be taxable only in the other contracting state if the beneficial owner of the income is that other state itself, local government, local authority or the Central Bank thereof, Abu Dhabi Investment Authority, Abu Dhabi Office, International Petroleum Investment Company, Abu Dhabi Investment Council, Dubai Investment Company, Mubadala Development Company, United Arab Emirates (UAE) Investment Authority, Al Dafra Holding Company, or any other institution created by the government, a local authority, or a local government of that other state.
16. The interest tax rate under the DTT would be 0% in case the payer or the beneficial owner of the income is the government, an administrative subdivision, a local authority, the Central Bank, or any other financial institution wholly owned by the government.

Tax administration

Taxable period

The taxable period for which CIT is determined covers one calendar year.

Tax returns

Taxpayers are obligated to calculate and pay CIT on the basis of a CIT return, which must be submitted to the Public Revenue Office by the end of February of the following year or, if filed electronically, by 15 March of the following year.

Taxpayers who distribute profit arising from FY 2009 to FY 2013 are obligated to calculate and pay CIT on the basis of a tax return on profit distribution, which should be submitted to the tax authorities up to the date of profit distribution.

Small taxpayers who fall under the simplified tax regime are obligated to calculate and pay the tax due on the basis of a tax return on overall income, which should be submitted to the tax authorities by the end of February of the following year or, if filed electronically, by 15 March of the following year.

Payment of tax

Corporate taxpayers are obligated to pay monthly CIT advance payments during the year within 15 days of the end of each month.

Monthly CIT advance payments are calculated as one-twelfth of the CIT obligation for the previous calendar year, increased by the index of cumulative retail price growth as determined by the State Statistical Bureau.

The difference between the advance payments and the final CIT liability as determined in the CIT return should be paid within 30 days as of the deadline for submission of the CIT return. Daily penalty interest of 0.03% is due on late tax payments.

In case the sum of monthly advance payments exceeds the final tax liability in the CIT return, the taxpayer may request for a refund of overpaid tax. The tax should be refunded within 60 days as of the date of submitting the request. If the taxpayer does not ask for a tax refund, the overpaid amounts will be considered as advance payment for the following period.

Tax audit process

The tax audit may include one or more taxes, one or more fiscal periods, or only certain tax issues. The extent of the tax audit is determined solely by the tax authorities and is based on their estimation of risk in respect of the specific taxpayer. VAT audits are commonly conducted when VAT refund is requested by the taxpayer, and, in this case, the tax audit is usually limited in the area of VAT. The advance notice for tax audit for large taxpayers and concerns is four weeks, whereas the advance notice for all other taxpayers is two weeks. In cases where the tax authorities find that it would represent an obstacle for the tax audit, an advanced notice will not be given to the taxpayer.

Statute of limitations

The statute of limitations is five years as of the end of the calendar year in which the tax event occurred. In case of tax evasion, the statute of limitations is ten years as of the end of the calendar year in which the tax event occurred.

Topics of focus for tax authorities

There are currently no topics of particular focus for the tax authorities.

Other issues

Choice of business entity

The Macedonian Trade Companies Law provides for the following types of entities:

- General partnerships.
- Limited partnerships.
- Limited liability companies.
- Joint stock companies.
- Limited partnerships by shares.
- Foreign business entities may register a branch office or a representative office in Macedonia.

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Significant developments

Corporate income tax (CIT)

As of 1 January 2018, expenses from financial allocations for the benefit of trade unions are deductible up to 0.15% of the payroll fund if used in accordance with the collective labour agreement. This amendment applies starting with 1 January 2017.

At the same time, starting with 1 January 2018, expenses for granting meal tickets are deductible within the limits provided by law.

Starting with 1 January 2018, taxpayers may opt for the new methodology for calculating fixed assets' depreciation for tax purposes. Thus, fixed assets' evidence may be held for each asset in part by applying the straight-line method of depreciation. Starting with 2019, the new methodology shall be mandatory.

The tax rate on income from operational activity of small and medium enterprises that are not registered as value-added tax (VAT) payers has been increased to 4%. The conditions for applying this regime have also been modified.

Payroll taxes

As of 1 January 2018, all payroll taxes are reported through a unified tax return by the 25th day of the month following the reporting one.

Health insurance contributions are to be paid by 25th day of the month following the one in which salary and other compensations were paid.

In addition, as of 1 January 2018, the taxable income for health insurance contributions purposes has been mostly aligned to that of personal income tax (PIT).

Value-added tax (VAT)

Starting with 1 January 2018, the list of VAT-related terms has been amended and extended in line with European Union (EU) Directives.

The 8% VAT rate applies to thermal energy produced from solid biofuels and delivered to public institutions.

The ceiling for registering as a VAT payer has been increased to 1.2 million Moldovan lei (MDL).

Additional specifications have been provided for the place of goods and services delivery.

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Excise duties

The list of excise duties terms has been amended and extended in line with EU Directives. Articles of jewellery made from precious metals have been excluded from the list of excisable goods.

Tax administration

Starting from 1 January 2018, the 50% fine reduction for tax infringements is also to be applied for social security and health insurance contributions.

Law on information technology (IT) parks

Starting from 1 January 2017, a new law on IT parks entered into force. Following it, the first IT park started its activity in January 2018. The law provides for certain tax incentives for the IT parks' residents.

Under this law, each park resident is subject to a single tax of 7% of sales income, but not less than the minimum amount due per employee. The minimum amount of single tax per employee is set at 30% of the national average forecasted salary for that year.

Taxes on corporate income

Resident companies generally must calculate their taxable base for CIT purposes on their worldwide income. Permanent establishments (PEs), unlike resident companies, are only required to calculate their taxable base for CIT purposes on income sourced in Moldova.

The CIT rate is 12%. If the Moldovan Tax Authority (MTA), applying indirect methods, re-assesses the income amount compared to the declared gross income, a 15% CIT rate may be applied to the excess amount.

Individual entrepreneurs are subject to progressive rates of 7% for annual income up to MDL 33,000 and 18% for annual income exceeding MDL 33,000.

Farming enterprises are subject to a 7% CIT rate.

Small and medium companies that are not registered as VAT payers may opt for a special CIT regime of 4% on their turnover (under specific conditions).

Local income taxes

There is no separate CIT at the local level. CIT is distributed between the national state budget and local budgets depending on the establishment of the entity and its subdivisions in accordance with the existing rules.

Corporate residence

According to Moldovan tax law, a tax resident is a legal entity organised or managed in Moldova or that has its main place of business in Moldova. In practice, tax residency is determined by the place of incorporation.

Permanent establishment (PE)

Based on the Moldovan tax law, a PE is a fixed place of business through which a non-resident carries out, wholly or partly, either directly or through a dependent agent, entrepreneurial activity in the territory of Moldova.

Due to the regulatory environment in Moldova, as well as certain difficulties in operating a PE in Moldova, foreign enterprises operating through a PE in Moldova are not common.

Other taxes

Value-added tax (VAT)

The standard VAT rate in Moldova is currently 20%. It is generally applied to local supplies of goods and services as well as to goods subject to import and services subject to the reverse-charge mechanism.

Apart from the above, certain types of supplies are subject to reduced VAT rates. For instance, local supplies of bread and bakery products; milk and dairy products; transport and distribution of natural gases services; biofuels used for electricity, heating, and hot water production; and specific phytotechnical, horticultural, and zootechnical products are subject to the reduced 8% VAT rate.

A number of supplies are VAT exempted with the right to be deducted, including international transportation and exports of goods or services. Certain supplies are VAT exempted without a deduction right, including financial services and the sale or rental of dwellings and land.

Input VAT

Input VAT incurred on acquisitions of goods and/or services may be deducted, provided it is incurred by a VAT-registered payer to perform VATable supplies within its business activity.

If input VAT relates to acquisitions destined to perform mixed supplies (i.e. both VATable and VAT-exempt ones), the input VAT deduction right is exercised on a pro-rata basis.

VAT refunds

Should a company register a deductible input VAT exceeding its output VAT, this balance can be partially refunded only if the company carries out a specific range of business activities (e.g. export supplies, international transportation services, production of bakery and dairy products, leasing activity). Otherwise, such VAT amount may be carried forward to the following months, offset against the company's future output VAT liabilities.

Additionally, VAT payers performing capital investments in Moldova may be entitled to refund the recoverable VAT related to these kinds of capital investments, provided such assets are used for product manufacture, service supply, and execution of works.

The possibility to refund the VAT against future obligations to the national public budget is also available, at the request of taxpayers not having debts to the national public budget.

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VAT administration

A company is required to register for VAT purposes if the total turnover within the last 12 consecutive months reached the threshold of MDL 1.2 million. Also, companies can follow voluntary registration for VAT purposes if they only intend to perform taxable supplies.

All VAT payers registered for VAT purposes must submit electronic tax returns. VAT liabilities must be declared and settled monthly no later than the 25th day of the month following the reporting one.

Generally, VAT payers are required to issue VAT invoices for the VATable supplies performed, as well as to keep detailed records of their acquisitions and supplies in the correspondent VAT ledgers, according to a set of specific rules.

Additionally, all companies registered as VAT payers are required to register their VAT invoices with a taxable basis exceeding MDL 100,000 in the general electronic register of VAT invoices within ten working days from the date of issuing (with some specific exceptions).

VAT payers are entitled to a deduction of the amount of VAT paid to suppliers for material values and services purchased in Moldova if the VAT invoice is not registered by the seller in the register only on condition that the tax authorities are duly informed of such non-registration of VAT invoice.

Customs duties

Moldova's current customs framework is regulated by the Customs Code, Law on Customs Tariff, International Agreements concluded by Moldova to date, and by other legal acts.

Customs duties include customs procedural taxes, customs taxes, VAT, and excise duties. In general, any kind of goods and means of transport may enter and leave the territory of Moldova without any restriction. However, certain limitations specifically provided by the legislation are in force, which cover goods and means of transport crossing the border by breaching state security, public order, environment, etc.

Customs regimes

Definitive and suspensive customs regimes are provided under Moldovan law.

Definitive customs regimes refer to import and export, while suspensive customs regimes comprise transit, bonded warehouse, inward processing relief (with suspension), processing under customs control, temporary admission, and outward processing relief.

Customs valuation

Under Moldovan customs legislation, the customs valuation is generally performed in accordance with the customs valuation principles in the General Agreement on Tariffs and Trade (GATT).

The customs value is determined based on one of the six provided valuation methods (i.e. transaction value, transaction value of identical goods, transaction value of similar goods, deductive value, computed value, and reserve method). If the first method is not applicable, then the second method should be applied and so forth.

Preferential tariff treatment

Moldova has concluded free trade arrangements (FTAs) to date with most of the Commonwealth of Independent States (CIS) countries and is also a Central European Free Trade Agreement (CEFTA) contracting state. A preferential tariff treatment is granted for specific categories of goods, depending on their origin and in accordance with the FTAs to which Moldova is a party.

Also, further to the Association Agreement with the European Union, the customs duties on goods originating in the other party are eliminated. The origin of goods can be proven with an EUR.1 movement certificate or an origin declaration.

Customs duties applicable on imports performed in the Republic of Moldova are eliminated, except for products free of customs duties within the limits of the tariff quotas. In case these limits are exceeded, the most-favoured-nation customs duty rate shall apply.

Customs duties applicable on imports performed from the European Union are eliminated, except for the following products:

- Products free of customs duties within the limits of the tariff quotas. In case these limits are exceeded, the most-favoured-nation customs duty rate shall apply.
- Products subject to entry price for which the *ad valorem* component of the import duty is exempted.
- Products subject to the anti-circumvention mechanism.

Elimination of the customs duties on some specific categories of goods will be gradually made.

Favourable tariff treatment

A favourable tariff treatment presumes a reduction or an exemption from customs duty upon import of specific goods into Moldova, depending on their type or final destination, according to domestic customs law or international agreements to which Moldova is a party.

Moldovan customs law provides the following exemptions, among others, from customs duty:

- Goods imported by individuals for personal use, not exceeding a specific threshold.
- Goods released in Moldova under transit, bonded warehouse, or inward processing relief regimes.
- Moldovan goods previously exported and released back within a three-year term in the same status, as well as compensatory products obtained under outward processing relief.
- Certain movable goods imported by legal entities carrying out leasing activities for the purpose of paying off their contractual liabilities derived from lease agreements concluded with Moldovan individuals or legal entities.
- Goods imported by legal entities for non-commercial purposes whose customs value does not exceed 100 euros (EUR).
- Samples of goods with customs value not exceeding EUR 22 for one import operation.

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- Aircraft, helicopters, locomotives, multiple units for railways providing public transportation of passengers, and parts thereof (only certain tariff headings as provided by law).
- Certain vehicles imported free of charge (donation), regardless of the exploitation term, for certain special purposes.

Customs administration

Moldovan customs legislation provides for:

- the concepts and procedures of post clearance audit
- the obligation of individuals and companies to maintain the necessary documents for customs control for five years, and
- the obligation of individuals and companies that perform external trade transactions to maintain the related documents for the purposes of post clearance audit for five years.

The Customs Service of Moldova uses procedures for issuing binding tariff and binding origin information. Additionally, companies may use the electronic procedure of customs clearance for the export of goods, as well as specific simplified customs procedures.

Excise duties

Excise duties apply to the production and import of cars, tobacco, alcohol, petrol and lubricants, and other goods. Special excise rates for each type of excisable goods are established in the tax code. The rates are widely variable and are based on multiple factors. The excise duty rates are generally indicated as a percentage applied to the value of goods or as a fixed amount for a certain quantity of excisable goods. However, for specific types of excisable duties, mixed excise duty rates are applicable.

The following are liable for excise duties:

- Any individual or legal entity producing and/or processing excisable goods on the territory of Moldova.
- Any individual or legal entity importing excisable goods, unless there is no specific exemption provided.

Businesses or individuals that produce and/or process excisable goods on the territory of Moldova (or intend to do so) must possess excise duty certificates, which must be granted by the tax authorities before these operations are actually carried out. It is mandatory for individuals or businesses, upon submitting the relevant applications to the tax authorities, to attach the details of the excise premises.

Under certain circumstances, excise duty exemptions may apply. Some excise-liable goods are subject to mandatory excise stamp marking and labelling.

Tax on immovable property

Tax on immovable property is a local tax paid on real estate (i.e. land and/or construction on the land) by the property owner or owner of material rights. Residents and non-residents owning real estate located in the territory of Moldova have similar obligations.

The 0.3% rate on immovable property used for entrepreneurial activity is applied either on the property's estimated value (if such exists) or on its book value, while the maximum tax rate on property used for agricultural activities is 0.1% of the property's book value.

Tax rates for real estate housing, including villages (communes) from Chisinau and Balti municipalities, are generally higher than for real estate housing from other municipalities.

Separate rates are applicable for agricultural land with construction buildings on it.

Tax on immovable property is paid in equal instalments on 15 August and 15 October for property owned before 30 June. For property acquired after 30 June, the tax is paid by 25 March.

Companies and individual entrepreneurs who own immovable property will be obligated to declare the immovable property tax by 25 July of the current fiscal period.

In the event of an owner change during the fiscal year, the previous owner may request recalculation of the real estate tax in proportion to the period in which they were subject to taxation.

Transfer taxes

Transfer taxes may be applied for notary acts performed by authorised notaries and other persons empowered by law. Transfer taxes are applied upon authentication by a notary of sale-purchase agreements regarding plots of land; transfers of houses into private property; alienation agreements of houses, apartments, garages, and other constructions; authentication of mortgage agreements; and other evaluative contracts.

Stamp taxes

According to the law on state tax, stamp tax (state duty) is the amount charged by specifically authorised state bodies from individuals and legal entities for the exercise of certain actions or issuance of legal documents of interest to them.

Stamp taxes may be applied for, but not limited to, the following:

- Claims submitted to courts of justice.
- Registration of civil status documents.
- Issuance of passports to Moldovan citizens and other related documentation.
- Residence registration.
- Redemption of goods from the state.
- Registration of mortgage, for issue of extracts from the Real Estate Register.
- Notary acts (i.e. for notarisation of sale-purchase agreements of immovable assets).
- Application of the apostil.

Payroll taxes

Salaries and other remunerations provided by an employer to its employees are subject to personal income tax (PIT). Thus, an employer is liable to withhold and pay PIT from employees' taxable income, as follows:

- 7% for annual income up to MDL 33,000 (limit applicable for 2018).
- 18% for annual income that exceeds MDL 33,000 (limit applicable for 2018).

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Also, there are available deductions, each resident taxpayer being allowed to claim a personal allowance and allowance for spouse of MDL 11,280 a year and allowance for each dependant of MDL 2,520.

All payroll taxes are reported through a unified payroll tax return by the 25th day of the month following the reporting one.

Social security contributions

Employers must pay social security contributions of 23% of their employees' gross salary and other recompense to the Social Security Fund. Employees pay an individual contribution in the amount of 6% of their gross salary and other recompense. The legislation provides an annual fixed social security contribution for other categories of taxpayers in an amount approved for each year (e.g. MDL 8,424 applicable for 2018).

Companies report their social security contribution liabilities on a monthly basis (with certain exceptions) through the unique payroll tax return. The social security contribution due by both employer and employee must be transferred by the employer to the budget no later than the 25th day of the month following the reporting one.

A fine equal to double the amount of social security contributions is applied in case of diminishing or hiding the salary funds and other remuneration and the related social security contributions.

Health insurance contributions

The mandatory health insurance contribution, computed as a percentage of wages and other remuneration, is established at 4.5% for each payer category (employers and employees). The legislation also provides for an annual fixed amount of health insurance contribution paid by other categories of taxpayers in an amount approved for each year (e.g. MDL 4,056 applicable in 2018).

The mandatory health insurance contributions are declared on a monthly basis through the unique payroll tax return. The mandatory health insurance contribution due by both employer and employee must be transferred to the budget by the 25th day of the month following the moment of payment of salary and other remunerations.

As of 1 January 2018, the taxable income for health insurance contributions purposes has been mostly aligned to that of PIT.

A fine equal to the amount of contributions is applied in case of diminishing or hiding the salary funds and other remuneration from which the compulsory health insurance contributions are due.

Environmental pollution payments

Payments for environmental pollution are administered by the MTA. Subject to these payments are producers, importers, and/or purchasers of the specific types of goods that, during their usage, produces pollutants.

Companies should generally submit reports on environmental pollution payments on a monthly basis. The environmental pollution payments due by a company must be transferred to the budget no later than the 25th day of the month following the reporting one.

Road taxes

Road taxes are fees collected for the use of roads and/or protection zones of the roads outside the locality limits.

The system of road taxes includes the following:

- Tax for the use of roads by vehicles registered in Moldova.
- Tax for the use of roads of Moldova by vehicles not registered in Moldova (vignette).
- Tax for the use of roads by the vehicles with total mass, axle loads, or dimensions exceeding the admitted limits.
- Tax for the use of road protection zones outside the localities for carrying out construction or installation works.
- Tax for the use of road protection zones outside the locality limits for placing outdoor advertisements.
- Tax for the use of road protection zones outside the locality limits for placing roadside service objects.

Depending on the type of road tax, the tax law establishes the taxable person, deadlines for payment of the road tax, tax rates, exemptions (e.g. a legal entity or an individual shall pay road tax on vehicles registered in Moldova (i) on the date of state registration of vehicle or (ii) on the date of the vehicle inspection/annual technical testing of the vehicle).

Road tax rates for the use of roads by vehicles registered in Moldova vary depending on the type of vehicle and its specific characteristics (engine capacity, weight, etc.).

The fixed tax rates for vignette vary from EUR 4 to EUR 85, depending on the period the vehicle stays in the territory of Moldova.

Local taxes and duties

Local taxation in Moldova refers to the application of the following main types of taxes and duties:

- Taxes on the following natural resources:
 - Water.
 - Mineral exploration.
 - Geological exploration.
 - Mining operations.
 - Usage of underground areas for the construction of underground structures not related to mining operations.
 - Exploitation of underground structures within the performance of entrepreneurial activity, not related to mining operations.
 - Standing wood.
- Tax on immovable property.
- Duty for the right to perform local auctions and lotteries.
- Tax on advertising placement and tax on advertising devices.
- Fee for the right to use local symbols.
- Land improvement duty.
- Tax for commercial and/or services providing units.
- Parking tax.
- Hotel room occupancy tax.
- Resort fee.

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Local authorities are authorised to establish the levels of tax rates for local taxes.

Branch income

Branches

Moldovan law does not distinguish between branches of non-resident companies and local companies established by a foreign investor. A non-resident's branch is established and registered in Moldova as a legal enterprise fully owned by the foreign investor. As such, it is subject to the same tax regime as local incorporated companies.

On the other hand, the concept of a tax PE does exist in Moldova. Generally, the PE of a non-resident entity will be subject to CIT in Moldova on any profits attributable to that PE. Since there is no local concept of a legal branch that is not a legal entity, non-residents do not typically intentionally operate in Moldova through a taxable PE.

Representative offices

Representative offices are often established by non-resident entities as a first step to operating in Moldova. According to the tax law, a representative office can engage only in auxiliary or preparatory activities. A representative office can perform only a limited range of activities without being considered a PE of the non-resident.

All representative offices must submit, by 25 March of the year following the reporting year, the required Tax Reporting Statement on the activity conducted during the year concerned.

Income determination

Resident legal entities are taxed on their worldwide income, while non-resident entities are taxed on their Moldovan-source income. Taxable income is computed as accounting profit adjusted in accordance with tax legislation.

Inventory valuation

Under the National Accounting Standards, the following inventory valuation methods are mandatory: specific identification, first in first out (FIFO), and weighted average cost.

Assets are generally valued at their acquisition cost, production cost, or market value.

Capital gains

Taxable gain is generally calculated as 50% of the difference between the sale price and the fiscal value of the capital assets (i.e. all costs related to the acquisition of capital assets). This taxable portion of the capital gain is then taxed at the standard tax rates.

This capital gain should be included in the total gross amount of income for the year in which the capital assets were sold (alienated). Capital gains may be decreased by capital losses registered in the current or previous year. Some examples of capital assets include shares, plots of land, options to purchase or sell capital assets, etc.

Specific exemptions might be applied in relation of certain transactions with capital assets.

Dividend income

Starting with profits earned in 2012, dividends paid by Moldovan legal entities to other Moldovan legal entities are taxed with the applicable final 6% withholding tax (WHT), while the distribution of dividends from profit earned during the period between 2008 and 2011 remain subject to the previously applicable final WHT of 15%.

Dividends received by Moldovan legal entities from foreign legal entities are included in taxable income and taxed at the applicable 12% CIT rate. According to Moldovan legislation, the beneficiary of such dividends is entitled to a credit for the tax paid in the foreign country, within certain limits.

Interest income

In general, the interest income derived by legal entities is included in the total taxable amount and taxed at the applicable 12% CIT rate unless a specific exemption is provided (e.g. interest from state bonds).

Royalty income

Royalties are defined as payments of any kind received in consideration for the use of, or the right to use, any copyright and/or ancillary right of a literary, artistic, or scientific work, including moving pictures, patent, trademark, design or model, plan, software, secret formula or process, or for information concerning industrial, commercial, or scientific expertise.

The following specific types of payments are not considered royalty under the Moldovan tax law:

- Payments for software purchase, intended solely for the operation of that software, including its installation, deployment, storage, customisation, or updating.
- Payments for the full acquisition of a software copyright or a limited right to copy it solely for the purpose of its use by the user or for the purpose of selling it under a distribution contract.
- Payments for obtaining the rights to distribute a product or service without giving the right to reproduction.
- Payments for access to satellites through the hiring of transponders or the use of cables or pipelines for the transport of energy, gas, or oil, where the customer is not in possession of transponders, cables, pipes, fibre optics, or similar technologies.
- Payments for the use of electronic communications services in roaming agreements, radio frequencies, and electronic communications between operators.

In general, royalties derived by legal entities are included in the total taxable amount and taxed at the applicable 12% CIT rate.

Exchange gains and losses

Revenues obtained from foreign exchange differences are to be included in taxable income. Foreign exchange losses are CIT deductible in the period they are incurred.

In certain circumstances (e.g. high depreciation of the national currency), foreign exchange differences should be capitalised to the value of assets in relation to which the expenses were incurred.

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Non-taxable revenues

Moldovan tax law provides for the following main types of non-taxable revenues:

- Contributions to the capital of an entity.
- Income earned while benefiting from income tax incentives.
- Money received from special funds in the form of grants from government-approved programmes.
- Income from reversing impairment losses on depreciation of fixed and other assets.
- Income obtained under international projects and grants that contribute to the long-term development of education and research.

Foreign income

Resident legal entities are taxed on their worldwide income. The legal entities, under certain conditions, can benefit from tax credits provided under a double tax treaty (DTT) or can apply for unilateral tax credits against income tax paid in any foreign country if this income is subject to taxation in Moldova. Such tax credit shall not exceed the amount that would have been estimated at the CIT rate applicable in the given tax period. Otherwise, there is no specific tax deferral regime.

Deductions

As a general rule, expenses incurred by a company are deductible for CIT purposes only if they are deemed as ordinary and necessary, aimed at deriving taxable income, and justified with adequate supporting documentation.

The rate of deductible expenses for business purposes (ordinary and necessary) that are not adequately supported by necessary documentation is 0.2% from taxable income.

Depreciation and amortisation

Fixed assets are subject to CIT depreciation under the diminishing-balance method if their useful economic life exceeds one year and acquisition costs exceed MDL 6,000.

According to the fiscal law, fixed assets are divided into five categories of property. These categories are set out according to specific rules, mainly on the assets' useful life (i.e. the number of years during which the assets' utilisation generates economic advantages; the useful life for each type of depreciating asset is regulated by governmental decision). The depreciation rates vary as follows:

- First category (e.g. buildings): 5%.
- Second category (e.g. constructions): 8%.
- Third category (e.g. roads, certain equipment): 12.5%.
- Fourth category (e.g. industrial equipment): 20%.
- Fifth category (e.g. cars, computers, furniture): 30%.

Starting with 1 January 2018, taxpayers may opt for a new methodology for calculating fixed assets' depreciation for tax purposes. Thus, fixed assets evidence may be held for each asset in part by applying the straight-line method of depreciation and not for groups of assets. Starting with 2019, the new methodology shall be mandatory.

Intangible assets are subject to CIT amortisation according to the straight-line method. Moldovan tax law does not contain specific provisions regarding the useful life for intangible assets for tax purposes.

Goodwill

According to the National Accounting Standards, goodwill is not recognised as an intangible asset.

Start-up expenses

According to the National Accounting Standards, start-up expenses incurred by companies (e.g. stamp taxes paid upon company registration, drawing up of registration documents, manufacture of stamp) are not recognised as an intangible asset. Therefore, such expenses are to be treated as current expenses.

Interest expenses

Different CIT deductibility rules apply for interest on loans used for carrying out operational activities and for loans used for investment activities performed on an occasional basis.

As a general rule, deductions for interest expenses are allowed for CIT purposes, provided such expenses are deemed as ordinary and necessary for carrying out the activities of the business. Expenses should also be incurred for the purposes of obtaining taxable income and justified by adequate backup documentation.

If the interest paid by a Moldovan company relates to its operational or day-to-day activities, the related expenses are deductible for CIT purposes, taking into account the following:

- Interest expenses incurred by businesses, based on loan agreements, for the benefit of individuals and legal entities (except financial institutions, micro-financing organisations, and leasing companies) are deductible for CIT purposes within a specific limit established by law. Specifically, such interest expenses are deductible up to the limit of the average weighted interest rate on credit loans offered by banks to legal entities, depending on the period of the loan and its currency (e.g. different limits are applied for loans in Moldovan lei and those in foreign currency).
- If the loan is obtained for the purpose of acquiring/building fixed assets, the related interest expense should be capitalised to the initial fiscal value of such assets until they are put into exploitation. The deductibility of such interest expense is capped at the above limit. The excess difference is treated as a non-deductible expense for CIT purposes.

If interest relates to an investment activity, the interest expense is deductible for CIT purposes within the limit of the income derived from the investment.

Bad debt

Bad debts are deductible for CIT purposes, provided certain conditions are fulfilled and justifying documents are made available.

Charitable contributions

Charity and sponsorship expenses are deductible for CIT purposes if borne for the benefit of public authorities and public institutions financed from the state budget, as

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well as non-profit organisations and family-type foster homes within certain conditions, at up to 5% of taxable income.

Fines and penalties

Fines and penalties related to CIT, related to other taxes and due payments to the state budget, or for violations of legal acts are not deductible for CIT purposes.

Taxes

CIT incurred in line with requirements of the Moldovan tax law is not deductible for CIT purposes.

Other taxes are generally deductible for CIT purposes, except those paid on behalf of another person.

Other significant items

Among others, the following expenses are also generally deductible for CIT purposes:

- Research and development (R&D) expenses incurred during the fiscal year as current expenses, should certain conditions be met.
- Business trip expenses, protocol expenses, and expenses on insurance of business entities, within the limits approved by the government.
- Waste, spoilage, and perishability expenses, within the threshold approved by the company's manager.
- Leasing companies are allowed to deduct provisions to cover claims related to non-recovery of lease rates and interest rates up to 5% from the weighted average balance from the account receivables, provided certain conditions are met.
- Financial institutions are allowed to deduct loss loan provisions of assets and conditional commitments calculated according to International Financial Reporting Standards (IFRS).
- Micro-finance organisations are allowed to deduct loss loan provisions calculated according to requirements established by the National Commission on the Financial Markets.

Non-deductible expenses

Among others, the following expenses are generally not deductible for CIT purposes:

- Expenses not adequately supported by necessary documentation, except the 0.2% rate *as mentioned above*.
- Provisions, except for financial institutions, micro-finance organisations, and leasing companies *as mentioned above*.
- Losses incurred from transactions between affiliated parties.

Fiscal losses

Fiscal losses may only be carried forward for five consecutive years following the year the losses were incurred, provided the company records taxable income. If the company recorded fiscal losses for more than one year, such losses are carried forward in the order in which they arose. Fiscal losses are recorded on off-balance-sheet accounts.

Losses may not be carried back.

Payments to foreign affiliates

A Moldovan legal entity generally may deduct expenses related to payments to foreign affiliates to the extent that these amounts were actually paid and are not in excess of what it would have paid to an unrelated entity (i.e. arm's length). However, the payer is required to hold documentary evidence for the actually performed transactions. Still, certain types of expenses may follow general rules of deductibility that would limit their amount (e.g. interest expenses on loan agreements).

Group taxation

Moldovan tax law does not provide for group taxation.

Transfer pricing

Currently, transfer pricing regulations in Moldova are at an initial development stage. Formal transfer pricing documentation requirements might be introduced in the Moldovan tax law in the near future.

Moldova is currently not an Organisation for Economic Co-operation and Development (OECD) member country, and the domestic law does not provide for any reference to the possibility of applying the OECD Transfer Pricing Guidelines.

As a general rule, under Moldovan tax provisions, transactions concluded between related persons are taken into consideration only if the interdependence of these persons does not influence the outcome of the transaction. The arm's-length principle applies to transactions with both resident and non-resident related parties.

With reference to the transactions carried out by Moldovan companies with related parties, Moldovan tax law provides the following specific provisions:

- No deduction is allowed for losses incurred on the sale or exchange of property, performance of work, or supply of services between related parties, carried out either directly or through intermediaries (regardless of whether the transaction price corresponds to the market value).
- No deduction is allowed for expenses incurred in relation to related parties if no justification is available for payments and if such expenses do not represent necessary and ordinary business expenses.

In accordance with Moldovan tax law, a company is considered the taxpayer's related party if one of the following conditions exists:

- The company controls the taxpayer.
- The company is controlled by the taxpayer.
- Both the company and the taxpayer are under common control of a third party.

From a tax perspective, control is the ownership (either directly or through one or more related persons) of 50% or more in value of the capital or voting power of one of the companies. For this purpose, an individual will be treated as owning all equity interest that is directly or indirectly owned by members of one's family.

Two individuals are related parties if they are spouses or relatives up to the fourth degree.

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Thin capitalisation

Moldovan tax law does not provide for a specific thin capitalisation regime.

The deductibility of interest expenses follows the deductibility regime as described under Interest expenses in the Deductions section.

Controlled foreign companies (CFCs)

Moldovan tax law does not contain CFC provisions.

Tax credits and incentives

Foreign tax credit

Income tax paid in any foreign country, if this income is subject to taxation in Moldova, is allowed for tax credit, provided that the taxpayer submits a document that justifies payment (withholding) of the income tax outside of Moldova, certified by the competent body of the respective foreign country, with its translation into the state language.

The amount of tax credit for any taxable year should not exceed the amount that would have been estimated at the rate applicable in Moldova with regard to this income.

A tax paid in a foreign country should be creditable for the year in which the income is taxable in Moldova.

Free entrepreneurial zones (FEZs)

FEZs are territories where domestic and foreign investors can carry out entrepreneurial activities on preferential terms (i.e. favourable tax, customs, visa, and other regimes). There are currently seven FEZs in Moldova.

The following types of activities may be carried out in an FEZ:

- Production of goods preferentially for export, excluding alcohol and alcoholic products.
- Sorting, packing, marking, and other similar operations of goods transiting the customs territory of Moldova.
- External commercial activities.
- Other supportive activities.

There is also an international free port (Giurgiulesti International Free Port) and airport (Marculesti International Free Airport) with status similar to FEZs that can benefit from specific tax and customs incentives.

FEZ incentives

For the 2018 year, the following CIT incentives for FEZ investors have been maintained:

- Entities that are established in the FEZ and export goods and services from the FEZ outside the customs territory of Moldova or deliver the produced goods to other FEZ residents for goods to be exported are entitled to apply only 50% of applicable CIT rate on such gains. For other cases, the CIT rate is 75% of the established one.
- The income obtained from export of goods (services) originating from the FEZ outside the customs territory of Moldova or from supply of the produced goods to

other FEZ residents for goods to be exported is CIT exempted for a period of three years, provided that the FEZ residents invested in the fixed assets of their enterprises and/or in development of the infrastructure of the FEZ capital equivalent to at least 1 million United States dollars (USD).

- The income obtained from export of goods (services) originating from the FEZ outside the customs territory of Moldova or from supply of the produced goods to other FEZ residents for goods to be exported is CIT exempted for a period of five years, provided that the FEZ residents invested in the fixed assets of their enterprises and/or in development of the infrastructure of the FEZ capital equivalent to at least USD 5 million.
- The income obtained from export of goods (services) originating from the FEZ outside the customs territory of Moldova or from supply of the produced goods to other FEZ residents for goods to be exported is CIT exempted for an additional period of time, provided that the FEZ residents performed additional investments in the fixed assets of their enterprises and/or in development of the infrastructure of the FEZ capital (under certain conditions).

From a VAT standpoint, goods and services supplied in the FEZ from abroad, from the FEZ outside the customs territory of Moldova, in the FEZ from other areas of Moldova, and those supplied to residents of other FEZs are VAT exempted with the right to deduct (with some exceptions).

According to the customs provisions, goods are introduced into the FEZ with no VAT or customs duty and are not subject to economic policy measures, according to specific criteria. However, certain taxes in specific situations might be incurred by residents of the FEZ. Investors in the FEZ are guaranteed and protected from changes in legislation for a general period of up to ten years, while under certain conditions this period may be extended to 20 years.

Law on information technology (IT) parks

Starting 1 January 2017, a new law on IT parks entered into force. The law provides for certain tax incentives for the IT parks' residents.

Under this law, residents of the parks could be legal persons or individuals registered in the Republic of Moldova as conducting entrepreneurial activity that carry out as their principal activity one or more of the following activities:

- Custom software activities (client-oriented software).
- Computer games editing activities.
- Editing activities of other software products.
- Management activities (management and exploitation) of calculation means.
- Data processing, webpage administration, and other related activities.
- Web portal activities.
- IT consulting activities.
- Other IT services related activities.

In this context, the principal activity is that which generates 70% of a park resident's sales income.

The residents of the parks will pay a single tax that includes:

- CIT.
- PIT.

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- Mandatory social security contributions due by employers and employees.
- Mandatory health insurance contributions due by employers and employees.
- Local taxes.
- Tax on immovable property.
- Road tax applied to vehicles registered in Moldova.

The single tax of 7% of sales income, but not less than the minimum amount due per employee, is to be calculated and paid monthly by each park resident. The minimum amount of single tax per employee is set at 30% of the national average forecasted salary for that year (e.g. MDL 6,150 for 2018).

The employees of park residents will be granted all types of social insurance benefits established by the law. The insured monthly income when determining those benefits will be 60% of the national average forecasted salary for that year (e.g. MDL 6,150 for 2018).

Withholding taxes

Residents

Resident legal entities making payments to individuals (other than salary payments) must withhold and pay WHT to the MTA at the following rates:

- Preliminary WHT:
 - 7% preliminary withholding of payments made for the benefit of resident individuals, unless such payments are tax exempt.
 - 15% preliminary withholding from interests.

The beneficiary deducts (i.e. recovers) the amount of preliminary WHT from annual income tax due.

- Final WHT:
 - 10% final withholding of an individual's income derived from leasing, rent, and usufruct of movable and immovable property.
 - 6% final withholding of dividends paid out to individuals, except for dividends for the profits received between 2008 and 2011, for which the WHT rate is 15%.
 - 15% from the amount withdrawn from the share capital related to the increase arisen from the distribution of net profit and/or other sources identified as equity among shareholders (associates) throughout the 2010 to 2011 fiscal period, in accordance with the share capital venture quota.
 - 5% from payments performed for the benefit of individuals, other than individual entrepreneurs and farmers, on income obtained from supplying phytotechnical, horticultural, and zootechnical products, except natural milk.
 - 10% from payments performed for the benefit of individuals, other than individual entrepreneurs and farmers, on income obtained from supplying goods through consignments trade units.
 - 18% from winnings from promotional campaigns, on each win value exceeding the personal allowance (i.e. MDL 11,280).
 - 18% from gambling winnings, except winnings from lotteries and sport bets.

The tax charged to residents under this paragraph is a final one and exempts the recipient of such income from including it into gross income, as well as from declaring it.

The following tax treatment applies to royalty payments to residents:

- Practicing entrepreneurial activity: No WHT at source is applied.
- Resident individuals: A final WHT of 12% is applied, without including such income in the gross income of individuals (except royalty income of individuals aged 60 and over in the field of literature and art).

Also, earnings from promotional campaigns are considered non-taxable income sources if the value of each does not exceed the personal allowance (MDL 11,280 in 2018). Earnings from lottery and sports betting are considered non-taxable, irrespective of the amount earned.

Non-residents

The following WHT rates apply upon payments to non-residents:

- 6% for dividend payouts, except for dividends for the profits received between 2008 and 2011, for which the WHT rate is 15%.
- 15% from the amount withdrawn from the share capital related to the increase arisen from the distribution of net profit and/or other sources identified as equity among shareholders (associates) throughout the 2010 to 2011 fiscal period, in accordance with the share capital venture quota.
- 12% for other revenues.

Double tax treaties (DTTs)

The DTTs in force between Moldova and other countries may provide for more favourable tax rates than those provided by the local provisions. For their application, the foreign beneficiary of such income should provide the paying entity with its fiscal residency certificate before the payments are actually made. The Moldovan tax law expressly provides that the DTTs prevail over the national provisions. The only exception refers to the case where the domestic norms provide for more favourable tax rates (i.e. in such circumstances, the domestic ones shall apply).

Currently, Moldova has 48 operational DTTs, as outlined below:

Recipient	WHT * (%)		
	Dividends	Interest	Royalties
Non-treaty	6/15 **	12	12
Treaty:			
Albania	5/10	5	10
Armenia	5/15	10	10
Austria	5/15	5	5
Azerbaijan	8/15	10	10
Belarus	15	10	15
Belgium	15	15	0
Bosnia and Herzegovina	5/10	10	10
Bulgaria	5/15	10	10
Canada	5/15	10	10
China	5/10	10	10
Croatia	5/10	5	10
Cyprus	5/10	5	5
Czech Republic	5/15	5	10
Estonia	10	10	10

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Recipient	WHT * (%)		
	Dividends	Interest	Royalties
Finland	5/15	5	3/7
Germany	15	5	0
Greece	5/15	10	8
Hungary	5/15	10	0
Ireland	5/10	5	5
Israel	5/10	5	5
Italy	5/15	5	5
Japan	15	10	0/10
Kazakhstan	10/15	10	10
Kuwait	0/5	2	10
Kyrgyzstan	5/15	10	10
Latvia	10	10	10
Lithuania	10	10	10
Luxembourg	5/10	5	5
Macedonia	5/10	5	10
Malta	5	5	5
Montenegro	5/15	10	10
The Netherlands	0/5/15	5	2
Oman	5	5	10
Poland	5/15	10	10
Portugal	5/10	10	8
Romania	10	10	10/15
Russian Federation	10	0	10
Serbia	5/15	10	10
Slovakia	5/15	10	10
Slovenia	5/10	5	5
Spain	0/5/10	5	8
Switzerland	5/15	10	0
Tajikistan	5/10	5	10
Turkey	10/15	10	10
Turkmenistan	10	10	10
Ukraine	5/15	10	10
United Kingdom	0/5/10	0/5	5
Uzbekistan	5/15	10	15

* If multiple rates are listed, then the WHT rate to be applied is subject to fulfilment of specific criteria provided by the DTT.

** 15% on dividends referring to the profit earned incurred during the period 2008 to 2011.

Tax administration

Taxable period

The tax year for CIT purposes is the calendar year. For new business entities, the fiscal year is considered the period beginning with the registration date until the end of the calendar year. Starting with 2017, certain taxpayers have the right to choose a tax period different from the calendar one.

For WHT and VAT purposes, the fiscal period is the calendar month starting the first day of the month.

Tax returns

An annual CIT return must be submitted to the MTA by 25 March of the year following the reporting year.

WHT and payroll liabilities must be declared and settled monthly, no later than the 25th day of the month following the reporting one.

Farming enterprises and individual entrepreneurs with an annual average number of employees not exceeding three and not registered as VAT payers must submit a unified annual tax return, provided certain conditions are met.

Companies that have, according to the average number of employees recorded in the previous year, more than five people employed under individual employment agreements or other contracts have to submit their tax returns by using automated methods of electronic reporting.

IT park residents must submit the single tax return to the MTA by the 25th day of the month following the reporting one. Such reporting is done electronically.

Adjusted tax returns

Taxpayers who discover that the tax return previously submitted contains an error are able to submit an adjusted tax return, provided that no written decision was issued by the tax authority in order to initiate a tax audit and the related tax period is not covered by a tax control.

Late interest payments will not be applicable in amounts higher than the tax liability resulting from the adjusted tax return submitted, and no fines will be applicable if the tax duties are paid before the announcement of a tax audit.

A fine will not apply in certain circumstances of fiscal violations specified by law, and, if already established, it will be entirely cancelled if no additional tax liabilities arise.

Companies that have miscalculated the taxes, and this was not detected in the previous tax audit, are absolved from fines and late interest payments for violations identified within the repeated tax audit.

Companies keeping the accounting records and preparing financial reports under IFRS or under the National Accounting Standards will not be fined for violation of accounting and record keeping for a period of up to two years from the date of implementation (transition) to those standards in case such violation represents an obstacle for performing tax audit.

Payment of tax

Taxpayers must declare and pay the applicable CIT by 25 March of the year following the reporting year. Taxpayers are also required to pay interim CIT, no later than 25 March, 25 June, 25 September, and 25 December, amounts equal to 25% of either the total estimated value of the CIT due for the current fiscal period or the total value of the calculated CIT for the previous fiscal period.

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Fines and penalties

The MTA is entitled to apply a fine of 30% of the diminished tax liabilities (including CIT ones).

Under the tax law, the MTA is entitled to apply a fine in the amount of the undeclared tax if it is a result of tax evasion.

Taxpayers who settle amounts as assessed by the MTA within three business days and have no other outstanding liabilities may benefit from a 50% reduction of the fines applied by the tax authorities.

In addition, certain special provisions regarding tax evasion apply. The term 'tax evasion' is defined under Moldovan tax law as diminishing the tax liabilities by more than MDL 75,000 by means of including in accounting, tax, or financial documents deliberately distorted data on income or expenses or by hiding other objects of taxation. Should the amount of the tax due exceed MDL 75,000, the tax evasion is regarded as a criminal offence. According to the Moldovan Criminal Code, legal entities can be punished for tax evasion with a fine up to MDL 300,000 and preclusion from performing certain activities or winding-up.

Among the most important fines and sanctions for non-compliance with applicable tax law, the following are worth mentioning:

- The fine for the performance by the taxpayer of an economic activity with the issuance of a bill without using the existing cash register is MDL 5,000 (other fines might also be applied for non-compliance with rules related to use of cash registers).
- The fine for the failure to provide the VAT invoice in accordance with the tax law is MDL 3,600 for each VAT invoice but capped to MDL 72,000. The same fines are applicable for failure to register the fiscal invoice in the general electronic register managed by the tax authorities.
- The fine for hindering the execution of a tax audit by not providing access to production, storage, commercial, or other facilities is MDL 10,000.
- The fine for submitting a tax return containing unauthentic information is MDL 1,000 for each tax return, capped to MDL 7,000.

Tax audit process

The rules governing the tax audit process are stated in the tax code. Generally, the tax audit duration and frequency depends on its type. For instance, a tax audit performed at the taxpayer premises should not exceed two months (with some exceptions) and should be performed no more than once per year for the same taxes and duties, except for specific circumstances provided by law.

Also, a tax audit can be performed on a more frequent basis within certain specific circumstances (e.g. refund of VAT and other taxes, reorganisation).

A repeated tax audit for already audited periods can be performed in a number of cases, for instance:

- In case the results of previous controls are inconclusive, incomplete, or not satisfactory.
- If certain circumstances are identified that attest to the existence of tax infringements.

- In case of reorganisation or liquidation.

Statute of limitations

Under the general tax rule, the Moldovan tax authorities can assess tax liabilities no later than four years after the last date established for the submission of the relevant tax report or for the settlement of that tax liability (if submission of the tax report is not required). This limitation term does not apply in case of tax-related crimes or non-submitting of the corresponding tax returns.

Topics of focus for tax authorities

There are no specific topics of focus for the tax authorities. Generally, it depends on the nature of the taxpayer and the specifics of the activity it performs. The main criterion for selection of a company to be subject to a tax audit is a risk based one.

In addition, tax authorities are currently focused on promoting voluntary compliance of the taxpayers.

Rulings

From 2017, the concept of advanced binding ruling has been introduced in the Moldovan tax law.

The binding ruling under the Moldova tax law represents an administrative act issued by the MTA in order to solve claims submitted by individuals and legal entities that perform entrepreneurial activity, regarding the applicability of the tax legislation on the future specific situations and/or transactions. The anticipated individualised tax ruling is mandatory for MTA and other entities with tax administration attributions, provided certain conditions are met. The procedure of issuing and rejecting of advanced binding rulings is to be determined by the Ministry of Finance.

The law also provides for the possibility of obtaining comfort letters. Taxpayers that inadequately computed tax liabilities due to incorrect written explanations issued by the MTA may not be subject to sanctions (i.e. fines and late-payment penalties). Tax liabilities may still be recomputed by the MTA. Written explanations are issued by the MTA free of charge and may remain valid for an indefinite period of time, unless cancelled by new legislation or other rulings. Such explanations are generally issued by the Moldovan competent authorities during a period of up to one month.

Other issues

The legislation and the approach of the state authorities in Moldova related to corporate taxation have been and are expected to be subject to changes. Moreover, based on the publicly available sources, the Ministry of Finance intends to redraft the Moldovan Tax Code.

Taxpayers should seek professional advice on specific issues, given that only limited interpretations have been issued by the MTA.

US Foreign Account Tax Compliance Act (FATCA)

On 30 June 2014, the US Treasury announced that an intergovernmental agreement (IGA) was 'in effect', and, on 26 November 2014, the US Treasury and Moldova signed the Agreement for Cooperation to Facilitate the Implementation of FATCA, based on

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IGA Model 2. Currently, Moldova applies FATCA requirements. The FATCA agreement was ratified by the Republic of Moldova Parliament on 10 December 2015.

Association Agreement with the European Union

As of 27 June 2014, the Republic of Moldova ratified the Association Agreement with the European Union. In this respect, a number of legislative changes have started to enter into force in a gradual way in order to harmonise local legislation with EU legislation (primarily in the area of indirect taxation).

Montenegro

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Significant developments

Value-added tax (VAT)

Montenegrin VAT Law and the Rulebook on application of VAT Law are amended. The most important changes relate to the increase of the standard VAT rate to 21%, amendments of the rules for determining the place of supply of services, and introduction of the procedure for appointment of a fiscal representative (*see Value-added tax [VAT] in the Other taxes section for more information*).

Customs duty

During 2017, Customs Law was amended. The amendments introduce the institute of authorised economic operator and other procedural related matters.

Taxes on corporate income

Entities operating in Montenegro are subject to a 9% corporate profit tax (CPT).

Resident taxpayers are taxed on their worldwide profit. Non-resident taxpayers are taxed on their Montenegrin-sourced income or income attributed to their Montenegrin permanent establishment (PE). Non-residents are also subject to withholding tax (WHT) on income sourced in Montenegro (*see the Withholding taxes section for more information*).

Local income taxes

No local (i.e. municipality) corporate income taxes exist in Montenegro.

Corporate residence

A legal entity is considered to be a tax resident if it is incorporated in Montenegro. In addition, a foreign corporation may also be deemed a Montenegrin tax resident if the corporation has a place of effective management in Montenegro. No explicit rules exist for determination of effective management. In practice, it usually is the place where key managerial decisions are made or where the board of directors sits.

Permanent establishment (PE)

Montenegrin tax legislation contains very basic PE rules following, in main features, the guidelines set out in the Commentary to the Organisation for Economic Co-operation and Development (OECD) Model Tax Treaty. PE is defined as a fixed place of business through which a non-resident carries out business in Montenegro. PE is deemed to exist in case of a non-resident having one of the following in Montenegro:

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place of management, branch office, office, factory, workshop, mine, gas or oil site, stone pit, or any other place of natural resources exploitation in Montenegro. A construction site constitutes a PE only if construction activities last longer than six months.

PE is not deemed to exist in case of a non-resident having storage of inventory in Montenegro only for the purpose of delivery of goods or having operations in Montenegro that are of a preparatory or auxiliary nature.

Other taxes

Value-added tax (VAT)

The main principles of the Montenegrin VAT are in line with the European Union (EU) Sixth Directive guidelines. Taxable supplies are subject to a general 21% VAT rate; however, certain supplies are taxed at a reduced 7% rate (e.g. bread, milk, books, medicines, computers) and 0% rate (e.g. export of goods, supply of gasoline for vessels in international traffic).

In principle, the VAT base is comprised of consideration (in cash, goods, or services) received for supplies, including taxes, except VAT (e.g. customs, excise duty), and direct costs (e.g. commissions, cost of packing, transport). If the consideration is not paid in cash, or if an exchange of goods for services takes place, the tax base will be the market value of the goods or services received at the time of supply. The VAT base cannot be lower than the cost of goods sold.

Registration for VAT in Montenegro may be either voluntary or mandatory. Voluntary VAT registration is possible for small taxpayers who have not realised turnover exceeding 18,000 euros (EUR) in the last 12-month period. Once registered, a company may not apply for deregistration for at least three years. VAT registration is mandatory for an entity that realises turnover exceeding the EUR 18,000 threshold in any 12-month period.

VAT is calculated and paid on a calendar-month basis (i.e. a VAT return must be submitted and VAT liability must be cleared monthly). VAT calculated on imports is paid along with customs duties.

Customs duty

Exports

There are no export duties in Montenegro, nor is it forbidden to export any goods. Exceptionally, the Montenegrin government can impose quantity limitation of exports only in case of critical shortage of certain goods or for the purpose of protection of non-renewable natural resources, under certain conditions.

Imports

Customs duties are paid on goods imported into the customs territory of Montenegro in accordance with the rates and tariffs set forth in the Customs Tariffs, which is in line with the harmonised system of tariff codes prescribed by the World Trade Organization (WTO). Customs duties can be levied in two manners, as *ad valorem* or specific duty per unit of goods.

For agricultural and alimentary products, a combined duty has been determined, that is, both *ad valorem* and specific duty are charged simultaneously.

Ad valorem duties are prescribed within the scope from 0% to 30%. Specific duties range from EUR 0.04 per 1kg to EUR 1 per 1kg.

Customs rates stipulated by international agreements are only applied to goods of preferential origin from countries covered by such agreements. The most important free trade agreements that Montenegro signed are with the European Union, the European Free Trade Association (EFTA), the Central European Free Trade Agreement (CEFTA) states, Russia, Turkey, and Ukraine.

Excise duty

Legal entities that are importers or producers of the following products are subject to excise duty:

- Alcoholic and alcohol beverages.
- Tobacco products, including non-combustible tobacco.
- Mineral oils, their derivatives and substitutes, and coal.
- Mineralised water with sugar or aroma.
- Liquid for charging electronic cigarettes.

Excise duty can be prescribed as a fixed amount and/or as a certain percentage (*ad valorem*).

Tax on coffee

Tax on coffee is payable on coffee imported and produced in Montenegro. The tax rate varies from EUR 0.80/kg to EUR 1.30/kg, depending on the type of the coffee. Tax on coffee is also payable for products and beverages that contain coffee. The tax rate for these products is EUR 2.50/kg for one kg of net coffee contained in the final product.

Property tax

Property tax is payable by legal entities who own or have user rights over real estate located in Montenegro. The annual tax is levied at proportional rates, ranging from 0.25% to 1% on the market value of assets as of 1 January of the current year. In case of acquisition of new property, the taxpayer is obligated to submit a tax return to the tax authorities within 30 days from the acquisition date (i.e. registration return for property tax) and to declare annual property tax by the submission of annual returns. Tax is payable in two instalments, based on decisions issued by the tax authorities.

Property transfer tax

Transfer tax of 3% is payable on the acquisition of ownership rights over immovable property.

The taxable base is the market value of the immovable property at the time of the acquisition. A taxpayer (i.e. the acquirer of immovable property) is obligated to self-assess a tax liability, submit a tax return, and settle a tax liability within 15 days from the contract date.

Stamp taxes

No stamp taxes are in place in Montenegro.

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Payroll tax

Employment income includes all receipts paid or provided to an individual based on employment (salaries, pensions, benefits in kind, insurance premiums, benefits, and awards above the non-taxable thresholds). Income generated through other types of personal engagements similar to employment (e.g. temporary jobs) is also considered employment income.

While employees are the taxpayers, the employer is responsible for calculating and withholding personal income tax (PIT) on behalf of its employees.

Employment income is subject to WHT at a flat rate of 9%. Gross salary exceeding average monthly gross salary in Montenegro for the previous year published by the relevant authority is subject to 11% PIT. The 11% rate applies to the part of the salary exceeding the prescribed threshold, while the 9% rate applies to the part of the salary below (and including) this threshold.

Social security contributions

Social security contributions for pension and disability insurance, health insurance, and unemployment insurance are calculated and withheld by an employer from the salary paid to an employee. Unlike the other two types of social security contributions, pension and disability insurance contributions are subject to a specific annual cap (EUR 52,308 for 2017).

Social security contributions are payable by the employer and employee at different rates. The amount borne by the employer is treated as an operating cost while the portion payable by the employee is taken from the gross salary.

The rates paid by the employer are as follows:

- Pension and disability insurance: 5.5%.
- Health insurance: 4.3%.
- Unemployment insurance: 0.5%.

The rates paid by the employee are as follows:

- Pension and disability insurance: 15%.
- Health insurance: 8.5%.
- Unemployment insurance: 0.5%.

Environmental charges

Legal entities are subject to environmental charges for the following:

- Use of firing or electrical feed equipment with power greater than 1MW.
- Import of substances harmful to the atmosphere.
- Production or deposit of dangerous waste.
- Tax for use of road vehicles (vignettes).
- Charges for access to certain services that are of general interest (for use of mobile telephones, electricity, cable television connection, space denominated for consumers of tobacco products and acoustic devices).

Branch income

Non-residents carrying out business in Montenegro through a PE are taxed on their Montenegrin-source income at a rate of 9%. A branch is considered to be a PE.

Income determination

Taxable profit is calculated by adjusting the accounting profit (determined in accordance with International Financial Reporting Standards [IFRS] and accounting legislation) in accordance with the provisions of the CPT Law.

Inventory valuation

Inventory is valued by applying the average weighted cost method or the first in first out (FIFO) method. If another method is used for book purposes, an adjustment for tax purposes should be made.

Capital gains

Capital gains realised by the sale or transfer of real estate or other property rights, as well as shares and other securities, are subject to the 9% CPT rate.

Capital gains may be offset against capital losses occurring in the same period. A capital loss may be carried forward for five years.

Dividend income

Dividend income of the recipient is exempt from CPT in Montenegro if the distributor is a Montenegrin corporate taxpayer.

Interest income

Interest income is included in taxable profit and subject to 9% CPT.

Royalty income

Royalty income is included in taxable profit and subject to 9% CPT.

Foreign income

A Montenegrin resident receiving foreign income is granted a tax credit in the amount of the tax paid abroad but limited to the amount that would be calculated using Montenegrin rates.

There are no provisions that provide for the possibility that taxation of income earned abroad may be deferred.

Deductions

Depreciation

Depreciable assets are tangible and intangible assets with a useful life of at least one year and an individual acquisition value of at least EUR 300.

Intangible and fixed assets are divided into five depreciation groups, with depreciation rates prescribed for each group (I - 5%, II - 15%, III - 20%, IV - 25%, and V - 30%). A straight-line depreciation method is prescribed for assets classified in the first group

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(real estate), while a declining-balance method is applicable for assets classified in the other groups.

Goodwill

Goodwill is determined according to IFRS and is subject to impairment. There are no other special provisions on goodwill.

Start-up expenses

There are no special provisions regarding treatment of start-up expenses. Consequently, they will be deductible if they are incurred for business purposes and properly documented under the general expense deductibility rule.

Interest expenses

Interest expenses are generally deductible if they are business related and properly documented. Also, interest and related cost of loans paid out to a creditor with the status of a related party are recognised as expenses only in the amount that does not exceed market interest rates between unrelated parties. The exceeding amount is not recognised as an expense, but it is included in the taxable profit and subject to 9% CPT.

Interest paid out to non-resident legal entities (unless it is revenue of a PE of a non-resident legal entity) is subject to WHT levied at 9%.

Bad debt

Write-offs and provisions for doubtful debts are considered deductible, provided that:

- written-off/provided receivables were previously included in the taxpayer's revenues
- doubtful debts were written-off as uncollectible
- the taxpayer can provide proof of filing a lawsuit, that enforced proceedings were instigated, or that receivables were reported in bankruptcy or liquidations proceedings, and
- such receivables are older than 365 days.

Charitable contributions

Expenses incurred for social purposes, reduction of poverty, protecting persons with disabilities, child and youth social care, elderly care, protection and promotion of human and minority rights, the rule of law, civil society and volunteerism, Montenegro's Euro-Atlantic and European integration, art, technical culture, promotion of agriculture and rural development, sustainable development, consumer protection, gender equality, the fight against corruption and organised crime, and the fight against addictions are recognised for CPT purposes, up to a threshold of 3.5% of total revenue.

Expenditures for the above-mentioned purposes are recognised regardless of whether they are made in cash, goods, rights, or services.

Expenses incurred in this regard will be deductible for CPT purposes only if they are made to legal entities, which are engaged in provision of the aforementioned services in accordance with specific regulations, and if received funds are used by such entities exclusively for the above-mentioned purposes.

Impairment of assets

Expenses incurred on the basis of impairment of assets are not deductible for CPT purposes. Impairment expenses are deductible in the period in which assets are disposed of or damaged due to *force majeure*.

Salary costs and costs related to termination of employment

Salary costs, severance payments related to retirement of employees, costs related to technological surplus, and other payments related to termination of employment are recognised as deductible in the tax period in which they are paid (not in the period in which they are accrued).

Fines and penalties

Penalty interest for late payment of taxes is not CPT deductible.

Taxes

The basic deductibility rule is that business expenses incurred for business purposes are CPT deductible. Following that rule, CPT Law provides for full deductibility of taxes.

Other significant items

The following expenditures are also recognised for CPT purposes, up to the prescribed threshold:

- Entertaining expenses, up to 1% of total revenue.
- Membership fees paid to chambers of commerce and other associations (except political parties), up to 0.1% of gross revenue unless the amount of the fees has been determined by law.
- Provisions for redundancy payments and jubilee awards recognised as expenditures, up to the amount prescribed by the labour legislation.
- Increase of provisions of balance sheet receivables and the provisions for off-balance sheet losses are recognised as expenses in the bank's tax assessment form, in the amounts calculated at the level of the bank, which were, in accordance with the bank's internal acts, reported in the bank's profit and loss statement as an expense in the tax period, in accordance with the regulations of the Central Bank of Montenegro.
- Increase of indirect write-off made according to the receivables collectability and technical provisions are recognised as expense in the insurance company's tax assessment form in the amount prescribed by the insurance legislation.
- Provisions for special risks of brokers and dealers, up to the amounts prescribed by the securities law.
- Provisions for renewable natural resources, warranties for the sale of goods and services (guarantee period), and the expected loss from court process (delicate agreements) if accounted for in accordance with the accounting legislation.

Net operating losses

The taxpayer is entitled to carry forward losses incurred in an accounting period over the following five years. Carryback of losses is not allowed.

Payments to foreign affiliates

Supplies of goods or services from a foreign group entity not established in Montenegro to a Montenegrin entity must be valued at arm's length. Excess expenses recorded over market value are treated as non-deductible expenses.

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With respect to payment of charges of a PE, CPT Law provides that administrative costs charged by the non-resident head office are non-deductible for CPT at the level of the PE.

Group taxation

Tax consolidation is permitted for a group of companies in which all of the members are Montenegrin residents and the parent company directly or indirectly controls at least 75% of the shares in the other companies. Each company files its own tax return, and the parent company files a consolidated tax return for the entire group.

Each company is taxed based on its contribution to the consolidated taxable profit (or loss) of the group.

Tax consolidation is binding for at least five years.

Transfer pricing

The difference between the transfer price and arm's-length price is included in the taxable profit and is taxed accordingly. Parties considered to be related are the parties between whom special relations exist, which could directly impact the conditions or economical results of the transaction between them.

Methods permitted in determining arm's-length price are the comparable uncontrolled price (CUP) method (as the primary method), resale minus method, or cost plus method.

There are no other rules or guidelines introduced apart from the above rules in respect to transfer pricing.

Thin capitalisation

There are no thin capitalisation provisions in place in Montenegro.

Controlled foreign companies (CFCs)

There are no CFC rules in Montenegro.

Tax credits and incentives

The CPT Law provides four tax incentives related to businesses: one for newly established businesses in underdeveloped municipalities, one for non-governmental organisations (NGOs), a discount for settling of CPT liability by the prescribed deadline, and a foreign tax credit.

Tax exemption for newly established businesses in underdeveloped municipalities

Newly established production companies located in underdeveloped municipalities are entitled to an eight-year tax exemption. The maximum amount of tax exemption for the period of eight years is limited to EUR 200,000.

The incentive is applicable to companies whose business units are established in underdeveloped regions. In that case, tax holiday is proportional to the amount of

profit generated by such unit over the total profit for the period of eight years from establishment of the unit.

The tax incentive is not applicable to a taxpayer operating in the sectors of (i) primary production of agricultural products, (ii) transport, (iii) shipbuilding, (iv) fishery, (v) steel production, (vi) trade, and (vii) catering, except primary catering facilities.

Tax exemption for NGOs

NGOs registered for business activity are permitted to decrease the corporate tax base by EUR 4,000, with the condition that profit is used for realisation of the main goals of an NGO.

Discount for settling CPT liability on time

A discount of 6%, which is applied on the amount of the calculated CPT liability, is available to taxpayers that settle their CPT liability by the prescribed deadline (i.e. by 31 March of the current year for the tax liability of the previous year).

Foreign tax credit

Resident taxpayers are entitled to a tax credit up to the amount of corporate tax paid in another country on income realised in that country. This tax credit is equal to the tax paid in another country but may not exceed the amount of the tax that would have been paid in Montenegro.

Withholding taxes

Montenegrin CPT Law imposes WHT on income realised from a Montenegrin source and distributed to a non-resident. The scope of the WHT applies to dividends and profit distribution, capital gains, interest, royalties, intellectual property rights fees, rental income, fees for consulting, market research, and audit services, as well as to income earned on the basis of performing entertainment, artistic, sport, or similar programmes in Montenegro.

WHT will also be payable on income earned by non-resident or resident individuals on the basis of repurchase of used products, semi-final products, and agricultural products from a manufacturer registered for VAT purposes.

Distributions of dividends and share of profits are also subject to WHT if the recipient is a Montenegrin resident (either an individual or legal entity).

The general WHT rate is 9%.

Application of a double tax treaty (DTT) may reduce or eliminate Montenegrin WHT. To qualify for the beneficial rates prescribed by the treaty, a non-resident must prove tax residency of a relevant treaty country and beneficial ownership over the income. In order to qualify for a preferential tax rate according to a DTT, a non-resident will need to provide the tax residency certificate filled out and stamped by the relevant authority of its country of residence.

Although Serbia is regarded as the legal successor of the Serbia and Montenegro State Union that ceased to exist in June 2006, the Republic of Montenegro, upon its Decision on Independence (dated 3 June 2006), continues to honour international treaties

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that were applicable in the State Union, including those executed by State Union's legal predecessors (Federal Republic of Yugoslavia and Socialist Federal Republic of Yugoslavia, i.e. former Yugoslavia). However, a quite low statutory WHT rate of 9%, which was enacted after most of the treaties had been introduced, is usually more beneficial than treaty rates.

The list of the treaties is provided below:

Recipient	WHT (%)			Applicable from
	Dividends (1)	Interest	Royalties	
Non-treaty	9	9	9	
Treaty:				
Albania	5/15	10	10	2006
Austria	5/10 (8)	10	5/10 (4)	2016
Azerbaijan	10	10 (7)	10	2014
Belgium	10/15	15	10	1982
Belorussia	5/15	8	10	1999
Bosnia and Herzegovina	5/10	10	10	2006
Bulgaria	5/15	10	10	2001
China	5	10	10	1998
Croatia	5/10	10	10	2005
Cyprus	10	10	10	1987
Czech Republic	10	10	5/10 (4)	2006
Denmark	5/15	0	10	1983
Egypt (2)	5/15	15	15	2007
Finland	5/15	0	10	1988
France	5/15	0	0	1976
Germany	15	0	10	1989
Hungary	5/15	10	10	2003
India (3)	5/15	10	10	N/A
Ireland	5/10	10	5/10 (4)	2012
Italy	10	10	10	1986
Korea	10	10	10	2002
Kuwait	5/10	10	10	2004
Latvia	5/10	10	5/10 (4)	2007
Macedonia	5/15	10	10	1998
Malaysia	0 (5)	10	10	1991
Malta	5/10	10	5/10 (4)	2010
Moldova	5/15	10	10	2007
Netherlands	5/15	0	10	1983
Norway	15	0	10	1986
Poland	5/15	10	10	1999
Romania	10	10	10	1998
Russia	5/15	10	10	1998
Serbia	10	10	5/10 (4)	2012
Slovak Republic	5/15	10	10	2002
Slovenia	5/10	10	5/10 (6)	2004
Sri Lanka	12.5	10	10	1987
Sweden	5/15	0	0	1982
Switzerland	5/15	10	10	2006
Turkey	5/15	10	10	2008

Recipient	WHT (%)			Applicable from
	Dividends (1)	Interest	Royalties	
Ukraine	5/10	0/10 (7)	10	2002
United Arab Emirates	5/10 (8)	10	5/10 (4)	2014
United Kingdom	5/15	10	10	1983

Notes

1. If the recipient company owns/controls at least 25% of the equity of the paying company, the lower of the two rates applies.
2. A new DTT was signed with Egypt in 2005, but it is not applicable yet. Meanwhile, the old treaty is still applicable.
3. Instruments of ratification have not been exchanged between the two countries.
4. A tax rate of 5% will be applicable to literary, scientific, and work of art, films and works created like films, or other sources of reproduction tone or picture. A tax rate of 10% will be applicable to patents, petty patents, brands, models and samples, technical innovations, secret formulas, or technical procedure.
5. Only in cases when dividends are to be paid to Montenegrin residents. If paid to Malaysian residents, they are taxable at 9% in Montenegro.
6. A 5% rate is applicable for intellectual property and 10% rate for industrial property.
7. A 0% rate is applicable in cases when the income recipient is the government or government-owned banks.
8. A 5% rate is applicable in cases when the beneficial owner is a company that holds at least 5% of the capital of the payer of the income. In all other cases, a 10% rate applies.

Tax administration

Taxable period

The tax year in Montenegro is the calendar year.

Tax returns

Tax returns and supplementary documents (e.g. tax depreciation form) must be filed with the tax authorities by the end of March of the following year.

Payment of tax

CPT is paid by the end of March of the following year for the previous year. Alternatively, CPT may be paid in six annual instalments at the taxpayer's request. A discount of 6% is applicable on the amount of the calculated CPT liability for the timely payment of the tax due (*see the Tax credits and incentives section for additional information*).

Taxation of non-residents

Montenegrin CPT Law contains specific rules for assessment and mechanisms for taxation of:

- capital gains of non-residents in transactions with other non-resident entities or resident and non-resident individuals, and
- Montenegrin-sourced income realised by non-residents on the basis of lease of movable and immovable assets from a person who is not obligated to calculate, withhold, and pay WHT (i.e. non-resident entities or resident and non-resident individuals).

The non-resident is obligated to file the tax return, via their Montenegrin tax representative (tax agent), within 30 days from generating income. Tax liability will be determined based on the decision issued by the Montenegrin tax authorities.

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Tax audit process

There are no particular provisions regarding the audit cycle in Montenegro.

Statute of limitations

The right to assess taxes expires within five years after the end of the year in which the tax should have been assessed.

The right to collect taxes expires within five years after the end of the year in which tax has been determined.

Topic on focus for tax authorities

According to our best knowledge, the focus of the tax authorities is proper documenting of expenses, WHT, and VAT. Apart from this, we are expecting that in the near future the focus of the tax authorities will be transfer pricing, following trends of the countries in the region.

Other issues

Foreign Account Tax Compliance Act (FATCA) intergovernmental agreement (IGA)

Montenegro and the United States reached an 'agreement in substance' on a Model 1 IGA and consented to this status as of 30 June 2014. In accordance with this status, the text of such IGA has not been released, and financial institutions in Montenegro are allowed to register on the FATCA registration website consistent with the treatment of having an IGA in effect, provided that the jurisdiction continues to demonstrate firm resolve to sign the IGA as soon as possible.

On 1 June 2017, Montenegro signed an IGA in order to implement provisions of the FATCA and to promote transparency between Montenegro and the United States on tax matters. The Agreement was ratified on 1 March 2018, and it is applicable from 28 March 2018.

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Significant developments

Changes in corporate income tax (CIT) regulations

As of 1 January 2018, separation of income/loss sourced from capital transactions from other income/loss sources has been introduced. Taxpayers now have to recognise revenues and costs related to each 'basket' separately. There is no possibility to set-off income derived from one 'basket' with loss borne in the other 'basket'. Income in both baskets is taxed at 19% CIT. Apart from share/capital transactions, the capital basket includes royalties, license fees, and similar rights.

A limitation of deductibility of financial costs has also been introduced. Deductibility restrictions are applicable both to internal and external financing costs (not only interest). The deductibility limit for the excess of financing costs over financing revenue is set at 30% of tax earnings before interest, taxes, depreciation, and amortisation (EBITDA). The limit will apply if the excess is over 3 million Polish zloty (PLN).

A 'minimum income tax level' for taxpayers holding substantial real estate, which has initial value over PLN 10 million, has been introduced. 'Minimum tax' is payable monthly at 0.035% of the excess of the initial value of the building over PLN 10 million (0.42% annually). Consequently, tax will be due regardless of the level of actual income derived by the taxpayer. This minimum tax can be set-off against CIT if CIT is higher.

There are further changes in CIT deductibility rules, as follows:

- Deductibility of interest from debt push-down structures is excluded.
- Deductibility of costs in sale and lease-back transactions is limited at the level of prior revenues.
- A one-off write-down for fixed assets of small value is possible for assets worth up to PLN 10,000 (previously PLN 3,500).

Changes in transfer pricing rules

As of 1 January 2018, there is a decrease of the minimal revenue-to-income ratio of the tax group from 3% to 2%. The tax group will lose the status of taxpayer retroactively (from the date of registration as a tax group) in case of breach of certain conditions, and companies forming the tax group will be obligated to reconcile for CIT purposes as independent taxpayers retroactively for prior years. Group members will be obligated to set intra-group transaction terms at arm's length. However, there will be no formal obligation to prepare statutory transfer pricing documentation for such transactions.

Costs from related parties, including advisory, management, data processing, marketing, market research, insurance, guarantees, royalties, and transfer of risk

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connected with bad loan receivables (e.g. via insurance, derivatives, guarantees), will be limited to 5% of tax EBITDA.

Excluded from the above are accounting, legal, and recruitment services, and all services covered with advance pricing agreements (APAs), as well as costs of intangible services directly related to production of goods/provision of services. A limit will apply if the excess is over PLN 3 million.

Poland to start publishing largest companies' tax data

The amendment of 24 November 2017 to the Polish Corporate Income Tax (CIT) Act provided for an annual publication by the Ministry of Finance (MoF) of individual tax data of CIT payers with the highest revenues and all Tax Capital Groups. This took effect 1 January 2018, with the first tax data for the years 2012 to 2017 being published in April 2018 for the years 2012 to 2016 and in July 2018 for year 2017.

The individual tax data to be published by the MoF includes information on:

- Taxpayer's name.
- Tax identification number (NIP).
- Revenues.
- Tax-deductible costs.
- Income or incurred loss.
- Tax base.
- Tax due.

In addition, the published information may be extended with data on the effective tax rate.

New controlled foreign companies (CFC) rules

As of 1 January 2018, there is a change of criteria for qualifying a foreign company as subject to CFC rules (i.e. change of shareholding levels from 25% to 50%, focus on effective tax rate as opposed to nominal tax rate). The catalogue of revenue deemed as 'passive' for the purpose of CFC rules has also been broadened, and the 'passive income' ratio has decreased from 50% to 33%.

Multilateral Instrument to Modify Bilateral Tax Treaties (MLI)

On 14 November 2017, the Act on ratification of the MLI was published in the official Journal of Laws. The MLI globally implements mechanisms created to prevent international profit shifting to locations where they are subject to reduced taxation or non-taxation. Poland is the third country (after Austria and Isle of Man) to ratify the MLI. Poland declared 78 double taxation treaties (DTTs) for the MLI's purposes. Among declared DTTs, there are, *inter alia*, DTTs with Austria, Belgium, Canada, Cyprus, Denmark, France, Holland, Ireland, Luxembourg, Malta, Mexico, Norway, Sweden, and the United Kingdom. At the moment of signing the MLI, Poland has declared 77 DTTs in which the method of avoiding double taxation used to this point (i.e. the tax exemption method) may be replaced by the tax credit method.

Retail tax

On 1 September 2016, the Retail Tax Act of 6 July 2016 entered into force, but was quickly suspended for 2016 and 2017 due to European Commission (EC) investigation into the Polish tax on the retail sector. As a result, the new retail tax was postponed until 1 January 2019.

Standard Audit File for Tax (SAF-T)

From 1 July 2016, taxpayers are obligated to implement a SAF-T. The new legislation obligates the value-added tax (VAT) registered taxpayers (except those exempt from VAT) to keep computerised records of all data required to fill out tax returns and recapitulation statements. Taxpayers are obligated to transmit details of VAT records as a SAF-T without any additional request from the tax authorities. The data have to be filed monthly by the 25th day of the next month.

A new obligation to file documents in the SAF-T format, both in the case of an inspection and with respect to the VAT records, was imposed on large enterprises from 1 July 2016. Micro, small, and medium enterprises are given the choice to transmit their data during a tax inspection in the SAF-T format or not. As of July 2018, these three groups will be obligated by law to transmit data in the SAF-T format during tax inspection.

Small and medium enterprises are obligated to file VAT records in the SAF-T format from 1 January 2017. Micro enterprises are obligated to start filing VAT data in the SAF-T format from the beginning of 2018.

The obligation to transmit data in the SAF-T format also applies to companies whose fixed establishment is outside Poland but which are registered for VAT in Poland.

Taxes on corporate income

The CIT is the only tax levied on corporate income. The standard CIT rate is 19%.

As of 1 January 2017, a lowered 15% CIT rate was introduced for so-called ‘small taxpayers’ (i.e. entities whose sales revenue, including output VAT, for the previous year didn’t exceed the equivalent in Polish zloty of 1.2 million euros [EUR] and for taxpayers starting business activity, in their first tax year).

Polish tax residents are subject to tax on their worldwide income. Non-residents are taxed only on their Polish-sourced income. The tax authorities’ right to tax a non-resident is further limited if the non-resident’s country of residence concluded a DTT with Poland. In this case, the Polish tax authorities are, as a rule, entitled to tax only the portion of the non-resident’s income that may be attributed to a permanent establishment (PE) located in Poland if such income has arisen in Poland for the foreign tax resident. Exceptions relate to specific types of income, such as royalties, interest, dividends, and capital gains, which may be in Poland even if no PE exists.

As of 1 January 2018, separation of income/loss sourced from capital transactions from other income/loss sources has been introduced. Taxpayers now have to recognise revenues and costs related to each ‘basket’ separately. There is no possibility to set-off income derived from one ‘basket’ with loss borne in the other ‘basket’. Income in both baskets is taxed at 19% CIT. Apart from share/capital transactions, the capital basket includes royalties, license fees, and similar rights.

Polish companies with foreign participation may be set up as either limited liability companies or joint-stock companies. There is no limitation on the percentage of foreign participation. Both types are subject to the general CIT rules, including the standard 19% tax rate (and other rates, depending on the type of revenue sourced in Poland).

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The same rate applies to branches of foreign companies (*see the Branch income section for more information*).

Certain entities are explicitly excluded from the group of taxpayers under the CIT law (e.g. Treasury, National Bank of Poland). Polish and European Union (EU)/European Economic Area (EEA) based investment funds are also exempted on the grounds of such provision.

As of 1 January 2018, the 'minimum income tax level' for taxpayers holding substantial real estate, which has initial value over PLN 10 million, has been introduced. 'Minimum tax' is payable monthly at 0.035% of excess of the initial value of the building over PLN 10 million (0.42% annually). Consequently, tax will be due regardless of the level of actual income derived by the taxpayer. This minimum tax can be set-off against CIT if CIT is higher.

Local income taxes

There are no provincial or local income taxes in Poland.

Corporate residence

A company is considered to be a resident in Poland if its registered office or management is located in Poland.

Permanent establishment (PE)

PE under Polish CIT law

According to Polish CIT law, the following are understood to be a PE:

- A permanent place of business through which a non-Polish tax resident conducts its business activities, in whole or in part, within the territory of Poland; in particular, a branch, agency, office, factory, workshop, or place of extraction of natural resources.
- A construction site, construction, assembly, or installation works carried on within the territory of Poland by a non-Polish tax resident.
- A person who, on behalf and for the benefit of a non-Polish tax resident, operates in Poland, provided such person holds and exercises a power of attorney to enter into agreements on one's behalf.

We note that Polish CIT law:

- does not encompass any provisions concerning the period required for construction works to create a PE
- does not include provisions indicating that an independent agent does not create a PE, and
- does not include provisions indicating that actions of an auxiliary or preparatory character do not lead to creation of a PE in Poland.

PE from a DTT perspective

In general, the provisions of DTTs concluded by Poland are based on the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and on Capital (OECD Model), except for provisions related to taxation of royalties, which are based on the United Nations (UN) Model Double Taxation Convention.

As a principle, treaties based on the OECD Model provide for the following concepts, which determine whether activities of a foreign entrepreneur constitute a PE (usually in Article 5):

- Fixed place of business concept.
- Dependent agent concept.
- Construction PE concept.

Note that some DTTs concluded by Poland also encompass other PE concepts (e.g. service PE concept or offshore PE concept).

Other taxes

Value-added tax (VAT)

Polish VAT applies to the following activities:

- Supplies of goods and services within the territory of Poland.
- Exports of goods outside the territory of the European Union.
- Imports of goods from countries that do not belong to the European Union.
- Intra-Community acquisitions of goods (imports from countries belonging to the European Union).
- Intra-Community supplies of goods (exports to the countries belonging to the European Union).

VAT rates

The VAT rates are 23% (standard rate), 8%, 5%, 0%, and exemption.

The standard 23% VAT rate generally applies to the supply of all goods and services, except for those that are covered by special VAT provisions that provide other rates or treatments.

Supplies covered by a reduced rate of 8% include, among others, supplies of pharmaceutical products and passenger transport services and also supply of goods for the Social Housing Programme (no greater than 150 square metres).

Supplies covered by a reduced rate of 5% include books and journals, unprocessed food, and basic food.

Zero-rated activities include, among others, exports of goods to countries outside the European Union.

VAT-exempt supplies include, among others, certain financial, insurance, and educational services.

Basic calculation rules

In general, the VAT due equals the VAT on outputs decreased by the VAT on inputs (in other words, input VAT is deducted from output VAT). Input VAT may be deducted from output VAT when a business (with a VAT payer status) receives an invoice for goods or services purchased. Input VAT may not be deducted unless a purchased supply is linked to the VATable activities. Furthermore, the deductibility of input VAT is restricted by the VAT law with respect to the purchase of certain goods and services. In addition, subject

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to numerous conditions, output VAT may be reduced when receivables, resulting from VATable sales, become uncollectible.

VAT split payment from 2018

Poland is proposing to introduce an anti-VAT fraud split payment regime from 1 July 2018. Split payment will be applied on a voluntary basis. The purchaser will be entitled to choose the split payment mechanism or to pay the total invoice amount directly to the supplier of the goods or services. Under this split VAT payment mechanism, the supplier should issue an invoice for the net and VAT amounts; however, the customer will only pay the net amount to the supplier. The VAT share should be paid directly to the tax authorities, hence eradicating the 'collection' role of the suppliers. This system will only apply on domestic transactions and will not affect invoice requirements.

VAT refunds

The Polish VAT law allows direct refunds when input VAT (available for deduction) exceeds output VAT.

A Polish business may also be entitled to the VAT refund owed by another country under certain circumstances. Likewise, a foreign business having seat or fixed place of business for VAT purposes outside of Poland may be, in most cases, entitled to the refund of Polish VAT. If the respective countries belong to the European Union, the procedure is substantially simplified due to the EU Directive, which provides favourable rules for businesses based in EU countries that are seeking VAT refunds in other EU countries (i.e. electronic VAT refunds are possible).

International services

The treatment of international services largely depends on the place of supply since it is determinative of whether particular services are subject to the Polish VAT. The Polish VAT applies only to those services that are supplied within Poland.

Reporting rules

Generally, the VAT reporting period is one month. VAT returns should be submitted by the 25th day of the month following the VAT reporting period. Legislation obligates the VAT-registered taxpayers (except those exempt from VAT) to keep computerised records of all data required to fill out tax returns and recapitulation statements. Documents must be filed in the SAF-T format, both in the case of an inspection and with respect to the VAT records.

Customs duties

As a member of the European Union, Poland belongs to a customs union, thus only goods imported from non-EU countries or exported from Poland to non-EU countries are subject to customs duties and formalities. Moreover, all the Community customs regulations are directly applicable in Poland. The most important act is the Community Customs Code and its implementing provisions, as well as the Community Customs Tariff.

These regulations are supplemented with certain Polish national rules, especially in respect to procedures and specific areas that are not defined in the Community customs law (e.g. strict regulations concerning the export of works of art and animals, limits on the amount of cash that may be brought from Poland to non-EU countries).

Excise duties

Excise duties are levied on the production, sale, import, and intra-Community acquisition of 'excise goods', which are listed in the excise duty law and include (among others) alcohol, cigarettes, energy products (e.g. petrol, oils, gas), passenger cars, and electricity.

Depending on the excise goods in question, one of four methods of calculating excise tax may be applicable:

- A percentage of the taxable base.
- An amount per unit.
- A percentage of the maximum retail price.
- An amount per unit and a percentage of the maximum retail price.

The excise rate for car petrol is PLN 1,540 per 1,000 litres.

Passenger cars are subject to the following excise rates:

- 3.1% for cars with engine cubic capacity that does not exceed 2,000 cc.
- 18.6% for cars with engine cubic capacity that exceeds 2,000 cc.

Notwithstanding the above, Polish excise duty law provides for a wide system of excise duty exemptions as well as 0% taxation. Under specified circumstances, such preferential treatment may apply to specified goods that are otherwise taxed based on general rules. This concerns, for example, specific energy products used for other purposes than as a fuel or for heating.

There is also an excise duty placed on coal. Depending on the type of coal product, the excise rates are PLN 30.5 per 1,000 kg of coal, PLN 11 per 1,000 kg of lignite, and PLN 35.2 per 1,000 kg of coke. In practice, there are a wide range of excise duty exemptions (practically, Poland has used all the exemption options provided in the EU Directive); nevertheless, many new administrative obligations have been set for entities producing, distributing, and using coal. The fulfilment of those obligations is necessary in order to apply an excise duty exemption.

Property taxes

Property tax rates are fixed by municipalities within limits set in the Law on Local Taxes and Fees. In 2018, land used for business purposes is subject to a rate limit of PLN 0.91 per square metre. Buildings used for business purposes are subject to a rate limit of PLN 23.10 per square metre.

Transfer taxes

A transfer tax may apply to certain civil law transactions, determined as a percentage of the transaction (i.e. such as sale, loan, donation). A tax obligation on civil law transactions does not arise when one of the parties of the transaction is a VAT payer.

Stamp duty

In Poland, some activities are charged a stamp duty. Payment is required, for example, in connection with the submission of a power of attorney, after completion of an official act, or the issue of a certificate or permit.

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Capital tax

A share capital increase (in case of corporations) and contribution/contribution increase (in case of partnerships) is subject to a 0.5% capital tax, payable by a company or partnership that receives a capital contribution. This tax applies equally to limited liability companies as well as joint-stock companies. A merger, division, or transformation of a corporation into another corporation is not subject to capital tax, even if the transaction results in a share capital increase. A similar exemption applies to a capital increase resulting from (i) an in-kind contribution of an enterprise or its organised part or (ii) contribution of shares of the other corporation giving the majority of votes in this corporation or contribution of additional shares in case the corporation to which the shares are contributed already has the majority of votes.

Payroll taxes

There are no payroll taxes other than social security contributions (*see below*).

Social security contributions

Both the employer and the employee are obligated to contribute to the Polish social security system. Apart from paying its own share, the employer is obligated to withhold the employee's share of the social security contributions and remit them to the Social Security Authorities (ZUS). In both cases, the relevant payments shall be made monthly.

The employer pays total contributions in a range of 19.48% to 22.14% of the employee's gross salary (the employer's contribution rate includes an accident insurance element that varies according to the number of employees insured and the business sector). The contribution rate for the employee is 13.71% of gross salary. The social security shares payable by the employer and the employee are tax-deductible items in their respective income tax settlements.

The rates apply to salaries below the cap of PLN 133,290 in 2018. The cap changes every year. After exceeding this cap, the salary is subject to a contribution rate of 3.22% to 6.41% payable by the employer and 2.45% payable by the employee.

Tax on certain financial institutions

A tax on certain financial institutions (so-called 'banking tax') is levied on:

- Banks, branches of foreign banks, branches of credit institutions, and credit unions.
- Insurance companies, reinsurance companies, branches of international insurance companies and international reinsurance companies, and main branches of international insurance companies and international reinsurance companies.
- The lending institutions within the meaning of the Consumer Credit Act.

Tax at the rate 0.44% per year (0.0366% per month) is levied on the assets of the taxpayers less (i) PLN 4 billion in case of banks, (ii) PLN 2 billion in case of (re-) insurance companies, and (iii) PLN 200 million in case of lending institutions. In case of (re-)insurance companies and lending companies, tax is levied on the consolidated assets of the capital group companies.

Retail tax

On 1 September 2016, the Retail Tax Act of 6 July 2016 entered into force, but was quickly suspended until 1 January 2019 due to an EC investigation into the Polish tax on the retail sector (*see below*).

Based on the Retail Tax Act, retailers are to be taxed on the revenues achieved on retail sales, which should be understood as sales of goods to consumers for remuneration, in case an agreement is concluded on the business premises or away from business premises of the given taxpayer. Thus, e-commerce sales should not be subject to this tax. In this context, the services associated with retail sales should also be subject to taxation, unless they are recorded separately than the sale of goods.

Retail tax rates

The retail tax should be imposed on the excess of revenues over the amount of PLN 17 million, calculated, in principal, based on the turnover registered by the cash registers. The Act introduces two tax rates: 0.8% of the tax base for the given month, in the part not exceeding the amount of PLN 170 million, and 1.4% of the excess of the tax base, in the part exceeding the amount of PLN 170 million.

The retailers shall be obligated to submit tax returns and calculate and pay retail tax in the monthly settlement periods. However, no tax return must be submitted in case the revenues in the given month do not exceed the value of PLN 17 million.

Retail tax exemptions

The Retail Tax Act includes certain exemptions from taxation, among others, in respect of:

- energy, water, natural gas, and heat supply to consumers made by network utilities
- supply of some fuels designated for heating fuel purposes, and
- supply of medicines, special purpose nutrition, and reimbursed or partially-refunded medical products.

Retail tax postponed until 2019

On 19 September 2016, the EC opened an in-depth investigation into the Polish tax on the retail sector. The EC has concerns that the progressive rates based on turnover give companies with a low turnover a selective advantage over their competitors in breach of EU state aid rules. The EC has also issued an injunction, requiring Poland to suspend the application of the tax until the EC has concluded its assessment. At this stage, the EC has concerns that the application of progressive rates based on turnover confers a selective advantage on companies with low turnover and therefore involves state aid within the meaning of the EU rules. This progressive rate structure has the effect that companies with low turnover either pay no retail tax or pay substantially lower average rates than companies with high turnover.

As a result, the new retail tax was postponed until 1 January 2019. This means retailers are not obligated to pay tax in years 2016 to 2018.

Branch income

Foreign businesses are allowed, under certain conditions, to establish their branch offices (exclusively within the scope of their 'foreign' business activity) and representative offices (exclusively with regard to promotion and advertising) in Poland.

A branch office almost always has PE status in Poland. Once a branch is established, the foreign company pays CIT at the standard rate of 19%, based on the income attributable to the operations of the Polish branch. For this purpose, as well as for accounting purposes, a branch is obligated to keep accounting books that include all the data necessary to establish the taxable base. In this respect, general income determination rules relevant to Polish companies apply to branches as well. In the few cases in which a branch can demonstrate, based on a DTT, that its business presence in Poland does not constitute a PE, its profits are not subject to Polish CIT.

Income determination

The tax base for CIT purposes is the overall income, which is the difference between aggregated taxable revenue and aggregated tax-deductible costs. A tax-deductible cost is defined as a cost incurred for the purposes of deriving revenues, as well as for the purpose of securing or preserving a source of revenue.

Subject to numerous exemptions, the tax base includes all sources of income. Consequently, there is no special treatment for income such as capital gains or interest.

In practice, taxable income is calculated by adjusting the profit reported for accounting purposes. The relevant adjustments are necessary due to differences between tax and accounting treatment of numerous revenue and cost items. As a result, the taxable base is usually higher than the accounting profit.

As of 1 January 2018, there is a separation of income/loss sourced from capital transactions from other income/loss sources. Taxpayers now have to recognise revenues and costs related to each 'basket' separately. There is no possibility to set-off income derived from one 'basket' with loss borne in the other 'basket'. Income in both baskets is taxed at 19% CIT. Apart from share/capital transactions, the capital basket includes royalties, license fees, and similar rights.

Inventory valuation

Generally, the value of inventory shortages may be included as a tax-deductible cost. Other write-offs in the value of inventory are not recognised for tax purposes until the inventory in question is sold.

When inventory is lost or sold, a tax deduction is allowed for the costs incurred when the inventory was purchased. The methods acceptable for inventory valuation for tax (and accounting) purposes are standard cost, average (weighted) cost, first in first out (FIFO), and last in first out (LIFO).

Capital gains

There is no separate capital gains tax. Capital gains or losses are aggregated with an entity's other taxable income or losses. Capital losses are tax-deductible.

Dividend income

Domestic dividend income

Dividends received from Polish residents (domestic dividends) are excluded from overall income. Instead, such dividends are subject to a 19% withholding tax (WHT), which is withheld and remitted to the tax office by the payer of dividends. Based on a participation exemption, however, domestic dividends are not subject to the 19% WHT if the Polish beneficiary holds at least a 10% share in the paying company for at least two years.

The revenue arising from voluntary redemption of shares is not treated as a dividend for tax purposes and does not enjoy the benefits of the participation exemption (i.e. the method of redemption, whether voluntary or automatic, will matter).

Dividend income from abroad

Generally, dividends received by a Polish corporate tax resident from a non-resident are treated as regular income and taxed at the standard CIT rate. CIT on such dividends paid in other countries may be credited proportionately against Polish CIT.

Additionally, dividends received from entities seated in the European Union (including Poland), EEA member states, or Switzerland can benefit from CIT exemption if the Polish company owns, respectively, at least 10% (in respect to companies seated in the EU/EEA member states) or 25% (in respect to companies seated in Switzerland) in the share capital of the payer for two consecutive years (and certain other conditions are met).

Dividends received from non-EU/non-EEA member states may benefit from underlying tax credit. If a Polish company or a PE of a company from an EU/EEA member state located in Poland receives a dividend from a company seated in a non-EU/non-EEA country, it may deduct the tax paid by the payer on profits out of which the dividend was paid. The deduction is only possible if the Polish company/company from EU/EEA, which PE is located in Poland, holds (for two consecutive years) at least 75% of shares of the dividend payer. The tax may be deducted in an appropriate proportion. Furthermore, the deduction is possible if there is a DTT. Based on the provisions of the relevant DTT or other agreement concluded by Poland, the Polish tax authority may exchange tax information with its counterparty.

Anti-avoidance regulations

The participation exemption on dividends and other profit-sharing payments does not apply to the legal transaction or series of legal transactions that, having been put into place for the main purpose or one of the main purposes of obtaining a tax advantage, are not genuine, having regard to all relevant facts and circumstances.

Based on the introduced provisions, a 'not genuine' legal transaction is such transaction that is undertaken in order to benefit from the tax exemption but does not reflect economic reality (i.e. it is not conducted for valid commercial reasons and its result is, in particular, transfer of shares' ownership of the company paying the dividend or achieving, by this company, income [revenue] paid in the form of a dividend).

Interest income

Interest income is aggregated with an entity's other taxable income.

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Royalty income

A 20% WHT is imposed on royalties paid to non-residents. Royalties paid to resident companies are taxed as ordinary income at the level of the beneficiaries of the royalties. There is no WHT on royalties if the conditions for the application of the EU Interests & Royalties Directive are met.

Only a beneficial owner is able to apply exemption from WHT on royalties.

Foreign income

Resident corporations are taxed on their worldwide income unless there is an applicable DTT in place between Poland and the relevant country that provides that the foreign income shall be exempt from taxation in Poland (*see Foreign tax credit in the Tax credits and incentives section*).

CFC rules entered into force as of 1 January 2015 (*see Controlled foreign companies [CFCs] in the Group taxation section for more information*).

Deductions

Generally, a tax-deductible cost is defined as a cost incurred for the purposes of deriving revenues, as well as for the purpose of securing or preserving a source of revenue. The last element of the definition of a tax-deductible cost was added to reduce uncertainties surrounding the deductibility of business expenses that do not directly generate revenue.

The CIT law provides a list of items that are not deductible for tax purposes, even if the items meet the general conditions described above. This list contains over 60 items including, among others, the following:

- Written-off, lapsed accounts receivable.
- Entertainment costs.
- Accrued but unpaid interest.
- Accounting and comparable provisions.
- Tax penalties and penalty interest.
- A portion of the insurance premium paid on a passenger car (i.e. the portion calculated on the excess of the car value over EUR 20,000).
- A portion of the depreciation write-offs made on a passenger car (i.e. the portion calculated on the excess of the car value over EUR 20,000).

As of 1 January 2018, there are further changes in CIT deductibility rules, as follows:

- Deductibility of interest from debt push-down structures is excluded.
- Deductibility of costs in sale and lease-back transactions is limited at the level of prior revenues.
- A one-off write-down for fixed assets of small value is possible for assets worth up to PLN 10,000 (previously PLN 3,500).

There is also a limitation of deductibility of costs from certain intangible services and royalties. Costs from related parties, including advisory, management, data processing, marketing, market research, insurance, guarantees, royalties, and transfer of risk connected with bad loan receivables (e.g. via insurance, derivatives, guarantees), are limited to 5% of tax EBITDA under new rules.

Excluded from the above are accounting, legal, and recruitment services, and all services covered with APAs, as well as costs of intangible services directly related to production of goods/provision of services. A limit will apply if the excess is over PLN 3 million.

A limitation of deductibility of financial costs has also been introduced by new rules. Deductibility restrictions are applicable both to internal and external financing costs (not only interest). The deductibility limit for the excess of financing costs over financing revenue is set at 30% of tax EBITDA. The limit applies if the excess is over PLN 3 million.

Furthermore, expenses incurred in connection with the acquisition of fixed and intangible assets (e.g. licences, trademarks, know-how) are not directly deductible. Instead, the acquired assets are subject to depreciation. If such assets are sold, a business is entitled to deduct the net value (cost of acquisition reduced by the overall value of the tax depreciation allowances made). Similar treatment relates to the acquisition of shares or land, except that these particular assets are not depreciable. Therefore, the full cost of an acquisition of shares or land may be deducted when such assets are sold.

Depreciation

Depreciation write-offs are treated as a tax-deductible cost. Generally, depreciation allowances are calculated based on the straight-line method and the maximum annual rates provided in the CIT law. If this is the case, a taxpayer deducts equal annual write-offs, calculated by multiplying the maximum rate of depreciation by the asset's initial value until the total value of write-offs equals the initial value (typically, the initial value equals the purchase price).

For certain categories of machinery and vehicles (but not passenger cars), the reducing-balance depreciation method may be applied. Under this method, the tax depreciation may be accelerated during the initial period of the asset's use by multiplying the statutory maximum rate by two. The rate is then applied to the net value of fixed assets (i.e. initial value reduced by earlier annual write-offs). The reducing-balance method is applied until the annual depreciation write-off equals the hypothetical write-off that would be made under the straight-line method. From this point, the depreciation allowance is taken based on the straight-line method for its remaining useful life.

The main categories of assets and the related statutory annual tax depreciation rate are as follows:

Assets	Depreciation rate (%)
Various buildings and constructions	1.5 to 10
Machinery and equipment (general)	7 to 20
Machinery for road building and construction	18 to 20
Machinery for paper industry	14
Office equipment	20
Computers	30

Apart from the above, the Polish CIT law includes provisions for accelerated depreciation (within specified limits) for assets used in deteriorated conditions and for second-hand assets.

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Goodwill

Under the provisions of CIT law, goodwill is subject to tax amortisation if it is created as a result of acquisition of an enterprise, or its organised part, made in one of the following ways: (i) purchase; (ii) payable use, provided that the user of such enterprise/organised part of an enterprise makes the depreciation write-offs; or (iii) contribution to a company based on commercialisation and privatisation regulations. The goodwill is amortised for tax purposes for a minimum period of five years.

Start-up expenses

There are no specific provisions in the Polish CIT law relating to start-up expenses; the general rules of tax deductibility described above apply.

Interest expenses

Accrued interest on loans and credit that were paid or capitalised are deductible for CIT purposes. Polish CIT law provides some exceptions, such as instances where costs are not associated with earning revenue.

In Poland, there are also some limitations of interest tax deductibility connected with thin capitalisation regulations. *See Thin capitalisation in the Group taxation section for more information.*

Bad debt

As a general rule, debts written off as uncollectable cannot be considered as tax deductible. However, in certain situations, the provisions of Polish CIT law provide some exceptions. According to these provisions, only strictly defined uncollectable debts (which based on the CIT law were booked as taxable revenues) may be considered by the taxpayer as a tax-deductible cost, provided that their uncollectability was properly documented (e.g. by a court decision). In some cases, uncollectability may be considered probable (e.g. debtor's death).

Charitable contributions

Companies are entitled to deduct donations for the purposes of public benefit and to volunteer activity organisations up to a total amount not exceeding 10% of income; however, deductions may not be made for donations to:

- natural persons or
- legal persons or organisational units having no legal personality who carry on economic activity consisting in the production of electronic goods; fuel; tobacco; spirits, wines, beers, and other alcohol beverages containing over 1.5% alcohol; products made of noble metals or containing such metals; or incomes received from trading in such goods.

Donations for religious practice purposes can be deducted up to a total amount not exceeding 10% of income.

Additionally, the donations of food products made for the purposes of so-called public benefit constitute tax deductible costs in the amount of production costs or purchase price.

Fines and penalties

Fines and penalties can be recognised as tax deductible items if they meet the general conditions. However, the Polish CIT law provides some exceptions, which include contractual penalties and indemnities for defects in supplied goods, works, and services performed; delayed supply of non-defective goods; and delay in the elimination of defects in goods, works, and services performed.

Taxes

Income tax, certain industry-specific taxes (e.g. banking tax), and, in most cases, VAT incurred on purchases are not deductible. However, as a rule, VAT is deductible for CIT purposes if it cannot be offset against the company's output VAT. Other taxes, if paid in the course of business activities, are generally deductible in full.

Net operating losses

A tax loss reported in a tax year may be carried forward over the next five consecutive tax years; however, in any particular tax year, the taxpayer may not deduct more than 50% of the loss incurred in the year for which it was reported. For example, a taxpayer that incurred PLN 100 annual loss in 2017 may carry it forward to 2018 through 2022. However, the maximum loss deduction in any of these years may not exceed PLN 50 (assuming that there are no other losses available for deduction).

Currently, there is no possibility to carry back tax losses in Poland.

Payments to foreign affiliates

Deductions may be claimed for royalties, management services, and interest charges paid to foreign affiliates. However, note that interest expenses are subject to the thin capitalisation restrictions (*see Thin capitalisation in the Group taxation section for more information*). Furthermore, note that transactions with related companies should be made according to the market conditions. Where a company shifts income to another entity (especially a foreign entity), the tax authorities may adjust the taxable base upward (*see Transfer pricing in the Group taxation section for more information*).

The Polish CIT Law also includes a so-called 'beneficial owner' clause with respect to interests and royalties. In line with the relevant provisions, similarly as in many DTTs, only the beneficial owner (i.e. not an agent, representative, trustee, etc.) can benefit from WHT exemptions under the Polish CIT Law.

Cash payments

The Polish CIT Law provides for a cash expense value limit, in line with which transactions having value over PLN 15,000 can only be recognised as tax deductible costs if settled using a bank transfer.

Group taxation

The CIT law includes provisions on group taxation (i.e. in theory, a group of companies). If a group of companies meets certain conditions, it can be treated as a single taxpayer. However, the required conditions are extremely demanding and very few taxpayers of this type exist.

As of 1 January 2018, there has been a change of rules regarding CIT groups. Since 1 January 2018, there is a decrease of the minimal revenue-to-income ratio of the

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tax group from 3% to 2%. The tax group will lose the status of taxpayer retroactively (from the date of registration as a tax group) in case of breach of certain conditions, and companies forming the tax group will be obligated to reconcile for CIT purposes as independent taxpayers retroactively for prior years. Group members will be obligated to set intra-group transaction terms at arm's length. However, there will be no formal obligation to prepare statutory transfer pricing documentation for such transactions.

Transfer pricing

Transactions between related parties should be conducted in accordance with the arm's-length principle. The tax authorities may increase the taxable base if the pricing method applied between related parties differs from what would have been applied between unrelated parties in a similar business transaction and the difference results in income being understated by a Polish taxpayer. The regulations apply to domestic transactions as well as cross-border ones. Similar rules also apply to transactions between Polish residents and the residents of tax havens. These transactions may be subject to the transfer pricing principles even if the parties thereto are not related. The CIT law also contains detailed requirements for transfer pricing documentation.

Transfer pricing regulations are currently undergoing major changes resulting from implementation of the Base Erosion and Profit Shifting (BEPS) Action 13 in Poland.

The biggest Polish capital groups (with consolidated revenues exceeding EUR 750 million) are obligated to provide, in Poland, information on their taxable income, tax paid, and their place of business unless the consolidating entity is a subsidiary of a foreign party. In this case, the obligation is shifted abroad.

Taxpayers are also obligated to prepare transfer pricing documentation in an extended format covering not only the description of a transaction but also 'other events included in the accounting books' if they were agreed to by related parties and influence the taxpayer's taxable income or loss. If the taxpayer's revenue or expenses exceed EUR 10 million in the preceding financial year, the requirements increase. The taxpayer is obligated to provide a benchmarking study verifying the arm's-length character of related-party transactions. Furthermore, taxpayers whose annual revenues or expenses exceed EUR 20 million in the preceding financial year are also obligated to provide group transfer pricing documentation (master file) presenting the character of settlements from the group perspective. Finally, taxpayers whose revenue exceeds EUR 10 million are obligated to attach to their tax return a summary of their related-party transactions using a special form.

The taxpayers are obligated to submit a statement alongside their CIT return, confirming that complete local transfer pricing documentation and benchmarking studies, as required by the transfer pricing regulations, have been prepared.

Although the regulations are generally in line with the OECD recommendations, the transfer pricing documentation and benchmarking studies required by the Polish transfer pricing regulations must meet certain specific Polish requirements as well.

Taxpayers can mitigate the transfer pricing risk by applying for an APA. The tax authorities may not challenge the methodology agreed upon, but may verify whether the methodology is followed in practice.

Country-by-country (CbC) reporting

The Act of 9 March 2017 r. on the exchange of tax information with other states (Journal of Laws from 2017, No. 648) introduces a comprehensive regulation concerning the international exchange of tax information within a single legal Act.

In particular, this Act contains regulations requiring the taxpayers belonging to a group with consolidated net turnover exceeding EUR 750 million in the previous financial year to provide additional information about entities that form part of a group of entities (CbC report).

Information about entities that form part of a group of entities

The obligation to file a CbC report applies to entities operating in groups that:

- prepare consolidated financial statements,
- conduct cross-border operations, and
- earned consolidated net turnover for the previous financial year exceeding EUR 750 million.

The obligation is effective for the reporting financial year beginning after 31 December 2015.

The Act provides that, as a rule, a CbC report is to be provided by the ultimate parent company in the group (in Poland: if it has its registered office or seat of management here).

Additional obligations for the Polish taxpayers

However, a Polish taxpayer that is not an ultimate parent company may be obligated to submit a CbC report if:

- the ultimate parent company is not under such obligation in the state in which its registered office or seat of management is located
- the authorities of the state in which the ultimate parent company's registered office or seat of management is located did not conclude an agreement on the exchange of information with Poland within 12 months from the end of the reporting year
- the state in which the ultimate parent company's registered office or seat of management is located has suspended the automatic exchange of information, or
- no other group entity has been designated to prepare such information.

In addition, each Polish entity that belongs to a group obligated to submit a CbC report will have to:

- notify that it is an ultimate parent company, or
- specify the reporting entity and the state in which the information will be provided.

This information must be submitted to the Chief of the National Fiscal Administration (*Krajowa Administracja Skarbowa* or KAS).

A CbC report should, as a rule, be provided within 12 months from the end of a reporting year (i.e. for 2017: by the end of 2018).

If the ultimate parent company does not prepare information about the group, the Polish company is obligated to prepare and provide such information on its own no

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earlier than for the year beginning after 31 December 2016. However, the Polish taxpayer may voluntarily file such information also for the year beginning after 31 December 2015.

Taxpayers will have to notify of the entity responsible for preparing the CbC report by the end of the group's financial year.

Thin capitalisation

As of 1 January 2018, new thin capitalisation rules entered into force. Previously, the amount of tax-deductible interest on intra-group loans was correlated with the level of equity. New rules introduced deductibility restrictions:

- applicable both to internal and internal financing, and
- correlated with tax EBITDA.

Tax deductibility of interest is disallowed to the extent: (the excess of interest costs over interest revenue) exceeds $30\% * ((\text{taxable revenues} - \text{interest revenues}) - (\text{tax deductible costs} - \text{depreciation of fixed assets and intangibles} - \text{interest cost}))$

However, the new rules should provide for a 'safe harbour' of PLN 3 million of tax deductible interest per year. The amount of interest non-deductible in a given tax year may be carried forward and deducted in five subsequent years (still subject to general limitations of 30% EBITDA).

Restrictions are not applicable to financial entities (e.g. banks, credit institutions, as well as open-end and closed-end investment funds).

Under the grandfathering rules, loans granted and effectively disbursed by the moment of entry of the amendments into force are still subject to previously binding thin capitalisation rules; however, no longer than by 31 December 2018.

Controlled foreign companies (CFCs)

An additional income tax is imposed on direct and indirect shareholders (Polish tax residents) of a company/PE from the EU/EEA (or other country that concluded a DTT with Poland) if the following conditions are jointly met:

- Polish company has 50% direct or indirect participation in foreign company's income, voting rights, or capital for at least 30 consecutive days.
- Foreign company derives its income mainly (i.e. at least 33%) from so-called 'passive' sources (e.g. dividends [with an exception for dividends exempt under the Parent-Subsidiary Directive], interest, royalties, capital gains).
- Foreign company's/PE's income is subject to taxation at nominal rates lower than 14.25% (calculated as 75% of the 19% CIT rate applicable in Poland), is not subject to taxation at all, or is exempt from taxation.

The tax regime also affects taxpayers that are owners of foreign companies located in countries recognised as applying harmful tax competition or countries not participating in exchange of tax information with the European Union or Poland under a certain treaty.

Under the regime, income earned by the CFCs is subject to the 19% CIT rate. As a general rule, taxpayers are allowed to decrease the tax due in Poland by the amount of tax already paid abroad by the CFCs. The tax base is to cover the whole amount

of income earned by the CFCs (including the passive income and the income earned on the actual business) that can be allocated to the Polish shareholders. The tax base is calculated proportionally to the period in which particular taxpayers were foreign entity's shareholders. If the CFCs are located in tax havens, the shareholders are to pay the tax on the whole amount of income earned by the CFCs (independently of their actual share in the income).

In certain cases, tax on income from the CFCs will not be levied if the CFC performs actual economic activity, defined as below, *inter alia*:

- Incorporation must correspond with an actual establishment intended to carry on genuine economic activities. In particular, the CFC should physically exist in terms of premises, staff, and equipment.
- The CFC does not create an artificial arrangement without a link with the economic reality.
- There is proportionality between the actual economic activities carried out by the CFC and the extent to which the CFC exists in terms of premises, staff, and equipment.
- Agreements concluded by the CFC have business justification and are in line with its economic interest.

Furthermore, certain administrative and reporting obligations have been introduced with CFC rules (e.g. obligation to maintain a register of the CFCs, filing separate tax returns presenting the amount of income generated through the CFC).

Tax credits and incentives

Foreign tax credit

Resident corporations are taxed on their worldwide income unless there is an applicable DTT in place between Poland and the relevant country that provides that the foreign income shall be exempt from taxation in Poland. In all other cases (in particular, when the income is not covered by any treaty), Poland uses the ordinary credit method to avoid double taxation. Therefore, a Polish resident is liable for income tax imposed on its worldwide income, but the tax is proportionately reduced by the income tax paid abroad.

Special Economic Zones (SEZs)

Polish legislation provides investment incentives related to business activities carried out in 14 zones defined as SEZs. A business entity can benefit from tax incentives, provided that the entity obtains a permit from the Ministry of Economic Development to conduct business activities there and meets other legal requirements. Note that a CIT credit applies only to income earned on activity conducted within the territory of SEZs and covered by permit.

In general, the amount of the tax incentive depends on project location and size of the enterprise. For large enterprises, it can be 15% to 50% of eligible expenditures (i.e. investment expenditures or two-year labour costs). In other words, the CIT credit allows the investor to avoid paying income tax up to the limit calculated on the basis of eligible expenditures and state aid intensity (percentage as above). In case of investment valued PLN 20 million and intensity aid of 40%, the investor would be entitled not to pay tax due up to PLN 8 million. If the available limit of the tax credit

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exceeds the annual tax due generated on SEZ activity, the excess may be utilised in the following tax years. Consequently, in the case of significant investments, it is possible for businesses that run activities in the SEZs to enjoy exemption from income tax for a considerable period. According to current regulations, the deadline for utilising the available tax credit is the end of 2026 (previously 2020).

Note that in the case of small enterprises, the limit of the tax credit may be increased by 20%. In the case of medium-sized enterprises, the limit of the tax credit may be increased by 10%.

Tax relief for research and development (R&D)

Entrepreneurs have the possibility of a tax deduction of costs incurred for R&D. The value of the deduction varies depending on the size of the company and type of eligible costs.

Eligible costs include the following six categories of R&D expenditures:

- Employees' wages and social contributions.
- Purchase of commodities and raw materials.
- Expertise, research, and opinions bought from scientific units.
- Payments for use of research equipment.
- Amortisation of intangible assets and fixed assets, excluding passenger cars, buildings, and constructions.
- Costs of obtaining intellectual property (IP) protection.

To benefit from the tax relief, each entity needs to perform R&D works and prepare a record of the eligible costs incurred in relation to R&D works in a given year. It is not important whether the R&D works end with success or the level of innovativeness of future effects of those works. Tax relief is also allowed for qualifying projects in progress (e.g. projects launched in previous years).

As of 1 January 2018, there is an increase of the existing deductions in income taxes from 50% and 30% (depending on the category of eligible costs and the size of the taxpayer) to 100% of qualified costs, irrespective of their category and size of the taxpayer (which has hitherto differentiated the allowed deduction limits). This means that all taxpayers benefiting from R&D tax relief will be able to save in income tax PLN 19 on every PLN 100 of qualified costs starting from 2018.

As of 1 January 2018, taxpayers may deduct expenditure incurred on employees that covers the costs of staff hired by taxpayers for R&D purposes under selected civil law contracts (previously only on an employment contract basis).

The new regulations also clarify that R&D tax relief is available to taxpayers who, during the tax year, have operated in an SEZ on the basis of a permit, regarding eligible costs that were not recognised as costs of running the activity covered by the SEZ's permit.

Withholding taxes

Domestic provisions: General rules

The general domestic WHT rate for dividends is 19%. Dividends also encompass income from liquidation of a company and the income from the redemption of shares

(with the exception of gain from voluntary redemption, which is treated as a capital gain subject to the 19% CIT rate in Poland if the gain is realised by a taxpayer from a non-treaty country or the treaty includes a so-called 'real estate clause').

The general WHT rate on interest and royalties paid to non-residents is 20% (10% regarding services of sea or air transportation). These WHT rates may be reduced by DTTs.

There is also a 20% WHT on payments made to non-residents for intangible services (such as consulting services). However, if a payment is made to a country that has a DTT with Poland, this tax may be avoided with the completion of certain minimal administrative formalities. Few treaties treat payments for technical services as royalties (e.g. India).

The 'beneficial owner' definition determines that entities receiving royalties and interests must constitute the beneficial owner in order to apply the exemption from WHT tax on interest and royalties.

Special treatment: EU Directives

The CIT law provisions and certain EU Directives provide special treatment for dividends, interest, and royalties paid to numerous European countries.

In general, the transitional rules on interest and royalty payments paid by Polish corporate residents to associated EU or EEA companies, as well as the full exemption after 1 July 2013, only apply to interest and royalty payments between associated companies (parent-subsidiary relationships or sister-sister relationships) in which capital involvements are significant, i.e. the paying company owns or is owned at least 25% by the company receiving interest or the company that pays interest and the company that receives interest are owned at least 25% by the same parent company. Shareholding should be kept for a minimum of two consecutive years.

Dividends paid to corporate residents of EU and EEA countries are exempt from WHT, subject to certain conditions specified in the CIT law. The basic requirement is that the foreign beneficiary holds at least 10% of the shares in the Polish company for a minimum of two consecutive years.

In relation to all given payments (i.e. dividends, interest, royalties), the condition regarding holding shares is also fulfilled if two years passes after the day of the dividend/interest/royalty payment. If the period is interrupted afterwards, the company is obligated to pay the tax at the standard rate with interest.

Note that several additional conditions have to be met for the reduced rate/exemption from the WHT based on the Directive to be applied (e.g. the company receiving the dividend/interest/royalty cannot be exempt from tax on all its income, regardless of its source; the recipient has to have ownership title to the shares in the Polish company).

Additionally, the CIT law states that in order to enjoy the exemption from WHT on dividends and decreased WHT rate on interest and royalties, based on the Directives' provisions, the relevant DTT or other agreement concluded by Poland should allow exchange of tax information between the tax authorities of Poland and the country of the payment recipient.

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Given the fact that Poland did not conclude a DTT with Liechtenstein, payments made to tax residents of Liechtenstein should not benefit from the Directive.

Treaty rates

If EU special rules do not apply, the domestic WHT rates can be decreased by a DTT concluded between Poland and the payment recipient's country of residence if certain administrative conditions are met (i.e. the payer obtains a valid certificate of a fiscal residence of the payment recipient/beneficial owner).

The following table lists the WHT rates as provided in the treaties concluded by Poland. Notably, the following table shows only rates that result from general treaty provisions; the treaties themselves occasionally include special provisions (applicable in special circumstances or to special entities) that provide lower WHT rates than the ones listed.

Furthermore, if a treaty rate is higher than a domestic one, the latter should apply.

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	19	20	20
Treaty:			
Albania	5 (1)/10	10	5
Armenia	10	5	10
Australia	15	10	10
Austria	5 (3)/15	0 (4)/5	5
Azerbaijan	10	0 (2)/10	10
Bangladesh	10 (5)/15	0 (6)/10	10
Belarus	10 (7)/15	10	0
Belgium	5 (8)/15	0 (9)/5	5
Bosnia & Herzegovina (Yugoslavian Treaty)	5 (1)/15	10	10
Bulgaria	10	0 (10)/10	5
Canada	0/15	0 (11)/15	0 (12)/10
Chile	5 (13)/15	5/15 (85)	5 (14)/10/15 (86)
China, People's Republic of	10	0 (15)/10	10 (16)/10 of 70 (14)
Croatia	5 (1)/15	0 (15)/10	10
Cyprus	0 (17)/5	0 (79)/5	5 (87)
Czech Republic	5	0 (80)/5	10 (81)
Denmark	0 (19)/5 (20)/15	0 (21)/5	5
Egypt	12	0 (22)/12	12
Estonia	5 (23)/15	0 (24)/10	10
Finland	5 (23)/15	5	5
France	5 (3)/15	0	0 (25)/10
Georgia	10	0 (26)/8	8
Germany	5 (3)/15	0 (27)/5	5
Greece	19 (73)	10	10
Hungary	10	0 (10)/10	10
Iceland	5 (23)/15	0 (10)/10 (74)	10
India	15	0 (28)/15	22.5
Indonesia	10 (13)/15	0 (10)/10	15
Iran	7	0 (29)/10	10
Ireland, Republic of	0 (30)/15	0 (31)/10	0 (82)/10

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Israel	5 (32)/10	5	5 (14)/10
Italy	10	0 (33)/10	10
Japan	10	0 (34)/10	0 (35)/10
Jordan	10	0 (10)/10	10
Kazakhstan	10 (36)/15	0 (37)/10	10
Korea, Republic of	5 (3)/10	0 (38)/10	5 (39)
Kyrgyzstan	10	0 (40)/10	10
Kuwait	0 (41)/5	0 (42)/5	15
Latvia	5 (23)/15	0 (43)/10	10
Lebanon	5	0 (37)/5	5
Lithuania	5 (23)/15	0 (10)/10	10
Luxembourg	0 (88)/15	0 (44)/5	5
Macedonia	5 (23)/15	0 (10)/10	10
Malaysia	0 (45)	0 (46)/15	0 (47)/15
Malta	0 (77)/10 (76)	0 (2)/5	5 (78)
Mexico	5 (23)/15	0 (48)/5 (49)/15	10
Moldova	5 (23)/15	0 (37)/10	10
Mongolia	10	0 (10)/10	5
Montenegro (Yugoslavian Treaty)	5 (23)/15	10	10
Morocco	7 (18)/15	10	10
Netherlands	5 (3)/15	0 (75)/5	5
New Zealand	15	10	10
Norway	0 (50)/15	0 (4)/5	5
Pakistan	15	0 (51)/20	15 (52)/20 (53)
Philippines	10 (23)/15	0 (54)/10	15
Portugal	10 (55)/15	0 (56)/10	10
Qatar	5	0 (84)/5	5
Romania	5 (23)/15	0 (43)/10	10
Russia	10	0 (57)/10	10
Saudi Arabia	5	0 (83)/5	10
Serbia (Yugoslavian treaty)	5 (23)/15	10	10
Singapore	5 (58)/10	5	2 (14)/5
Slovak Republic	5 (18)/10	0 (43)/10	5
Slovenia	5 (23)/15	0 (60)/10	10
South Africa	5 (23)/15	0 (10)/10	10
Spain	5 (1)/15	0	0 (35)/10
Sri Lanka	15	0 (61)/10	0 (62)/10
Sweden	5 (23)/15	0	5
Switzerland	0 (20, 50)/15	5	5
Syria	10	0 (63)/10	18
Taiwan	10	10	3 (89)/10
Tajikistan	15	0 (40)/10	10
Thailand	20	0 (59)/10	0 (64)/5 (65)/15
Tunisia	5 (1)/10	12	12
Turkey	10 (23)/15	0 (10)/10	10
Ukraine	5 (23)/15	0 (37)/10	10
United Arab Emirates	0 (66)/5	0 (10)/5	5
United Kingdom	0 (67)/10	0 (68)/5	5
United States	5 (69)/15	0	10

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Uzbekistan	5 (70)/15	0 (71)/10	10
Vietnam	10 (23)/15	10	10 (72)/15
Zimbabwe	10 (23)/15	10	10

Notes

- When the beneficial owner is a company that directly holds at least 25% of the capital of the company paying the dividends.
- When interest is paid to the government, the central bank of the state, including local authorities or other government bodies.
- When the beneficial owner is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends.
- When interest is paid to the government, a political subdivision, or a local authority in connection with:
 - a loan granted, insured, or guaranteed by a governmental institution for the purposes of promoting exports
 - a sale on credit of any industrial, commercial, or scientific equipment, or
 - any loan granted by a bank.
- When the beneficial owner is a company that directly holds at least 10% of the capital of the company paying the dividends.
- When the interest is paid:
 - to the Central Bank of Poland
 - to the Central Bank of Bangladesh
 - to the government of the Republic of Poland or the government of the Republic of Bangladesh, or
 - in respect of a loan made or guaranteed or insured by the government of the other state, or any agency including a financial institution owned or controlled by the government.
- When the beneficial owner is a company (other than a partnership) that directly holds at least 30% of the capital of the company paying the dividends.
- When the beneficial owner is a company (other than a partnership):
 - that directly holds at least 25% of the capital of the company paying the dividends or
 - that directly holds at least 10% of the capital of the company paying the dividends, and the value of investments in the company is at least EUR 500,000 or is equal to the amount in the other currency.
- When interest is paid:
 - on a loan granted, guaranteed, or insured, or a credit granted, guaranteed, or insured, by a general system organised by the state, including political subdivisions or local authorities for purposes of promoting exports
 - on a loan of whatever kind, except in the form of bearer securities, granted by a banking company, or
 - to other states, including political subdivisions and local authorities.
- When interest is paid to the government, including local authorities, to the central bank or any financial institution controlled by that government, or on loans guaranteed by that government.
- When interest is paid in respect of a loan made, guaranteed, or insured by the state or agreed public body.
- Copyright royalties and other similar payments in respect of the production or reproduction of any literary, dramatic, musical, or artistic work (not including royalties in respect of motion picture films and works on film or videotape for use in connection with television).
- When the beneficial owner is a company that directly controls 20% of the voting stock of the company paying the dividends.
- For the use of, or the right to use, any industrial, commercial, or scientific equipment.
- When interest is paid:
 - to the government, a local authority, and the central bank or any financial institution wholly owned by that government or
 - to the other resident of the other state with respect to debt-claims indirectly financed by the government of the other state, a local authority, and the central bank or any financial institution wholly owned by the government.
- For the use of, or the right to use, any copyright of literary, artistic, or scientific work, including cinematograph films, and films or tapes for radio or television broadcasting, or any patent, know-how, trademark, design or model, plan, secret formula, or process.
- The Protocol of 22 March 2012 has entered into force. The Protocol introduces a maximum 5% rate of WHT on dividends and exempts dividends paid to an immediate parent company (other than partnership) that owns at least 10% of the capital of the company paying the dividend.
- When the beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the company paying the dividends.
- When the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends, where such holding is being possessed for an uninterrupted period of no less than one year and the dividends are declared within that period.

20. When the beneficial owner is a pension fund or other similar institution providing pension schemes in which individuals may participate in order to secure retirement benefits, when such pension fund or other similar institution is established, recognised for tax purposes and controlled in accordance with the laws of the other state.
21. When interest is paid:
 - on a loan of whatever kind granted, insured, or guaranteed by a financial institution owned or controlled by the state
 - in connection with the sale on credit of any industrial, commercial, or scientific equipment
 - in respect of a bond, debenture, or other similar obligations of the government of the state, or of a political subdivision or local authority, or
 - to the other state, or to a political subdivision or local authority.
22. When interest is paid to the government of the other state, including local authorities and the central bank.
23. When the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends.
24. When interest is paid to the government of the other state, including political subdivisions and local authorities, the central bank, or any financial institution owned by the government or on loans guaranteed by the government.
25. From copyright of literary, artistic, or scientific work.
26. When the beneficial owner is the government of the other state or central bank.
27. When the interest, subject to certain exceptions related to silent shareholders, is paid:
 - to the government of Poland or Germany on a loan of whatever kind granted, insured, or guaranteed by a public institution for purposes of promoting exports
 - in connection with the sale on credit of any industrial, commercial, or scientific equipment
 - in connection with the sale on credit goods between companies, or
 - on any loan of whatever kind granted by a bank.
28. If the following conditions are met:
 - Interests paid to:
 - the government, a political sub-division, or a local authority of the other contracting state or
 - the central bank of other contracting state.
 - When the beneficial owner is a resident of the other contracting state and is derived in connection with a loan or credit extended or endorsed by:
 - Bank Handlowy (in scope of financing export and import) - for Poland
 - the Export-Import Bank of India (in scope of financing export and import) - for India
 - any institution in the other contracting state in charge of public financing of external trade, or
 - any other person, provided that the loan or credit is approved by the government of the first mentioned contracting state.
29. When the beneficial owner is the government, ministry, other governmental institution, municipality, central bank, or any other bank wholly owned by the government of the other contracting state.
30. When the beneficial owner is a resident of the other contracting state and directly holds at least 25% of the voting power of the company paying the dividends.
31. Interest paid in connection with:
 - the sale on credit of any industrial, commercial, or scientific equipment
 - the sale on credit of any merchandise by one enterprise to another, or
 - on any loan of whatever kind granted by the bank.
32. When the beneficial owner is a company that directly holds at least 15% of the capital of the company paying the dividends.
33. If the following conditions are met:
 - When the payer of interests is the government or contracting state or a local authority of thereof.
 - Interest is paid to the government of other contracting state or local authority thereof (including financing institutions) wholly owned by other contracting state or local authority thereof.
 - Interest is paid to any other entity, including financial institutions, in relation to loans made in application of an agreement concluded between governments of contracting states.
34. When beneficial owner is the government of other contracting state, including local authorities thereof, the central bank, any financial institutions controlled by that government or any resident of the other contracting state with respect to debt-claims, guaranteed or indirectly financed by institutions mentioned above.
35. For payments connected with copyrights, literary, artistic, and scientific activity, including payments connected with films for cinemas and films and tapes for TV.
36. When the beneficial owner is a company that directly or indirectly holds, at least 20% of the capital of the company paying the dividends.
37. When interest is paid to the government or local authorities.
38. Interest arising in a contracting state in respect of loans or credits made, insured, or guaranteed:
 - in the case of Korea, by the Export-Import Bank of Korea, Korea Development Bank, Korea Finance Corporation (KoFC), Korea Trade Insurance Corporation (K-sure), Korea Investment Corporation, and any other financial institution, performing similar functions of a governmental nature, established and owned by the government of Korea, and
 - in the case of Poland, by the *Korporacja Ubezpieczeń Kredytów Eksportowych S.A. (KUKE S.A.)*, Bank *Gospodarstwa Krajowego (BGK)*, and any other financial institution, performing similar functions of a governmental nature, established and owned by the government of Poland, and
 - paid to a resident of the other contracting state shall be taxable only in that other state.
39. If the recipient is the beneficial owner.

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40. Interest paid to government or central bank.
41. When the beneficial owner is:
 - the government of the other contracting state, entity, or any governmental institution or
 - a company that is a resident of the other contracting state and at least 25% of its capital is directly or indirectly owned by the entities mentioned above.
42. If the following conditions are met:
 - When the beneficial owner is:
 - the government of the other contracting state, entity, or governmental institution or
 - a company that is a resident of the other contracting state and at least 25% of its capital is owned directly or indirectly by the entities mentioned above.
 - When interest is paid in connection with loans guaranteed by the entities mentioned above.
43. When interest is paid:
 - to the government, including the local authorities, to the central bank or any financial institution controlled by that government, or on loans guaranteed by that government or
 - to the resident in the other contracting state.
44. If the following conditions are met:
 - When the beneficial owner is other contracting state.
 - When interest is paid in connection with loans and credits granted by bank.
45. Dividends paid by:
 - a resident of Poland to a resident of Malaysia who is subject to Malaysian tax in respect thereof or
 - a resident of Malaysia to a resident of Poland who is subject to Polish tax in respect thereof.
46. Interest paid to resident of Poland on an approved loan or a long-term loan.
47. Royalties paid to resident of Poland by resident of Malaysia and approved by the competent authority of Malaysia.
48. If the following conditions are met:
 - When the beneficial owner is:
 - a contracting state, a political subdivision, or a local authority, or The National Bank of Poland or Banco de Mexico or
 - a recognised pension or retirement fund provided that its income is generally exempt from tax in this state.
 - When interest:
 - is paid by any of entities mentioned above
 - arises in Poland and is paid in respect of a loan for a period not less than three years granted, guaranteed, or insured by Banco de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C. or Banco Nacional de Obras y Servicios Publicos S.N.C., or
 - arises in Mexico and is paid in respect of a loan for a period not less than three years granted, guaranteed, or insured by PKO S.A., Corporation of Credit Insurance, and Bank Handlowy in Warsaw.
49. If the following conditions are met:
 - When the beneficial owner is a bank or insurance company.
 - When interest is derived from bonds and securities that are regularly and substantially traded on a recognised securities market.
50. When dividends are paid to the company that directly holds at least 10% of the capital paying the dividends on the day they are paid and has done (or will do) so for an interrupted 24-month period from which that date falls.
51. When interest is paid:
 - by a resident of Pakistan to a Polish company or enterprise on loans approved by the MoF of the government of Pakistan
 - to the State Bank of Pakistan from sources in Poland, or
 - to Bank Handlowy in Poland from the sources in Pakistan.
52. For payments of any kind received in consideration for the use of, or the right to use:
 - any copyright, patent, trademark, design or model, plan, secret formula, or process
 - an industrial, commercial, or scientific equipment, or
 - motion picture films, and works on films and videotapes for use in connection with television.
53. For payments received in consideration of technical know-how concerning industrial, commercial, or scientific experience.
54. Interests paid in respect of:
 - a bond, debenture, or other similar obligations of the government, state, political subdivision, or local authority thereof or
 - a loan or credit extended, guaranteed, insured, or refinanced by:
 - Central Bank of Philippines - for Philippines
 - Central Bank of Poland - for Poland, or
 - other lending institutions as specified and agreed in letters of exchange between competent authorities of the contracting states.
55. When dividends are paid to the company that directly holds at least 25% of the capital stock of the company paying the dividends for an uninterrupted 24-month period prior to the payment.
56. If the following conditions are met:
 - When the debtor of such interests is the government, a political subdivision, or local authority.
 - When the interest is paid to the government of other contracting state, a political subdivision, or local authority thereof, or an institution or body in connection with any financing granted by them under an agreement between the governments of the contracting states.

- Loans or credit made on central banks of contracting states and any other financial institution controlled by the state and financing external business that may be agreed upon between the competent authorities of the contracting states.
- 57. Interests paid to government, administrative, territorial, or the central bank.
- 58. Dividends paid by:
 - the company that is a resident of Singapore to a resident of Poland (as long as Singapore does not impose a tax on dividends in addition to the tax chargeable on the profits or income of a company) or
 - to government of either contracting state with respect to shares in joint stock companies of that other state.
- 59. Interest paid to government.
- 60. Interests paid to government, local authorities, or the central bank.
- 61. Interests:
 - received by any banking institution that is a resident of contracting state
 - derived from contracting state of the other contracting state either directly or through any agency, or
 - accruing to any company, partnership, or other body of persons resident in the contracting state for any loans in money, goods, and services or in any other form, granted by them to the government of the other contracting state, or to a state corporation, or to any state institution, or to any other institution, to the capital of which, the other contracting state has made any contribution, or to a credit agency, or an undertaking in that other contracting state with the approval of the government of the same state.
- 62. For payment in consideration, for the use of, or the right to use, any copyrights or cinematograph films.
- 63. If the following conditions are met:
 - When recipient is a contracting state, or one of its local authorities, or the statutory body of either, including the central bank; or when interests are paid by a contracting state, or one of its local authorities, or the statutory body of either.
 - Such interest is paid in respect of any debt-claim or loan guaranteed, insured, or supported by a contracting state or another person acting on state's behalf.
- 64. Payments payable to contracting state or a state owned company in respect of tape or films.
- 65. Royalties made as consideration, for the alienation, or the use of, or the right to use, any copyright of literary, artistic, or scientific work, excluding cinematographic films or tapes for television or broadcasting.
- 66. When the beneficial owner is the government or a government institution.
- 67. When dividends are paid to a company that is the resident of the other contracting state and that directly holds at least 10% of the capital, paying the dividends on the day they are paid and has done (or will do so) for an uninterrupted 24-month period from which that date falls.
- 68. When interests are paid to the government, a political subdivision, or a local authority in connection with:
 - a loan granted, insured, or guaranteed by a governmental institution for the purposes of promoting exports
 - the sale on credit of any industrial, commercial, or scientific equipment, or
 - any loan granted by a bank.
- 69. When the beneficial owner is a company that directly holds at least 10% of the outstanding shares of the voting stock of the company paying the dividends.
- 70. When the beneficial owner is a company that directly holds at least 20% of the capital of the company paying the dividends.
- 71. When the beneficial owner is:
 - the government or a local authority or
 - the National Bank of Poland or the Central Bank of Uzbekistan Republic.
- 72. For payment of any kind, received in consideration, for the use of, or the right to use:
 - any patent, design or model, plan, secret formula, or process or
 - any information concerning industrial or scientific experience.
- 73. Treaty allows application of the domestic tax rate.
- 74. As long as Iceland does not levy tax at source of income, interest is taxable only in the contracting state of which the beneficial owner of the interest is a resident.
- 75. When interest is paid to the government, a political subdivision, or a local authority in connection with:
 - a loan granted, insured, or guaranteed by a governmental institution for the purposes of promoting exports
 - a sale on credit of any industrial, commercial, or scientific equipment
 - any loan granted by a bank
 - in respect of a bond, debenture, or other similar obligations of the government of a contracting state, or of a political subdivision or local authority thereof, or
 - to the other contracting state, or to a political subdivision or local authority thereof.
- 76. When the tax is charged by Poland.
- 77. When the dividends are paid by a company resident of Poland to a resident of Malta that directly holds at least 10% of the capital company paying the dividends on the date they are paid and has done so or will have done so for an uninterrupted 24-month period in which that date falls.
- 78. When the recipient is the beneficial owner.
- 79. According to the Protocol of 22 March 2012, which has entered into force, the maximum WHT rate on interest paid is 5%. However, when interest is paid to the government, including political sub-divisions and local authorities, the central bank, or any statutory body of the state with respect to loans or

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credits made or guaranteed by the government of the other state, including political sub-divisions and local authorities, the central bank, or any statutory body of the other state, it shall be exempt from tax in the first mentioned contracting state.

80. There is a WHT exemption on interest payable: (i) on any loan or credit granted by a bank; (ii) to the government of the other contracting state, including any political subdivision or local authority thereof, the central bank, or any financial institution owned or controlled by that government; or (iii) to a resident of the other state in connection with any loan or credit guaranteed by the government of the other state, including any political subdivision or local authority thereof, the central bank, or any financial institution owned or controlled by that government. The maximum rate of WHT on interest is 5%.
81. The maximum WHT rate on royalties is 10%.
82. The lower rate applies to fees for technical services.
83. When interest is paid: (i) by the government of a contracting state, administrative subdivision, or local authority thereof; (ii) to the government of the other contracting state, administrative subdivision, or a local authority thereof; or (iii) to the central bank of the other contracting state or a corporate body (including financial institution) controlled or owned by that state, a political or administrative subdivision, or local authority thereof.
84. If the recipient of the interest is the beneficial owner and interest is paid: (i) to the Republic of Poland or the State of Qatar; (ii) on a loan of whatever kind granted, insured, or guaranteed by a public institution for purposes of promoting exports; (iii) in connection with the sale on credit of any industrial, commercial, or scientific equipment; or (iv) on any loan of whatever kind granted by a bank.
85. The treaty rate is 15% for all types of interest. However, by virtue of a most-favoured-nation clause of the protocol (and since the Chile-Spain treaty provides a reduced rate), the rate is reduced to 5% in respect of interest (i) paid to a bank or insurance company or (ii) derived from bonds or securities that are regularly and substantially traded on a recognised securities market.
86. The general treaty rate is 15%. However, by virtue of a most-favoured-nation clause of the protocol (and since the Chile-Spain treaty provides a reduced rate), the rate is reduced to 10%.
87. The Protocol of 22 March 2012 has not changed the WHT rate in relation to royalties; however, the beneficial owner clause was introduced. Additionally, the new DTT amends the definition of 'royalties'.
88. When the beneficial owner is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends, where such holding is being possessed for an uninterrupted period of no less than two years and the dividends are declared within that period.
89. When royalties are paid for the use of, or right to use, industrial, commercial, or scientific equipment.

Tax administration

Taxable period

The taxable period is the calendar year (between 1 January and 31 December). Companies are entitled to choose another (than calendar) fiscal year (e.g. between 1 April and 31 March).

Tax returns

The annual CIT return should be submitted to the tax office within three months following the end of the tax year.

Payment of tax

The same deadline as the CIT return applies to the settlement of the annual CIT liability. In financial terms, the final settlement is not significant since most of the annual liability is paid by CIT advances throughout the tax year.

The CIT advances should be paid for each month by the 20th day of the following month. Entities that started business activities (except for companies organised as a result of certain transformations) and entities whose gross sales revenue (including VAT) in the prior tax year did not exceed EUR 1.2 million are entitled to opt to make advance settlements on a quarterly basis (instead of a monthly basis).

Tax audit process

The tax authorities generally shall notify its intention to initiate a tax audit. The inspection shall be initiated not earlier than after seven days and not later than 30 days from the receipt of the notice.

The duration of all audits in one calendar year may not exceed the following:

- For micro entrepreneurs: 12 working days.
- For small entrepreneurs: 18 working days.
- For medium entrepreneurs: 24 working days.
- For large entrepreneurs: 48 working days.

The rules mentioned above do not apply to the inspection commenced by the customs and revenue office. This kind of tax inspection is initiated without issuing a notification and in practice there is a possibility to prolong the inspection without any specific time limits.

Statute of limitations

Tax liability expires five years after the end of the calendar year in which the tax payment deadline passed. There are also situations when the statute of limitations can be suspended or interrupted (e.g. litigation).

Topics of focus for tax authorities

According to recent statements from the MoF, the focus of the tax audit authorities is on transactions between related parties (transfer pricing issues), VAT frauds, and tax restructuring. Moreover, traditionally, tax audits usually cover:

- Validity of the VAT refund.
- Possibility to correct excise duty resulting from post-transaction rebate.
- Correctness of settlements concerning the use of a trademark.

General anti-abuse rule (GAAR)

According to amendments to the Tax Ordinance Act and certain other acts, legal transactions with the main purpose of obtaining a tax advantage contrary to the tax regulations shall not result in tax benefit. Tax consequences of such transactions will be assessed as if an alternative 'appropriate' transaction had taken place. Furthermore, if transactions carried out by a taxpayer do not have any real economic or business rationale other than tax avoidance, tax authorities may completely disregard them.

The GAAR will be applied to the tax benefits received after the amendments were introduced (i.e. 15 July 2016). This means that the sole fact that the transaction was carried out before the amendments entered into force may not exclude application of the regulations in case the taxpayer obtains a tax benefit after the GAAR is introduced.

Other issues

United States Foreign Account Tax Compliance Act (US FATCA)

On 2 April 2014, the US Treasury announced that an intergovernmental agreement (IGA) was 'in effect' and, on 7 October 2014, the US Treasury and Poland signed and released the IGA. As of 4 May 2015, the President has signed the bill, which confirmed IGA ratification.

National Fiscal Administration introduced

As of 1 March 2017, the National Fiscal Administration (*Krajowa Administracja Skarbowa* or KAS) was introduced. The KAS is a specialised government administration

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engaged primarily with tasks related to obtaining revenues from taxes, duties, fees, and non-tax budget receivables.

The following offices were created as part of the KAS:

- The Head of the National Fiscal Administration (*Szef Krajowej Administracji Skarbowej*).
- Director of the National Fiscal Information (*Dyrektor Krajowej Informacji Skarbowej*).
- Directors of chambers of fiscal administration (*dyrektorzy izb administracji skarbowej*).
- The heads of customs and revenue offices (*naczelnicy urzędów celno-skarbowych*).
- The heads of tax offices (*naczelnicy urzędów skarbowych*).

Multilateral Instrument to Modify Bilateral Tax Treaties (MLI)

On 14 November 2017, the Act on ratification of the MLI was published in the official Journal of Laws. The MLI globally implements mechanisms created to prevent international profit shifting to locations where they are subject to reduced taxation or non-taxation. Poland is the third country (after Austria and Isle of Man) to ratify the MLI. Poland declared 78 DTTs for the MLI's purposes. Among declared DTTs, there are, *inter alia*, DTTs with Austria, Belgium, Canada, Cyprus, Denmark, France, Holland, Ireland, Luxembourg, Malta, Mexico, Norway, Sweden, and the United Kingdom. At the moment of signing the MLI, Poland has declared 77 DTTs in which the method of avoiding double taxation used to this point (i.e. the tax exemption method) may be replaced by the tax credit method.

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Significant developments

Corporate taxation

Anti-Tax Avoidance Directive (ATAD) provisions have been transposed into the national legislation. This brings a new set of interest deductibility limitation, exit taxation, anti-abuse, and controlled foreign company (CFC) rules.

The threshold under which a company is considered a micro-company has been increased as of 1 January 2018.

Value-added tax (VAT)

A VAT split-payment mechanism was introduced in Romania.

Taxes on corporate income

The standard profit tax rate is 16% for Romanian companies and foreign companies operating through a permanent establishment (PE) in Romania. Resident companies are taxed on their worldwide income, unless a double tax treaty (DTT) stipulates otherwise. Non-resident companies are taxed on all income derived from Romanian taxpayers, regardless of whether the services are rendered in Romania or abroad.

The profit tax due for nightclubs and gambling operations is either 5% of the revenue obtained from such activities or 16% of the taxable profit, whichever is higher.

Micro-company tax regime

Micro-companies are subject to a mandatory revenue tax rate (*see details below*) in lieu of the standard profit tax.

The condition for a company to be considered a micro-company is to have a maximum revenue at the end of the previous year of 1 million euros (EUR) (the threshold was increased from EUR 500,000 as of 1 January 2018). All the previous exceptions under which certain companies were not considered micro-companies (i.e. the capital limit, the industry, etc.) have been repealed.

The tax rates used for micro-company income tax are:

- 1% for micro-companies with one or more employees.
- 3% for micro-companies with no employees.

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Newly established companies are required to follow the micro-company tax regime starting with the first fiscal year.

Micro-companies can opt once for applying profit tax if they fulfil both of the following conditions:

- Have a subscribed share capital of at least 45,000 Romanian leu (RON).
- Have at least two employees.

Local income taxes

There are no county or local taxes on corporate income.

Corporate residence

A company is considered tax resident in Romania if it was set-up under Romanian law or has its 'place of effective management' (POEM) in Romania. POEM represents the place where strategic economic decisions necessary to ensure the management of the foreign company are taken and/or the place where the most senior person or group of persons who manage and control the activity of the foreign entity operate.

Permanent establishment (PE)

A PE is generally defined as being the place through which the activity of a non-resident company is conducted, fully or partially, directly or through a dependent agent.

Once a PE is created, Romania has the right to tax the profits of the non-resident parent company derived from the activities performed through the PE.

In defining the PE concept, reference can be made to Article 5 - 'Permanent establishment' of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention, which has been transferred from the Methodological Norms to the Fiscal Code.

The Romanian legislation explicitly states the conditions that trigger a PE:

- Fixed base PE is created through a place of business with a certain degree of permanency through which business is conducted in Romania (with some exceptions).
- Agency PE is created through agents with a dependent status that operate in Romania on behalf of the foreign company.

The registration, reporting, and tax payment requirements for a PE are similar to those for a Romanian company.

Consolidation of PE revenues and expenses belonging to the same foreign legal entity is possible. *For further information, please see the Group taxation section.*

Other taxes

Value-added tax (VAT)

The standard VAT rate is 19%. The standard VAT rate is applied to all supplies of goods and services (including imports) that neither qualify for an exemption (with or without credit) nor for a reduced VAT rate.

The reduced VAT rate of 9% is levied on supply of prostheses and accessories to them, defined as per specific legislation, with the exception of dental prostheses, which are tax exempt; supply of medicines for human and veterinarian use; accommodation in hotels or in areas with a similar function, including the lease of land arranged for camping; restaurants and catering services, except for alcoholic beverages, other than beer classified under CN 22 03 00 10; supply of food, including non-alcoholic drinks, for human and animal consumption; supply of drinking water and irrigation water used in agriculture; supply of fertilizers and pesticides used in agriculture; seeds and other agricultural products intended for sowing or planting; as well as supplies of specific services used in the agricultural sector.

The supply of school manuals, books, newspapers, and some magazines, as well as the provisions of services consisting of the allowance of access to castles, museums, cinemas, and others, is subject to the reduced VAT rate of 5%. Sports events are also included in the category of operations subject to the reduced VAT rate of 5%, as well as the supply of dwelling places as part of the social policy (including land on which they are built).

VAT exemption without credit applies to a range of activities, including the supply of services in relation to banking, finance, and insurance. However, some financial services are subject to the standard VAT rate of 19% (e.g. factoring, debt collection, managing and safekeeping certain equity papers). The VAT exemption without credit also applies to medical, welfare, and educational activities if performed by licensed entities.

There are also operations exempt with credit (i.e. deduction right for the related input VAT), such as the following:

- Supply of goods shipped or transported outside the European Union (EU), and related services.
- Intra-Community supply of goods.
- International transport of passengers.
- Goods placed into free trade zones and free warehouses.
- Supply of goods to a bonded warehouse, a VAT warehouse, and related services.
- Supply of goods that are placed under suspensive customs regimes.
- Supply of services in connection with goods placed under suspensive customs regimes or goods placed into free trade zones.
- Supply of goods and services to diplomatic missions, international organisations, and North Atlantic Treaty Organization (NATO) forces.

VAT on imported goods will continue to be paid at customs, except for taxable persons registered for VAT purposes that obtain an import VAT deferment certificate from the customs authorities. For these taxpayers, the VAT is not paid in customs but shown in the VAT return as both input and output VAT. The import VAT deferment certificate is available only to companies for which the value of imports (excluding imports of goods

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subject to harmonised excise) performed in the previous year/previous 12 consecutive months has exceeded the threshold of RON 100 million, to companies with Approved Economic Operators (AEO) status, and to those companies registered for VAT purposes in Romania authorised to perform in-house customs clearance formalities.

VAT consolidation

Companies established in Romania that are legally independent but are closely related in terms of financial, economic, and organisational purposes may choose to form a tax group, as long as they apply the same fiscal period. However, transactions between the members of the group fall within the scope of VAT.

Place of VAT taxation

The rules for establishing the place of VAT taxation for supply of goods and services are determined based on the same rules as those presented in the EU 2006/112/EC and EU 2008/8/EC Directives. Services provided by non-resident entities to Romanian companies with deemed place of supply in Romania are subject to Romanian VAT under the reverse-charge mechanism, provided that no VAT exemption is applicable.

Reverse-charge mechanism

Under the VAT reverse-charge mechanism, VAT is not actually paid, but only shown in the VAT return as both input and output tax, provided that both the beneficiary and the supplier are registered for VAT purposes.

As a general rule, the reverse-charge mechanism applies either for intra-Community acquisitions of goods performed in Romania or for services performed by non-resident entities that are not established, nor have a fixed establishment, in Romania. Under the general rule, the place of supply of services is where the beneficiary is established or has a fixed establishment (e.g. consultancy, marketing services).

Domestic supplies of cereals and industrial plants performed between companies registered for VAT purposes will be subject to the reverse-charge mechanism. The measure applies until 31 December 2018. Also, the reverse-charge mechanism is applicable for the supply of buildings, parts of buildings, and plots of land, and, until 31 December 2018, to the supply of mobile phones, PC tablets, laptops, gaming consoles, and devices with integrated circuits (provided that the value of such goods, excluding VAT, mentioned on an invoice is equal to/higher than RON 22,500).

Limited VAT deduction right

The VAT deduction right related to the acquisition of road vehicles used for the transport of passengers and vehicles that meet certain characteristics, as well as the acquisition of fuel and all related services used for the respective vehicles, is limited to 50%, except for some specific exceptions (e.g. vehicles used by sales agents, taxis, transport services).

VAT compliance

The annual turnover threshold for VAT registration in Romania is the Romanian leu equivalent of EUR 65,000, computed based on the exchange rate from the date of EU accession (i.e. RON 220,000). We expect this threshold to be increased to EUR 88,500 (applicable until 2020), as Romania receded an authorisation from the European Commission (EC) to do so. Companies surpassing the VAT registration threshold will

be liable to charge VAT for the advance payments received before registering for VAT purposes related to goods delivered/services performed after the registration date.

As a general rule, the fiscal period is the calendar month. For taxable persons registered for VAT purposes whose previous year-end turnover (from taxable operations, VAT exempt, and outside the Romanian VAT scope operations with deduction right) did not exceed EUR 100,000, the fiscal period is the calendar quarter.

Taxable persons must keep complete and detailed records for calculation of VAT liabilities.

VAT returns should be submitted to the tax authorities by the 25th day of the month following the end of the fiscal period; the VAT payment is due by the same date. The VAT return can be submitted by electronic means.

Taxable persons not registered for VAT purposes in Romania and not required to register are liable to pay VAT and to submit a special VAT return in connection to services rendered by/provided to non-residents. These obligations must be fulfilled by the 25th day of the month following that when the services are supplied.

Taxable persons are required to file VAT statements related to acquisitions/supplies of goods/services performed on Romanian territory on a monthly/quarterly basis, based on invoices issued/received to/from taxable persons registered for VAT purposes in Romania. These obligations should be fulfilled within 30 days.

A taxable person registered for VAT purposes who does not exceed the exemption threshold of RON 220,000 during the course of a calendar year may request de-registration from the VAT registered persons record between the first and tenth day of each month following the fiscal period used (month or quarter).

The cash accounting VAT scheme (CAVS)

The CAVS is optional for taxpayers with a turnover lower than RON 2,250,000 registered in the previous year and for newly founded companies. The right to deduct the input VAT for the acquisitions of goods/services from companies applying the CAVS is deferred until the date the payment is performed.

The VAT split-payment mechanism

The VAT split-payment system is mandatory for the following categories of taxpayers:

- Taxpayers that have, as of 31 December 2017, outstanding VAT liabilities and have not paid them by 31 January 2018: (i) for large taxpayers, more than RON 15,000; (ii) for medium taxpayers, more than RON 10,000; (iii) for other taxpayers, more than RON 5,000.
- Taxpayers that have, as of 1 January 2018, outstanding VAT liabilities and do not pay them within 60 business days, at the same levels as above.
- Taxpayers in insolvency or insolvency prevention procedures.

Taxpayers registered for VAT purposes not applying the system but making purchases from those who apply the system will be required to make split payments. The system is optional for any taxpayer. Taxable persons choosing for the optional application of this system will benefit from a 5% reduction in profit tax/micro-company tax.

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Customs and international trade

Customs duties

Customs duties are those specified in the EU Common Customs Tariff and are expressed as a percentage applied to the customs value (i.e. *ad valorem* taxes), as a fixed amount applied to a specific quantity (i.e. specific taxes), or as a combination of the above.

Agricultural products (i.e. products from Chapters 1 to 24 of the EU Common Customs Tariff) are subject to specific taxation.

In certain cases (e.g. meat), the customs duty rate is established with regard to the cost, insurance, and freight (CIF) or the entry price of the products. In other cases, the customs duty rate is established by adding additional duties, such as agricultural components, to the *ad valorem* tax.

Customs value

The customs value is determined and declared by importers in accordance with the provisions of the Union Customs Code and its Delegated, Implementing, and Transitional Regulations, which took over the rules set up by the World Trade Organization (WTO) Customs Valuation Agreement (i.e. the Agreement pertaining to the implementation of Article VII of the General Agreement on Trade and Tariffs [GATT]).

Authorised Economic Operator (AEO) status

Operators that obtain AEO status benefit from simplifications regarding customs inspection, obtaining certain customs authorisations, and performing customs formalities.

Moreover, through the AEO authorisation, the holder is recognised by the customs authorities as a reliable person, giving comfort as regards observance of the safety and security standards, and can benefit from easier admittance to certain customs simplifications.

In addition, companies certified as an AEO may apply for a certificate granting the benefit to defer the payment of the VAT in customs upon import. Moreover, in case of imports followed by VAT-exempt intra-Community supplies, companies registered for VAT purposes in Romania having AEO status are not required to lodge a VAT guarantee.

Operators authorised as an AEO will be checked at least once every three years for assessing whether they comply with the certification criteria.

Binding Tariff Information (BTI)/Binding Origin Information (BOI)

Companies can obtain rulings (BTI) from the Romanian customs authorities on the tariff classification of imported goods that are binding for the customs authorities for a three-year period, whenever goods identical to those described in the BTI are imported.

A similar type of ruling can also be obtained regarding the origin of goods (BOI). They are also valid for a period of three years from the data of issue.

The BTI and BOI shall be binding for the holder of the decisions.

Trade measures

For some agricultural products, the European Union generally imposes specific measures (e.g. values or quantitative allowances) on imports from other countries. It is mandatory to obtain an import licence before importing such products.

Moreover, import/export licences from relevant authorities are also required for commodities regarded as potentially hazardous to human health or to the environment (e.g. some chemical products, certain types of waste and scrap), for commodities the end-use of which is controlled (e.g. explosives), or for dual use products (i.e. both civil and military).

Excise duties

Harmonised excise products

The following products are subject to harmonised excise duties: alcohol and alcoholic beverages, manufactured tobacco, energy products (e.g. unleaded gasoline, diesel, gas, coal), and electricity.

Excise duties are due when excise products are released for consumption (e.g. imported into Romania, taken out of an excise duty suspension arrangement).

Ethyl alcohol and other alcoholic products are exempt from the payment of excise duties if they are denatured and used in the pharmaceuticals or cosmetics industry.

Some energy products subject to movement control are excepted from excise duty, provided that an end-user authorisation is obtained and the payment of excise duties is secured.

Manufactured tobacco is also exempt from excise duties when exclusively intended for scientific and quality testing.

In some cases, traders can claim a refund of the excise duties paid (e.g. excise duty paid for goods released for consumption in Romania, but intended for consumption in other EU member states; excise duties paid for goods released for consumption and then returned to the production tax warehouse for recycling, reconditioning, or destruction; excise duties paid for goods released for consumption in Romania and then exported).

For cigarettes, the excise duty due is equal to the sum of the specific excise duty and the *ad valorem* excise duty. The specific excise duty expressed in RON/1,000 cigarettes is annually determined based on the weighted average retail price, the legal percentage related to the *ad valorem* excise duty, and the total excise duty. The specific excise duty for cigarettes has been set at RON 337.727/1,000 cigarettes for the period 1 April 2018 to 31 March 2019, inclusively.

The excise duty rate for ethyl alcohol is RON 3,306.98/hectolitre of pure alcohol.

The excise duty level for fermented sparkling beverages, other than beer and wines, is set at RON 47.38/hectolitre of product, while the excise duty level for apple and pear cider and mead is nil.

The excise duty level for intermediary products is set at RON 396.84/hectolitre of product, and the level for beer is set at RON 3.30/hectolitre/1 Plato degree.

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The current levels of excise duties are RON 2,268.23/1,000 litres for leaded gasoline, 1,976.36/1,000 litres for unleaded gasoline, and RON 1,838.04/1,000 litres for diesel, respectively.

Companies selling fuel in gas stations have to register with the tax authorities. The same obligation applies for companies performing wholesales of fuel, alcoholic drinks, or tobacco products.

Other excise products

Other excise products are:

- Heated tobacco products, which by heating generate an aerosol that can be inhaled without the combustion of tobacco mixture (falling under CN 2403 99 90).
- Liquids containing nicotine (falling under CN 3824 99 56) for inhaling using an electronic device (i.e. electronic cigarette).

Excise duties should be paid no later than the 25th day inclusive of the month following the one:

- in which they were sold on the national market for domestic products, or
- when the actual receipt takes place for products received from EU countries, except for the excisable goods imported, for which the excise duty is to be paid when the goods are released for free circulation.

Economic operators performing directly intra-Community acquisitions/imports of such goods are entitled to request a refund of the excise duties paid if the products are exported, supplied to another EU member state, or returned to the supplier. For the production/intra-Community acquisitions/imports of such products, prior authorisation is requested.

Property taxes

Building tax

The building tax calculation method differentiates between buildings depending on their destination usage:

- Residential buildings: Tax rate between 0.08% and 0.2% (applicable to the taxable value as per the specific table provided by the law for individuals and the value resulted from the evaluation report for legal entities).
- Non-residential buildings: Tax rate between 0.2% and 1.3%. In the case of a building used for agricultural purposes, the applicable tax rate is 0.4%.

Local authorities have been granted the authority to increase local tax allowances by 50%.

The increased tax rate for building tax due by legal entities is 5% (if no revaluation was performed during the last three years).

If a building was acquired during a fiscal year, the building tax for the entire year is due by the seller. The buyer is liable to pay the tax starting with the next year.

Building tax is paid annually, in two equal instalments, by 31 March and 30 September. For the payment of the entire annual tax by 31 March, a reduction of up to 10% is granted by the Local Council.

Land tax

Owners of land are subject to land tax established at a fixed amount per square metre, depending on the rank of the area where the land is located and the area or category of land use, in accordance with the classification made by the Local Council.

Similar to building tax, land tax is paid annually, in two equal instalments, by 31 March and 30 September. A 10% reduction is granted for full advance payment of this tax by 31 March.

Transfer taxes

There are no transfer taxes for companies for the transfer of property. The income derived from such a transfer will be included into the taxable profits of the company and subject to the flat tax rate.

Stamp duty

For judicial claims, issue of licences and certificates, and documentary transactions that require authentication, stamp duty (in the form of notary fee) has to be paid.

Payroll taxes

Employers withhold, on a monthly basis, the mandatory employee's social security contributions (*see below*) and the income tax (10%) from the employee's gross salary and wire the amounts to the Romanian tax authorities.

Social security contributions

As of 1 January 2018, the social security contributions paid by the employer have been transferred to the employees.

The employer pays an insurance contribution for work of 2.25% and social insurance contribution of 4% for uncommon work conditions and 8% for special work conditions.

Environmental taxes

For certain activities (e.g. selling ferrous and non-ferrous waste, hazardous substances, activities that generate polluting emissions, introducing on the national market packaging materials and packed products/tyres, introducing on the national market electric and electronic equipment, and batteries and accumulators), companies have the obligation to declare and pay (by the case) related contributions to the Environmental Fund.

In certain cases (e.g. for the contribution related to packaging materials introduced on the national market and to the management of the related packaging waste), the contribution to the Environmental Fund depends on the degree to which companies achieve the annual packaging waste recovery/recycling targets. Thus, the contribution to the Environmental Fund is currently RON 2/kg of packaging introduced onto the market and is owed for the difference between the annual packaging waste recovery target stipulated by law and the packaging waste recovery/recycling target actually achieved by companies.

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Companies conducting activities that result in the discharge of air-pollutant emissions from fixed sources (e.g. nitrogen oxides, sulphur oxides, persistent organic pollutants, heavy metal emissions, such as lead, cadmium, mercury) have to pay contributions to the Environmental Fund of between RON 0.02/kg and RON 20/kg.

A tax amounting to RON 0.3/kg is levied (one time only) on industrial oils and lubricants placed on the market; the tax must be distinctly stipulated on the purchase documents.

Producers/importers/exporters of electrical and electronic equipment and batteries and accumulators have to register with the National Agency for Environmental Protection and have to declare to the Environmental Fund Administration the categories and quantities of electrical and electronic equipment and batteries and accumulators introduced on the national market and to fulfil annual recovery/recycling targets for the waste that will be generated by these equipment.

Specific tax for certain activities

Economic operators in the tourism, hotel, restaurants, bars, and catering sector will pay a specific tax, regardless of the size of the turnover and the level of profits. The tax will be calculated according to the area of the business, the place where other variables take place.

Thus, whether or not profitable, the restaurants, bars, or cafés will apply this tax system, which will negatively affect small businesses, especially.

The declaration and payment of the specific tax will be made half-yearly until the 25th day of the month following the semester for which the tax is due. Thus, the payment amount will be half the annual tax.

Branch income

Branch

A foreign company can set up a branch in Romania, as long as the branch only operates in the same field of activity as the parent company. A branch is considered to have the same legal personality as the parent company and is not a separate legal entity (no own share capital, no separate name, etc.).

Profits derived by the branch are taxed at the standard profit tax rate of 16%.

Representative offices

Representative offices are often established as a first step to operating in Romania. A representative office can undertake only auxiliary or preparatory activities, cannot trade in its own name, and cannot engage in any commercial activities. A representative office can perform only a limited range of activities without being considered a PE for profit tax purposes.

A tax on representative offices is due by any foreign legal person with a representative office authorised to operate in Romania according to the law. The tax is paid on an annual basis. The amount to be paid for a fiscal year is RON 18,000. If a representative office is set up or closed down during a year, the tax due for that year is pro-rated for the months that the representative office was operational in that fiscal year.

The representative office of a foreign legal person has to declare and pay the tax to the state budget by the last day of February of the tax year.

Income determination

The taxable profit of a company is calculated as the difference between the revenue derived from any source and the expenses incurred in obtaining the taxable revenue throughout the tax year, adjusted for fiscal purposes by deducting non-taxable revenue and adding non-deductible expenses. Other elements similar to revenue and expenses are also to be taken into account when calculating the taxable profit.

For taxpayers that apply International Financial Reporting Standards (IFRS) (i.e. financial institutions and listed companies), there are specific rules in relation to the fiscal value assessment, profit tax computation, adjustments for step-down in value, amortisation, and fiscal treatment of deferred profit tax.

Inventory valuation

The methods permitted for inventory valuation under Romanian law are standard cost, detailed sale price, average (weighted) cost, first in first out (FIFO), and last in first out (LIFO). The accounting method is also recognised for tax purposes.

Assets are generally valued at their acquisition cost, production cost, or market value. Fixed assets may be re-valued at certain points in time for various purposes.

Capital gains

Capital gains earned by a Romanian resident company are included in their ordinary profits and are taxed at 16%. Capital gains obtained by non-residents from real estate property located in Romania or from the sale of shares held in a Romanian company are also taxable in Romania. However, the income may be subject to treaty protection.

Participation exemption applies for capital gains derived by a Romanian legal entity from participations of at least 10%, held for a minimum period of one year, in a subsidiary established in a state with which Romania has a DTT.

Dividend income

Dividends distributed by a company resident in another EU member state to a Romanian company are tax exempt if the Romanian company has held, prior to the time of distribution, a minimum of 10% of the shares in the respective non-resident company for an uninterrupted period of at least one year.

The Romanian Fiscal Code incorporates the amendments to the European Directive no. 2011/96/EU, relating to the application of a common system of taxation in the case of parent companies and subsidiaries of different member states. The legislation introduces the anti-abuse rule for preventing unlawful tax practices used to obtain tax benefits contrary to the Directive's principles. Also, dividends received by a Romanian legal entity from a foreign legal entity under certain conditions mentioned above will not be taxed as long as those dividends are not treated as deductible expenses by the paying subsidiary.

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Participation exemption applies for dividends derived by a Romanian legal entity from participation of at least 10%, held for a minimum period of one year, in a subsidiary established in a state with which Romania has a DTT.

The tax rate on dividends is 5% for both dividends paid to Romanian companies and to non-resident companies. Non-residents may be eligible for a reduced rate under DTTs.

Interest and royalty income

Interest and royalty payments made by Romanian companies to other Romanian companies are taxable income in the hands of the beneficiary.

Romanian-sourced interest and royalty payments of an affiliated company, resident in an EU member state, are exempt from withholding tax (WHT), provided that certain conditions are met, e.g.:

- 25% minimum direct holding of the share capital (i.e. one company has a direct minimum holding of 25% in the share capital of the other company or a third company has a direct minimum holding of 25% in the share capital of both companies involved in the payment of the interest and royalties).
- The holding period must be maintained for an uninterrupted period of at least two years prior to the payment of the interest and royalties.
- The company receiving the interest or royalty payments must be the beneficial owner of these payments.

Fiduciary contracts

If the settlor of a fiduciary contract is also the beneficiary, then:

- the transfer of the patrimony from the settlor to the fiduciary is not considered a taxable transfer, and
- the fiduciary will keep separate bookkeeping entry for the fiduciary patrimony and will communicate to the settlor, on a quarterly basis, the income and expenses resulting from the administration of the patrimony.

If the beneficiary is the fiduciary or a third party, the expenses recorded from the transfer of the patrimony from the settlor to the fiduciary is considered non-deductible.

Other significant items

The other most relevant types of non-taxable revenue stipulated by the Romanian Fiscal Code are:

- Favourable fluctuations in the price of shares and long-term bonds registered by the company in which the shares and long-term bonds are held, as a result of capitalisation of reserves, benefits, or share premiums.
- Revenue from reversal or cancellation of provisions/expenses that were previously non-deductible, recovery of expenses that were previously non-deductible, and revenue from reversal or cancellation of interest and late payment penalties that were previously non-deductible.
- Revenue from the annulment of a reserve registered as a result of a participation in nature to the capital of other legal entities.
- Revenue from deferred income tax.
- Revenue resulting from the change in the fair value of real estate investments/biological assets owned by the taxpayers applying IFRS.

- Non-taxable revenue expressly provided for under agreements and memoranda enforced by regulatory documents.

Foreign income

Resident companies are taxed on their worldwide income unless a DTT provides otherwise. However, in case of foreign subsidiaries of Romanian companies, income is not taxed in Romania until remitted back. Otherwise, there is no specific tax deferral regime in place.

Deductions

Expenses fall into three categories: deductible expenses, limited deductibility expenses, and non-deductible expenses.

Deductible expenses

As a general rule, expenses are deductible only if incurred for business purposes.

Some of the deductible expenses specifically mentioned by the Romanian Fiscal Code include:

- Marketing and advertising expenses.
- Research and development (R&D) expenses that are not recognised as intangible assets for accounting purposes.
- Expenses incurred for environmental protection and resource conservation.
- Expenses incurred for management improvement; updating information technology (IT) systems; introducing, maintaining, and developing quality management systems; and obtaining quality compliance confirmation.
- Losses incurred when writing off client receivables in any of the following cases:
 - The bankruptcy procedure of the debtor was closed due to a court ruling.
 - The debtor is deceased and the receivable cannot be recovered from the heirs.
 - The debtor is dissolved or liquidated.
 - The debtor has major financial difficulties affecting its entire patrimony.
- Expenses related to losses from the valuation of shares and long-term bonds.
- Travel and accommodation expenses related to business; this also includes transportation of personnel to and from the workplace.
- Daily allowances for expenses incurred by employees in connection to travels in Romania and abroad.
- Expenses incurred from professional training and development of employees.
- Expenses related to benefits granted to employees as equity instruments settled with cash, at the moment of the effective granting, if the benefits are subject to personal income tax (PIT).
- Expenses incurred in connection to work safety, prevention of work accidents and occupational diseases, the related insurance contributions, and professional risk insurance premiums.
- Expenses incurred in connection to the acquisition of packaging materials during the useful life set by the taxpayer.
- Fines, interest, penalties, and other increased payments due under commercial contracts.

Note that credit institutions apply IFRS rules, and certain deductibility rules are provided for this category of taxpayers.

Romania

Limited deductibility expenses

The deductibility of the following expenses is limited:

- Interest expenses and foreign exchange losses under thin capitalisation rules (*see the Group taxation section for more information*).
- Provision and reserve expenses (*see details below*).
- Depreciation and reduction in value of fixed assets under fiscal depreciation rules (*see details below*).
- Perishable goods and losses resulted from transport/storage, according to law.
- Protocol expenses are deductible at up to 2% of the accounting profit, adjusted with protocol and profit tax expenses. Output VAT related to gifts of at least RON 100 offered by taxpayers fall under the protocol expenses category.
- Social expenses are deductible at up to 5% of salary expenses and include, among other items, maternity allowances, expenses for nursery tickets, funeral benefits, and allowances for serious or incurable diseases and prostheses, as well as expenses for the proper operation of certain activities or units under taxpayers' administration (i.e. kindergartens, nurseries, health services supplied for occupational diseases and work accidents prior to admission to health establishments, canteens, sports clubs, clubs, etc.), gifts represented by money of in kind, including gift tickets given to employees and their children, and medical services granted in case of professional diseases and labour accidents until transfer to a hospital. Expenses incurred for benefits granted under a collective labour agreement are also deductible within the same limits.
- Expenses incurred with lunch vouchers and holiday vouchers given by employers, according to law.
- Technological losses within the internal consumption norm required for the production of a good or provision of a service.
- Expenses incurred for functioning, maintenance, and repairs corresponding to an establishment represented by an individual's personal property, used as well for individual purposes, deductible in the limit of the surfaces at the disposal of the company based on the contractual agreements.
- Expenses incurred with electricity at the level of the technological internal consumption norm or, in case it is missing, at the level of the norm approved by the National Authority for Energy, including the commercial consumption for the taxpayers in the electricity distribution business.
- Taxes and fees paid to non-government organisations or professional associations related to the taxpayer's activity are deductible up to the limit of EUR 4,000 per year.
- All direct expenses attributable to vehicles with up to nine seats that are not used exclusively for business purposes are 50% deductible for profit tax purposes, under certain conditions provided by law. These expenses are fully deductible for vehicles used for the following activities:
 - Emergency, safety and security, courier services, cars used by sales and acquisitions agents.
 - Paid transportation services and taxi activities.
 - Rental.
 - Driving schools.
 - Vehicles used as commodities.
- For vehicles with up to nine seats, tax depreciation is limited to a maximum of RON 1,500 per month for each vehicle starting from 1 February 2013.

Non-deductible expenses

Expenses deemed non-deductible include, among other items, the following:

- Domestic profit tax, including differences from previous years or from the current year, and profit tax paid in foreign countries, deferred tax registered according to accounting standards.
- Expenses with tax not withheld at source in the name of non-resident individuals and legal entities.
- Expenses related to non-taxable revenues.
- Interest, fines, and penalties due to Romanian or foreign authorities, according to legal provisions, with the exception of the ones pertaining to agreements concluded with these authorities.
- Expenses incurred for management, consultancy, assistance, or other supply of services performed by a non-resident located in a state that has no exchange of information agreement concluded with Romania. These provisions are applicable if the expenses are incurred in respect of transactions deemed as artificial.
- Sponsorship and patronage expenses and expenses for private scholarships. Taxpayers are, however, granted a fiscal credit of up to 0.5% of turnover and 20% of the profit tax due, whichever is lower. Taxpayers that do not benefit from fiscal credit in the year when they grant sponsorship according to the law may carry forward the fiscal credit for the next seven consecutive years.
- Losses incurred when writing off client receivables, for the amount not covered by a provision, in any cases other than the following: a reorganisation plan was applied through a court decision in accordance to Law no. 85/2014; the bankruptcy procedure of the debtor was closed due to a court ruling; the debtor is deceased and the receivable cannot be recovered from the heirs; the debtor is dissolved or liquidated; or the debtor has major financial difficulties affecting its entire patrimony.
- Expenses resulting from the adjustment of acquired receivables, provided insurance contracts have been put in place.
- Expenses resulted from benefits granted to employees as equity instruments settled with shares/cash, unless subjected to PIT.
- Expenses in favour of shareholders, other than those related to goods or services provided by the shareholders at market value.
- Expenses incurred with insurance premiums unrelated to the risks and assets of the taxpayer's business, with the exception of those that relate to goods representing a banking guarantee for the loans used for business purposes.
- Expenses registered in the accounting records based on documents issued by an inactive taxpayer, according to the provisions of the Fiscal Procedure Code, with the exception of those representing acquisitions of goods performed during foreclosure procedures or from legal entities in bankruptcy procedure according to Law no. 85/2014.
- Expenses relating to missing or damaged non-imputable inventories or tangible assets, as well as related VAT, if the case. These expenses are deductible in case any of the following conditions are applicable to the inventory/assets:
 - They were destroyed following natural disasters or major force situations in the conditions provided by the methodical norms.
 - Insurance contracts have been set up in respect of these.
 - They were degraded from a qualitative perspective, and the proof of destruction is available.
 - They have a validity/expiry term that has passed, according to law.
- Expenses reflected in accounting records, irrespective of their nature, that later prove to be related to acts of corruption as defined under the law.

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Note that credit institutions apply IFRS rules, and certain non-deductibility rules are provided for this category of taxpayers.

Depreciation

Romanian law makes an explicit distinction between fiscal and accounting depreciation. Fiscal depreciation is treated as an expense deductible from the tax base, while accounting depreciation is treated as a non-deductible expense. Companies should maintain a separate record to reflect the separate computation of the fiscal and accounting depreciation. Any accounting revaluations of fixed assets are not taken into account in computing the tax depreciation.

Assets are generally depreciated using the straight-line method. However, accelerated or degressive depreciation methods may be used to determine fiscal depreciation, while the accounting depreciation method may be different.

The useful lives to be used for tax purposes are the ones stated in the Official Fixed Assets Catalogue, published under government decision. Ranges are provided for classes of fixed assets, from which the taxpayers can choose the useful life (e.g. office and housing buildings: 40 to 60 years, commercial buildings: 32 to 48 years, commercial furnishings: 9 to 15 years, automobiles: 4 to 6 years).

For vehicles with up to nine seats, the fiscal depreciation is limited to a maximum of RON 1,500 per month for each vehicle. Certain categories of vehicles are exempt from this monthly deduction limitation (e.g. used exclusively for emergency, security, or delivery service; used for paid passenger transport; or used for paid supply of services).

Land cannot be depreciated.

Accelerated depreciation

Under the Romanian Fiscal Code, machinery and technical equipment, computers and their peripherals, as well as patents, may be depreciated by using the accelerated method, under which a maximum of 50% of the asset's fiscal value may be deducted during the first year of usage, while the rest of the asset's value can be depreciated using the straight-line method over the remaining useful life.

Goodwill

As a rule, goodwill is deemed non-depreciable from a Romanian fiscal perspective.

Start-up expenses

According to accounting rules, start-up expenses may be capitalised and depreciated over a maximum period of five years. However, according to the fiscal rules, start-up expenses should not be depreciated for tax purposes.

Provisions and reserves

As a general rule, provisions and reserves are non-deductible for profit tax purposes. However, there are certain provisions and reserves that are deductible, such as:

- Setting up or increasing the legal reserve fund up to 5% of the accounting profit, adjusted with profit tax expense, and until it reaches 20% of the share capital.
- Provisions related to guarantees for proper execution granted to the clients.
- Provisions for depreciation of receivables are deductible at up to 30% if the related receivables meet the following conditions simultaneously:

- Not collected for a period exceeding 270 days from the due date.
- Not guaranteed by another person.
- Due by a person not affiliated with the taxpayer.
- Bad debt provisions are fully deductible if all the following conditions are met:
 - The debtor is a company declared bankrupt by a court ruling or an individual for whom insolvency procedure has been declared based on:
 - Reimbursement plan.
 - Asset liquidation.
 - Simplified procedure.
 - Receivables are not guaranteed by another person.
 - The debtor is not a related party.
- Specific provisions established by non-banking financial institutions and other legal persons according to their incorporation law.
- Adjustments for impairment set up by credit institutions that apply IFRS and prudential filters set up according to regulations issued by the National Bank of Romania.
- Technical reserves set up by insurance and reinsurance companies, in accordance with their regulatory legal framework, except for the equalisation reserve.
- Risk provisions for transactions carried out on financial markets, in accordance with the rules issued by the Romanian National Securities Commission.
- Provisions and adjustments for impairment of receivables that were acquired by legal persons from credit institutions in order to be collected, for the difference between the receivables value and the amount due to the assignee, provided several conditions are met.
- Reserves from revaluation of fixed assets and land made after 1 January 2004, which are deductible through depreciation or through expenses triggered by assets sold or written off, are taxable at the same time and for the same amount as the tax depreciation deduction (i.e. when the assets are sold or written off).
- In case the level of the subscribed share capital was reduced, the part of the legal reserve corresponding to the reduction that was previously deducted represents an element similar to revenues.

The reduction or cancellation of any provision or reserve deducted from the taxable profit, due to changing the destination of the provision or reserve, distribution towards shareholders in any form, liquidation, spin-off, merger, or any other reason, is included in the taxable revenue and taxed accordingly.

Note that special rules are applicable to credit institutions that are required to apply IFRS rules.

Fiscal losses

Companies are allowed to carry forward fiscal losses declared in the annual profit tax returns for a period of up to seven years, based on the FIFO method. No related adjustment for inflation is allowed.

Any loss incurred by a PE of a Romanian company located in a non-EU/European Free Trade Association (EFTA) member state or in a country that has a DTT in place with Romania is only deductible for tax purposes from the revenue derived by that PE, and losses can be carried forward only for a period of five years.

For foreign legal persons, carryforward of losses applies only to revenue and expenses attributable to their PE in Romania.

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Losses incurred by a company can be transferred within a merger/spin-off operation and can be recovered by the successors, in proportion to the assets and liabilities transferred. The successors of these restructuring operations are able to use such losses during the remaining period.

Carryback of losses is not available in Romania.

Payments to foreign affiliates

Transactions with Romanian-affiliated companies and with non-resident related parties fall within the scope of the investigations regarding compliance with transfer pricing legislation (*see Transfer pricing in the Group taxation section*).

Group taxation

There is no tax consolidation or group taxation in Romania, except for PE consolidation. Members of a group must file separate returns and are taxed separately. Losses incurred by group members cannot be offset against profits made by other members of the group.

Consolidation of PEs

Foreign legal entities that perform economic activities in Romania through several PEs must register one of them as their PE designated to fulfil the fiscal obligations for all the PEs owned.

The revenues and expenses of all the PEs belonging to the same foreign legal entity will be cumulated at the level of the designated PE.

Transfer pricing

Transfer pricing requirements are applicable to transactions between Romanian related parties as well as foreign related parties.

Transactions between related parties should observe the arm's-length principle. If transfer prices are not set at arm's length, the Romanian tax authorities have the right to adjust the taxpayer's revenue or expenses so as to reflect the market value.

Traditional transfer pricing methods (i.e. comparable uncontrolled prices, cost plus, and resale price methods), as well as any other methods that are in line with the OECD Transfer Pricing Guidelines (i.e. transactional net margin and profit split methods), may be used for setting transfer prices.

Transfer pricing documentation

Taxpayers engaged in related party transactions have to prepare and make their transfer pricing documentation file available, irrespective of whether the transfer pricing documentation file has been requested by the Romanian tax authorities.

Transfer pricing audit activity has significantly increased during the past few years, and requests for presenting the transfer pricing documentation file have started to become common practice. We are aware of recent cases where the Romanian tax authorities adjusted the taxable result of local taxpayers in accordance with the applicable regulations.

The content of the transfer pricing documentation file has been approved by order of the president of the National Agency for Tax Administration. The Order is supplemented by the Transfer Pricing Guidelines issued by the OECD and the Code of Conduct on transfer pricing documentation for associated enterprises in the European Union Transfer Pricing Document (EUTPD).

The deadline for presenting the transfer pricing documentation file will not exceed three calendar months, with the possibility of a single extension equal to the period initially established.

Failure to present the transfer pricing documentation file or presenting an incomplete file following two consecutive requests may trigger estimation of transfer prices by the tax authorities on the basis of generally available information.

Advance pricing agreement (APA)

Taxpayers engaged in transactions with related parties have the possibility to apply for an APA. These taxpayers can also schedule a pre-filing meeting to discuss the feasibility of the APA.

The request for an APA is filed together with the relevant documentation and payment evidence of the fee (ranging between EUR 10,000 and EUR 20,000). The required documentation is based on the EUTPD and suggests, up front, the content of the APA.

The term provided by the Fiscal Procedural Code for issuance of an APA is 12 months for unilateral APAs and 18 months for bilateral and multilateral APAs. The APA is issued for a period of up to five years. In exceptional cases, such as long-term agreements, it may be issued for a longer period.

APAs are opposable and binding on the tax authorities as long as there are no material changes in the critical assumptions. In this view, the beneficiaries are obligated to submit an annual report on compliance with the terms and conditions of the agreement.

If taxpayers do not agree with the content of the APA, they can notify the National Agency for Tax Administration within 15 days. In this case, the agreement does not produce any legal effects.

Country-by-country (CbC) reporting

Romania implemented CbC reporting requirements, transposing the provisions of Directive (EU) 2016/881 into the national legislation. The new CbC reporting provisions follow the OECD Base Erosion and Profit Shifting (BEPS) Project Action 13 initiative.

As such, a Romanian tax-resident entity that is the ultimate parent entity of a multinational enterprise (MNE) group with consolidated revenues of EUR 750 million or more, and is required to prepare consolidated financial statements of the group, has to file a CbC report with the Romanian tax authorities within 12 months of the last day of the MNE group's reporting fiscal year. The Romanian legislation also provides for filing of CbC reporting by a so-called 'surrogate parent' (i.e. a Romanian tax-resident entity may be appointed by the MNE group to file a CbC report in Romania on its behalf).

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In addition, other Romanian resident entities will be required to file a CbC report if one of the criteria below is met:

- The ultimate parent entity of the group does not have the obligation to file a CbC report in its own jurisdiction of tax residence.
- The jurisdiction in which the ultimate parent entity is resident for tax purposes has a current international agreement to which Romania is a party but does not have a qualifying competent authority agreement in effect to which Romania is a party.
- There is a persistent failure in the automatic exchange procedure with the competent authority of the ultimate parent company required to file CbC reporting.

Moreover, failure to provide the CbC report in time or with incomplete/incorrect data will trigger the following penalties:

- For failing to file a CbC report, the penalty ranges from RON 70,000 to RON 100,000.
- For late filing of a CbC report or for incomplete/incorrect data in a CbC report, the penalty ranges from RON 30,000 to RON 50,000.

Thin capitalisation

If the company's equity is negative or the debt-to-equity ratio is higher than 3:1, expenses incurred from interest charges and net losses related to foreign exchange differences on long-term loans are fully non-deductible. However, these expenses may be carried forward to the following fiscal years and become fully tax deductible in the year the debt-to-equity ratio becomes lower than or equal to 3:1.

Debt included in the calculation of the debt-to-equity ratio is represented by all such (non-financial institution) loans with a maturity period of over one year.

The equity includes share capital, share/merger premiums, reserves, retained earnings, current year earnings, and other equity elements. Both debt and equity are calculated as the average of values existing at the beginning and at the end of the period for which profit tax is calculated.

Loans with a reimbursement term of longer than one year for which no interest is due according to the contract are also taken into consideration.

The deductibility of interest expenses and net foreign exchange losses related to long-term loans (with a maturity period of over one year) is further subject to the safe harbour rule. The safe harbour rule limits the deductibility of interest on such loans to a maximum of 4% for loans denominated in foreign currency and to the National Bank of Romania's reference interest rate for Romanian leu loans (currently set at 1.75%). Interest expenses recorded over this limit are tax non-deductible and cannot be carried forward in future periods.

Controlled foreign companies (CFCs)

New rules have been introduced regarding the taxation of CFCs. Under these rules, a taxpayer should include in its taxable base, in proportion with its holding in the CFC, the latter's non-distributed income derived from the following categories:

- Interest or any other income generated by financial assets.
- Royalties or any other income generated from intellectual property (IP).
- Dividends and income from the disposal of shares.

- Income from financial leasing.
- Income from insurance, banking, and other financial activities.
- Income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, and add no or little economic value.

A company is considered a CFC if the following conditions are both met:

- The taxpayer by itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50% of the voting rights, or owns directly or indirectly more than 50% of the capital or is entitled to receive more than 50% of the profits of that company.
- The actual profit tax paid on its profits by the company or PE is lower than the difference between the profit tax that would have been charged for the company or PE under the applicable Romanian profit tax provisions and the actual profit tax paid on its profits by the company or PE.

Exit taxation

Romania transposed the provisions of the Anti-Tax Avoidance Directive into national law, introducing rules on exit tax. Thus, a taxpayer will be subject to profit tax (at 16% tax rate) for transfer of business carried out by a PE, transfer of assets, or transfer of residence. The taxable base should be calculated as the difference between the market value of the assets and their fiscal value.

Tax credits and incentives

Foreign tax credits

- Tax credits for taxes paid to a foreign state may be obtained in Romania only if the DTT concluded between Romania and the foreign state applies and only if proper documentation confirming the tax was paid is available.
- A Romanian PE of a legal entity resident in the European Union or the European Economic Area (EEA) that obtains revenues from another EU or EEA member state, taxed both in Romania and in that member state, may claim a tax credit in Romania under the applicable tax law provisions.

Tax exemption for reinvested profits

The profit invested in technological equipment, electronic computers and peripheral equipment, cash registers and machinery, control and invoicing machinery and devices, as well as in software, produced and/or acquired, including on the basis of the financial leasing contracts, and commissioned/used for the purpose of pursuing the economic activity, is tax exempt under the Romanian Fiscal Code. The equipment subject to this incentive cannot be depreciated by using the accelerated method.

Research and development (R&D) incentives

Companies can benefit from an additional deduction of 50% of the eligible expenses for their R&D activities. Moreover, accelerated depreciation may be applied for devices and equipment used in the R&D activity.

In order to benefit from this supplementary deduction, the eligible R&D activities must be applicative research and/or technological development relevant to the taxpayer's activity and must be performed in Romania or in the EU/EEA member states.

Romania

The additional deduction for R&D activities is not available if the R&D project's objectives are not met.

Exemption from profit tax for taxpayers engaged exclusively in innovation and R&D activities

Taxpayers that exclusively perform innovation and R&D activities on scientific research and technological development and related activities are exempt from profit tax for the first ten years of activity.

Tax incentives related to professional and technical education

When determining the taxable profit, expenses for organising and developing professional and technical studies as per specific education legislation are considered deductible.

Local tax exemptions for business located in industrial parks

No property tax is due for buildings and constructions located in an industrial park. Also, land within industrial parks is exempt from land tax.

The incentives granted for the set up and development of industrial parks include:

- Local tax exemptions/reductions for immovable assets and land related to the industrial park.
- Other incentives that may be granted by the local tax authorities.
- Development programmes for infrastructure, investments, and equipment endowments granted by local and central public administration, companies, and foreign financial assistance.
- Concessions and structural funds for development.

The companies operating within the industrial park benefit from:

- Various services offered by the park administrator free of charge or with reduced fees.
- Advantageous conditions with regard to location, use of the infrastructure, and communications of the park, with payment in instalments.

Local Councils may grant land tax exemptions for owners of land situated in degraded or polluted areas, but not included in the area of improvement, at taxpayer's request and with the approval of the Ministry of Agriculture and Rural Development and the Ministry of Environment.

Land tax exemptions apply from the first day of the month following approval being obtained.

Other incentives granted to taxpayers

For justified claims of the taxpayers, the tax authorities may grant incentives for the payment of taxes, such as the rescheduling of tax payments due.

Rescheduling of tax payment obligations may be granted by the tax authorities to individuals and legal entities upon request. The time-frame for the rescheduling is a maximum of five years.

In order to benefit from the rescheduling of tax payment obligations, taxpayers must meet certain conditions and also provide a guarantee.

Withholding taxes

Domestic dividend tax

The dividend tax rate for the dividend distribution between Romanian legal entities is 5%. The tax is eliminated if there is a shareholding percentage of a minimum of 10% for an uninterrupted period of at least one year.

WHT for non-residents

The provisions of the Parent-Subsidiary Directive (2011/96) and of the Interest and Royalties Directive (2003/49) as transposed into the domestic fiscal legislation apply only to EU member states, with the member states of the European Free Trade Association (Iceland, Norway, and Lichtenstein) being excluded.

All income obtained by non-residents from Romanian taxpayers for the provision of services rendered in Romania or abroad is subject to 16% WHT rate in Romania.

Non-resident companies not operating through a PE are subject to a 16% WHT on revenue sourced in Romania, such as interest, royalties, revenue from services, commissions, and revenue derived from liquidation of a Romanian legal entity.

The tax rate for dividend revenues derived by non-residents from Romania is 5%.

Certain specific provisions and exceptions apply to non-resident WHT, as follows:

- A 50% WHT applies to payments made by Romanian residents (e.g. dividends, interest, royalties, commissions, services) to non-residents in countries that do not have an exchange of information agreement concluded with Romania, regardless of whether the beneficiary of the income is resident of a state with which Romania has concluded a DTT or not. However, this WHT is applicable only to the extent such payments result from artificial transactions.
- As Romania is an EU member state, the provisions of the Parent-Subsidiary Directive apply. Consequently, dividends paid by Romanian companies to companies resident in one of the EU/EEA member states are exempt from WHT if the dividend beneficiary has held, at the time of distribution, a minimum of 10% of the shares of the Romanian company for an uninterrupted period of at least one year.
- Dividend and interest income obtained from Romania by EEA-registered pension funds is exempt from WHT.
- Romania has implemented the Interest and Royalties Directive. Payments of interest and royalties made by a Romanian company to another company resident in an EU member state are tax exempt from WHT if the non-resident company held, for an uninterrupted period of at least two years, at least 25% of the share capital of the Romanian company prior to the time of payment.

In order to apply EU legislation, non-resident recipients of the income are required to present a certificate of tax residence and a declaration attesting to compliance with the necessary requirements provided by the European Directives.

The Romanian Fiscal Code incorporates the recent amendments to the European Parent-Subsidiary Directive no. 2011/96/EU. The legislation introduces the anti-

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abuse rule for preventing unlawful tax practices used to obtain tax benefits contrary to the Directive's principles. Also, dividends received by a Romanian legal entity from a foreign legal entity under certain conditions will not be taxed as long as those dividends are not treated as deductible expenses by the paying subsidiary.

The following categories of income derived by non-residents from Romania are exempt from WHT:

- Interest income and income derived from the sale of debt instruments issued by the Romanian authorities (e.g. government bonds).
- Revenue from international transportation and accessory services.
- Prizes obtained by individual non-residents from artistic, cultural, or sport festivals/competitions paid from public funds.
- Income obtained from a partnership constituted in Romania by a non-resident company (the related profits are subject to corporate profit tax).

Measures are in place for the purpose of eliminating the discriminatory treatment applied to non-residents deriving interest revenues and/or revenues from freelancing activities in Romania that are subject to WHT applied to the gross value of the income.

Legal entities/individuals resident in member states of the European Union or the Economic European Area deriving interest revenues and/or revenues from freelancing activities in Romania may opt for the regularisation of the WHT by way of declaring and paying in Romania the corporate income tax/income tax related to the revenues obtained.

The tax withheld and paid is deemed as an advance payment in connection with the corporate income tax/income tax.

The possibility for regularisation of the WHT is only applied in the case of revenues derived from Romania by residents of member states of the European Union or the European Economic Area, provided that a Convention for the Avoidance of Double Taxation or a legal instrument for the exchange of information is concluded between Romania and those states.

WHT rates for companies, and rates under some DTTs

Recipient	WHT (%)			
	Dividends	Interest	Royalties	Commissions
Non-treaty	5	16	16	16
EU - Parent-Subsidiary Directive	0 (53)	N/A	N/A	N/A
EU - Interest and Royalties Directive	N/A	0 (53)	0 (53)	N/A
Treaty:				
Albania	10/15 (1)	10	15	15
Algeria	15	15	15	N/A
Armenia	5/10 (1)	10	10	15
Australia	5/15 (2)	10	10	N/A
Austria	0/5 (1)	0/3 (3)	3	N/A
Azerbaijan	5/10 (1)	8	10	N/A
Bangladesh	10/15 (4)	10	10	N/A
Belarus	10	10	15	N/A
Belgium	5/15 (1)	10	5	5

Recipient	WHT (%)			
	Dividends	Interest	Royalties	Commissions
Bosnia and Herzegovina (5)	5	7.5	10	10
Bulgaria	5	5	5	N/A
Canada	5/15 (4)	0/10 (6)	5/10 (7)	N/A
China, People's Republic of	3	0/3 (57)	3	N/A
Croatia	5	10	10	N/A
Cyprus	10	10	5	5
Czech Republic	10	7	10	N/A
Denmark	10/15 (1)	10	10	4
Ecuador	15	10	10	10
Egypt	10	15	15	15 (8)
Estonia	10	10	10	2
Ethiopia	10	15	15	N/A
Finland	5	5	2.5/5 (9)	N/A
France	10	10	10	N/A
Georgia	8	10	5	5
Germany	5/15 (4)	0/3 (10)	3	N/A
Greece	45	10	5/7 (11)	5
Hong Kong	0/3/5 (55)	0/3 (56)	3	N/A
Hungary	5/15 (12)	15	10	5
Iceland	5/10 (13)	3	5	N/A
India	10	10	10	N/A
Indonesia	12.5/15 (14)	12.5	12.5/15 (15)	10
Iran	10	8	10	N/A
Ireland	3	0/3 (16)	0/3 (17)	N/A
Israel	15	5/10 (18)	10	N/A
Italy	0/5 (4)	0/5 (19)	5	N/A
Japan	10	10	10/15 (20)	N/A
Jordan	15	12.5	15	15
Kazakhstan	10	10	10	10
Korea, Democratic People's Republic	10	10	10	N/A
Korea, Republic of	7/10 (13)	0/10 (21)	7/10 (22)	10
Kuwait	0/1 (23)	0/1 (24)	20	N/A
Latvia	10	10	10	2
Lebanon	5	5	5	N/A
Lithuania	10	10	10	2
Luxembourg	5/15 (13)	0/10 (25)	10	5
Macedonia	5	10	10	N/A
Malaysia	10	0/15 (26)	12	N/A
Malta	5	5	5	10
Mexico	10	15	15	N/A
Moldova	10	10	10/15 (27)	N/A
Montenegro (37)	10	10	10	10
Morocco	10	0/10 (4)	10	10
Namibia	15	15	15	N/A
Netherlands	0/5/15 (28)	0/3 (29)	0/3 (30)	N/A
Nigeria	12.5	12.5	12.5	N/A
Norway	5/10 (4)	5	5	4
Pakistan	10	10	12.5	10
Philippines	10/15 (31)	10/15 (32)	10/15/25 (33)	N/A

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Recipient	WHT (%)			
	Dividends	Interest	Royalties	Commissions
Poland	5/15 (1)	10	10	0/10 (34)
Portugal	10/15 (35)	0/10 (19)	10	N/A
Qatar	3	3	5	3
Russia	15	15	10	N/A
San Marino	0/5/10 (36)	3	3	N/A
Saudi Arabia	5	5	10	N/A
Serbia (37)	10	10	10	10
Singapore	5	5	5	N/A
Slovakia	10	10	10/15 (38)	N/A
Slovenia	5	5	5	N/A
South Africa	15	15	15	N/A
Spain	10/15 (39)	10	10	5
Sri Lanka	12.5	0/10 (4)	10	10
Sudan	5/10 (1)	5	5	N/A
Sweden	10	10	10	10
Switzerland	0/15 (40)	0/5 (41)	0/10 (42)	N/A
Syria	5/15 (39)	10	12	N/A
Tajikistan	5/10 (39)	10	10	N/A
Thailand	15/20 (43)	10/20/25 (44)	15	10
Tunisia	12	10	12	4
Turkey	15	0/10 (45)	10	N/A
Turkmenistan	10	10	15	N/A
Ukraine	10/15 (13)	0/10 (46)	10/15 (47)	N/A
United Arab Emirates	0/3 (48)	0/3 (49)	0/3 (50)	3
United Kingdom	10/15 (51)	10	10/15 (52)	12.5
United States	10	10	10/15 (20)	N/A
Uruguay	5/10 (54)	10	10	N/A
Uzbekistan	10	10	10	N/A
Vietnam	15	10	15	N/A
Zambia	10	10	15	N/A

Notes

1. The lower rate applies to a participation of at least 25%.
2. The lower rate applies to a participation of at least 10% where the dividends are paid out of profits that have been subject to a normal rate of company tax.
3. The lower interest rate applies if one of the following requirements is fulfilled:
 - The payer or the recipient of the interest is the government of a contracting state itself, a local authority or an administrative-territorial unit thereof, or the Central Bank of a contracting state.
 - The interest is paid in respect of a loan granted, approved, guaranteed, of insured by the government of a contracting state, the Central Bank of a contracting state, or any financial institution owned or controlled by the government of a contracting state.
 - The interest is paid in respect of a loan granted by a bank or any other financial institution (including an insurance company).
 - The interest is paid on a loan made for a period of more than two years.
 - The interest is paid in connection with the sale on credit of any industrial, commercial, or scientific equipment.
4. The lower rate applies to a participation of at least 10%.
5. The treaty concluded with the former Socialist Republic of Yugoslavia (Socialist republic) signed in 1986.
6. The zero rate applies to interest paid by public bodies.
7. The lower rate applies to copyright royalties (excluding films), computer software, patents, and know-how.
8. The 15% withheld at source in Romania on the commission paid to an Egyptian resident shall be given as a credit to be deducted from the income tax charged in Egypt.

9. The lower rate applies to royalties for computer software and industrial, commercial, or scientific equipment.
10. The lower rate applies if and as long as Germany, under its domestic law, does not levy WHT on interest paid to a resident of Romania.
11. The higher rate applies to industrial royalties.
12. The lower rate applies to a participation of at least 40%.
13. The lower rate applies if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends.
14. The lower rate applies if the recipient is a company that directly owns at least 25% of the capital of the company paying the dividends.
15. The lower rate applies for royalties that consist of payments of any kind received as a consideration for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific experience, or for the use of, or the right to use, industrial, commercial, or scientific equipment, cinematograph films, or tapes for television or broadcasting. The higher rate applies if the royalties consist of payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work.
16. The lower rate applies if such recipient is the beneficial owner and if such interest is paid:
 - in connection with the sale on credit of any industrial, commercial, or scientific equipment
 - on any loan of whatever kind granted by a bank or other financial institution (including an insurance company)
 - on any loan of whatever kind made for a period of more than two years, or
 - on any debt-claim of whatever kind guaranteed, insured, or directly or indirectly financed by or on behalf of the government of either contracting state.
17. The lower interest rate applies if the royalties are beneficially owned by a resident of a contracting state and refer to the right to use any copyright of literary, artistic, or scientific work, including motion pictures or films, recordings on tape or other media used for radio or television broadcasting, or other means of reproduction or transmission.
18. The lower rate applies to interest paid in connection with the sale on credit of any industrial or scientific equipment, of any merchandise by one enterprise to another enterprise, or on a loan granted by banks.
19. The lower rate applies to interest paid by public bodies.
20. The lower rate applies for cultural royalties; the higher rate applies for industrial royalties.
21. The lower rate applies for interest arising in a contracting state and derived by the government of the other contracting state, including local authorities thereof and administrative-territorial units thereof, the Central Bank of that other contracting state or any financial institution performing functions of a governmental nature, or by any resident of the other Contracting State with respect to debt claims guaranteed or indirectly financed by the government of that other contracting state, including local authorities thereof and administrative-territorial units thereof, the Central Bank of that other contracting state or any financial institution performing functions of a governmental nature.
22. The lower rate applies for royalties related to the right to use any patent, trademark, design or model plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.
23. The lower rate applies if the beneficial owner of the dividends is the government of Kuwait or a company in whose capital the government directly or indirectly owns at least 51% and the remaining capital of such company is owned by residents of Kuwait.
24. The lower rate applies if the beneficial owner of the interest is a company, including a bank or a financial institution, that is a resident of Kuwait and in whose capital the government directly or indirectly owns at least 25% and the remaining capital of such company is owned by residents of Kuwait.
25. Interest shall not be taxed in the state where it arises if the indebtedness on which such interest is paid, guaranteed, insured, or financed by the other state or by a financial institution that is a resident of that other state.
26. The lower rate applies for interest to which a resident of Romania is beneficially entitled if the loan or other indebtedness in respect of which the interest is paid is an approved loan or a long-term loan.
27. The lower rate applies for royalties for the use of, or the right to use, any copyright, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, information concerning industrial, commercial, or scientific experience.
28. 0% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends; 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends; 15% of the gross amount of the dividends in all other cases.
29. The lower rate applies if, and as long as, the Netherlands does not levy a WHT on interest/royalties paid to a resident of Romania. Interest paid to a bank or financial institution (including an insurance company) and interest paid on a loan made for a period of more than two years are exempt.
30. The lower rate applies if, and as long as, the Netherlands does not levy a WHT on interest/royalties paid to a resident of Romania.
31. The lower rate applies if the recipient is a company (excluding partnership) and during the part of the paying corporation's taxable year that precedes the date of payment of the dividends and during the whole of its prior taxable year (if any) at least 25% of the outstanding shares of the voting stock of the paying corporation was owned by the recipient corporation.
32. The lower rate applies if such interest is paid:

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- in connection with the sale on credit of any industrial, commercial, or scientific machine or equipment, or similar installation
 - on any loan of whatever kind granted by a bank, or
 - in respect of public issues of bonds, debentures, or similar obligations.
33. 10% of the gross amount of the royalties, where the royalties are paid by an enterprise registered with the Romanian Agency for Development, in the case of Romania and with the Board of Investments, in the case of the Philippines and engaged in preferred pioneer areas of activities; 15% of the gross amount of the royalties, in respect of cinematographic films and tapes for television or broadcasting; 25% of the gross amount of the royalties, in all other cases.
 34. As long as Poland does not introduce in its domestic legislation the WHT of commissions paid to non-residents, the provisions of paragraph 2 of Article 13 are not applying and the commissions are taxable only in the residence country of the beneficial owner of the commission.
 35. The lower rate applies if the beneficial owner of the dividends is a company that, for an uninterrupted period of two years prior to the payment of the dividends, directly owns at least 25% of the capital stock (capital social) of the company paying the dividends.
 36. The lower rate applies to participations of at least 50%; the 5% rate applies to participations of at least 10%.
 37. According to the treaty concluded between Romania and the former Yugoslavia (Federal Republic of). This is applicable in Serbia and Montenegro.
 38. The lower rate applies to royalties for the use of, or the right to use, any patent, trademark, design or model, plan, secret formula or process, or industrial, commercial, or scientific equipment, or for information concerning, industrial, commercial, or scientific experience.
 39. The lower rate applies if the beneficial owner is a company that directly holds at least 25% of the capital of the company paying the dividends.
 40. The lower rate applies if the dividends are beneficially owned by a resident of the other contracting state that is:
 - a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends
 - a pension fund or other similar institution providing pension schemes, or
 - the government of that other state, a political subdivision, local authority, or administrative-territorial unit thereof, or the Central Bank of that other state.
 41. The lower rate applies to the extent that such interest is paid:
 - in respect of a loan, debt-claim, or credit that is owed to, or made, provided, guaranteed, or insured by that state or a political subdivision, local authority, administrative-territorial unit, or export financing institution thereof, or
 - by a company to a company of the other contracting state where such company is affiliated with the company paying the interest by a direct minimum holding of 25% in the capital or where both companies are held by a third company that has directly a minimum holding of 25%, both in the capital of the first company and in the capital of the second company.
 42. The lower rate applies as long as the Swiss Confederation, in accordance with its domestic legislation, does not levy a WHT on royalties paid to non-residents.
 43. The lower rate applies if the company paying the dividends engages in an industrial undertaking and the recipient company, excluding partnership, directly holds at least 25% of the capital of the former company.
 44. 10% of the gross amount of the interest if it is received by any financial institution (including an insurance company); 20% of the gross amount of the interest in the case of interest on credit sale; 25% of the gross amount of the interest in other cases.
 45. Interest arising in Romania and paid to government of Turkey or to the Central Bank of Turkey shall be exempt from Romanian tax.
 46. Interest arising in a contracting state shall be exempt from tax in that state if it is derived and beneficially owned by the government of the other contracting state, a local authority or an administrative-territorial unit thereof, or any agency or bank unit or institution of that government, a local authority or an administrative-territorial unit, or if the debt-claims of a resident of the other contracting state are warranted, insured, or directly or indirectly financed by a financial institution wholly owned by the government of the other contracting state.
 47. The lower rate applies for use or lease of any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific equipment.
 48. 0% if the beneficial owner of the dividends is (i) the government of any contracting state or any governmental institutions or entity thereof or (ii) a company that is a resident of either contracting state and the capital of which is directly or indirectly owned (at least 25%) by the government or governmental institutions of either contracting states.
 49. Interest arising in Romania and paid to the government of the United Arab Emirates or its financial institutions shall be exempted from Romanian taxes.
 50. The lower rate applies for approved industrial royalties.
 51. The lower rate applies if the beneficial owner is a company that directly or indirectly controls at least 25% of the voting power in the company paying the dividends.
 52. The lower rate applies in the case of royalties received as consideration for the use of, or the right to use, any copyright of literary, dramatic, musical, artistic, or scientific work (including cinematograph films and films or tapes for radio or television broadcasting).
 53. If certain conditions are met.

54. 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends; 10% of the gross amount of the dividends in all other cases.
55. The 0% rate applies for certain government institutions, the 3% rate applies for a participation of at least 15%, and the 5% rate applies to all other cases.
56. If and as long as the Hong Kong Special Administrative Region levies no WHT on interest, the percentage shall be reduced to zero. The competent authority of the Hong Kong Special Administrative Region shall inform the competent authority of Romania of any changes made in the internal legislation of the Hong Kong Special Administrative Region regarding the imposition of a WHT on interest.
57. The lower rate applies to interest arising from credit sale of equipment, merchandise, or services, to loans granted by financial institutions, to a political subdivision, local authority, or administrative-territorial unit, or to any entity wholly or mainly owned by the state; the 3% rate applies in other cases.

In order to apply the provisions of the relevant DTT, the non-resident recipient of the income should provide to the Romanian paying company a tax residency certificate attesting its tax residency for the purpose of the DTT.

If the tax rates prescribed by domestic legislation differ from those prescribed by the DTT, then the most favourable rate will apply. The tax rate applicable to income obtained by a resident of an EU member state in Romania is the most favourable rate provided under either domestic legislation, the EU Directives transposed into domestic legislation, or the DTT.

Tax administration

Taxable period

The fiscal year is the calendar year or the period during which the entity existed if it was set up or ceased to exist during that calendar year.

Taxpayers with a financial year different from the calendar year have the option to align the tax year to the financial year. The first amended tax year will start on 1 January and will end on the last day of the amended tax year.

The period in which a taxpayer has to communicate to the territorial tax bodies the intention of changing the fiscal year period is within 15 days as of the beginning of the new fiscal year.

Tax returns

Taxpayers (except for non-profit organisations and taxpayers deriving most of their income from agriculture) must submit the profit tax returns by the 25th day of the first month following the first, second, and third quarters. The annual profit tax return is due by 25 March of the following year if the fiscal years equals the calendar year; for the cases where the fiscal year is different than the calendar year, the annual profit tax return is due by 25th day of the third month after the end of the company's fiscal year.

Non-profit organisations and taxpayers that obtain income mainly from agricultural activities have to declare and pay annual profit tax by 25 February of the year following the reporting period.

Taxpayers (except those specifically mentioned by law) may opt to declare and pay the annual profit tax by making quarterly advance payments (*see Payment of tax below*). The decision to take this option has to be communicated by 31 January of the fiscal year in which the taxpayer wants to apply the option and it has to be maintained for at least two consecutive years.

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Large and medium-sized taxpayers have the obligation to submit fiscal forms online, using the www.e-guvernare.ro portal. The electronic signature of the tax returns can only be made using a qualified certificate issued by a legally accredited certification services provider. Other categories of taxpayers may file their tax return electronically as an alternative way of compliance.

Taxpayers required to withhold tax, with the exception of salary payers, are required to submit a statement to the tax authorities regarding the tax withheld for each beneficiary of income. This statement must be submitted for the previous year by the last day of February of the current fiscal year and refers to the tax withheld and paid by Romanian residents on income obtained in Romania by non-resident beneficiaries.

If taxpayers have failed to submit their tax returns, the tax authorities will assess, by way of default, all the tax obligations found in the taxpayer's fiscal liability records for each fiscal period in which tax returns were not submitted.

Payment of tax

Taxpayers (except for banks, non-profit organisations, taxpayers deriving most of their income from agriculture) must pay the quarterly profit tax by the 25th day of the first month following the first, second, and third quarters. The final profit tax payment is generally due on the 25th day of the third month after the end of the company's fiscal year. Banks and branches of foreign banks in Romania are required to apply the system of advance quarterly profit tax payments. Other taxpayers, with some exceptions mentioned by law, may use this system as an alternative reporting and payment procedure.

The anticipated quarterly payments are calculated as a quarter of the previous year's profit tax increased by the consumer price index (CPI) inflation rate, with the payments due by the 25th day of the month following the end of the quarter. The CPI inflation rate is published by Order of the Ministry of Finance by 15 April of the year for which the advance payments are made. For 2018, the CPI inflation rate was 103.1%. If taxpayers incur fiscal losses in the first year of the application of the option, the advance profit tax payments are calculated by applying the profit tax rate to the accounting profit for the period in which tax payments are made in advance.

Non-profit organisations and taxpayers that obtain income mainly from crop production have to pay annual profit tax by 25 February of the following year.

Newly established banks and branches of foreign banks in Romania (i.e. without a previous year history) or those that incurred fiscal losses in the previous year make quarterly advance payments at the level of the amount resulted from applying the profit tax rate on the accounting profit for the period for which the advance payment is made.

For the last quarter of the fiscal year, the deadline for the obligation to declare and make advance payment will be the 25th day of the last month of that fiscal year.

Late-payment penalty

The late-payment interest rate is 0.02% for each day of delay. Subsequent late-payment penalties also apply.

The penalty is set at 0.01% per day of delay. This penalty does not apply to main tax obligations not declared by the taxpayer and is established by a tax inspection authority decision.

A non-declaration penalty is applicable, at 0.08% per day, starting from the day following the due date until the date of payment. This penalty applies to the main tax obligations declared incorrectly or not declared by the taxpayer and is established by a tax inspection authority decision.

Non-resident companies

Non-resident companies deriving income from the sale of real estate located in Romania or from the sale of shares held in a Romanian company (except if participation exemption applies) are subject to a 16% profit tax in Romania and are liable to declare and pay such tax. Non-residents may appoint a tax agent/representative to fulfil this requirement. However, if the buyer is a Romanian company or a Romanian PE of a non-resident company, the obligation to declare and pay the annual profit tax rests with the buyer.

In case of income from sale/transfer of shares held by a non-resident in a Romanian entity, the obligation of the buyer to withhold the tax (in case the buyer is a Romanian entity) has been eliminated.

For capital gains tax declaration and payment, the Romanian legislation requires the following tax returns to be submitted:

- Quarterly statements, starting the 25th day of the month following the quarter in which the non-resident first earned capital gains taxable in Romania.
- An annual profit tax return.

The quarterly statements and annual return must be submitted during the entire period in which the non-resident is registered with the Romanian tax authorities, even if, throughout that period, it no longer carries out transactions generating taxable revenue in Romania.

Tax audit process

Tax inspections can be carried out in respect of all legal persons, irrespective of their organisational structure, that are bound to determine, withhold, and pay taxes, duties, contributions, and other amounts owed to the general consolidated budget.

The tax authorities may not inspect the same taxes for a period previously inspected unless additional data is obtained of which the tax inspectors were unaware when carrying out the first inspection or calculation errors were made.

Prior to the tax inspection commencing, the tax authorities must notify the taxpayer in writing, by sending a tax inspection notice, except in the cases explicitly laid down in the Fiscal Procedural Code.

Tax inspections are generally carried out at the taxpayer's business premises and may not exceed a six-month period in the case of large taxpayers or three months for other taxpayers. For taxpayers that have secondary offices, the tax inspections may not exceed six months. The tax authorities may suspend the tax inspection if they deem it necessary for the clarification of the taxpayer's tax status.

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Before finalisation of the tax inspection, the tax authorities are required to inform the taxpayer of their findings and the tax consequences and allow the taxpayer to express its point of view, within three days from the ending of the tax inspection. Upon completion of the tax inspection, the authorities conclude a tax inspection report, based on which the tax assessment is made, which in turn is to be communicated to the taxpayer within 30 days from the ending of the tax inspection.

Statute of limitations

As a general rule, the statute of limitation is five years and it begins to run on 1 July of the year following that for which the tax obligation is for, provided the law does not dispose otherwise. However, the statute can be suspended for the duration of a tax inspection but will recommence after the inspection has been completed.

Topics of focus for tax authorities

Areas of focus during tax audits include:

- VAT reimbursable positions.
- Deductibility of service expenses.
- Transfer pricing.
- Transactions with tax havens.

Other issues

Mergers and acquisitions

Mergers, spin-offs, transfers of assets, and exchanges of shares between two Romanian companies should not trigger capital gains tax.

In the case of a relocation of the registered office of a European Company (SE) and a European Cooperative Society (SCE) from Romania to another EU member state, no tax will apply on the difference between the market value of the transferred assets and liabilities and their fiscal value, provided certain conditions are met. There will also be no tax on such movements at the shareholder level. Therefore, a tax basis step-up may be achieved in the case of Romanian shareholders.

If a Romanian company has a PE in another EU member state, and the Romanian company is dissolved as a result of a cross-border reorganisation, the Romanian tax authorities will not have the right to tax the PE.

There are provisions for the recovery of fiscal losses in the case of restructuring operations carried out by Romanian legal entities and those involving Romanian legal entities and residents of other EU member states. Herewith, the right to recover fiscal losses by legal entities that are successors of merger or spin-off operations is regulated. The recovery is correlated with the assets and liabilities transferred according to the merger/spin-off project. Also, some amendments are provided to the Romanian Company Law simplifying and, in some cases, reducing the time-frame for performing the legal steps that have to be followed in case of mergers and spin-offs.

For taxpayers going through a restructuring process, the right to carry forward non-deductible interest expenses and net foreign exchange losses is split between the beneficiary and the assignor in proportion to the assets and liabilities transferred.

The amendments applicable to domestic mergers, total or partial spin-offs, transfer of assets, and exchange of shares have been harmonised with those applicable to similar cross-border transactions. The neutrality of in-kind contributions to a company's equity has been eliminated, except for cases involving a transfer of a going concern. Transfers carried out during a partial spin-off will not be subject to profit tax only if a transfer of a going concern takes place and the transferor maintains at least one line of activity.

EU state aid investigations

There are no investigations launched by the European Commission on whether Romania granted selective tax advantages to certain companies in the form of state aid.

Measures taken by Romania in respect to base erosion and profit shifting (BEPS)

Anti-hybrid and general anti-avoidance rules (GAAR) related to BEPS Action 2 and Action 6

The Romanian Fiscal Code incorporates the anti-hybrid provisions and the GAAR of the European Directive no. 2011/96/EU, on the common system of taxation applicable in the case of parent companies and subsidiaries of different member states, with its amendments.

The anti-hybrid rule states that income received by a Romanian entity from its qualifying subsidiary will not be tax exempt if such dividend was treated as a deductible expense by the subsidiary.

The GAAR states that member states shall not grant the benefits of the Directive to an arrangement or a series of arrangements that, having been put into place for the main purpose of obtaining a tax advantage that defeats the object or purpose of the Directive, are not genuine, having regard to all relevant facts and circumstances.

Recently, Romania transposed ATAD provisions and introduced a new anti-abuse rule applicable to an arrangement or a series of arrangements that, with regard to all relevant facts and circumstances, are not genuine, having been undertaken for the main purpose of, or having as one of the main purposes, obtaining a tax advantage that defeats the object or purpose of the applicable tax law. Specifically, the above-mentioned arrangements are to be ignored when calculating the tax liabilities attributed to a taxpayer.

Tightened restrictions on interest deductibility related to BEPS Action 4

As of 1 January 2018, the exceeding borrowing costs (calculated as the difference between any debt-related costs, including foreign exchange expenses and capitalised interest, and income from interest and other economically equivalent income) incurred in a fiscal period that exceed the deductible threshold of EUR 200,000 will be deductible for profit tax purposes up to the limit of 10% of the calculation base. The non-deductible exceeding borrowing costs can be carried forward indefinitely. The limitation also applies to any debt-related costs in connection with loans granted by financial institutions.

The calculation base is determined as the gross accounting profit, minus non-taxable revenues, plus exceeding borrowing costs and deductible tax depreciation.

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If the calculation base is zero or negative, the exceeding borrowing costs are treated as non-deductible for profit tax purposes during the current tax period, but can be carried forward indefinitely.

The above-mentioned interest deductibility rules also apply to financial institutions, but not to independent entities (i.e. entities that are not part of a consolidated group for financial accounting purposes and do not have related parties and PEs), which can fully deduct exceeding borrowing costs.

The new rules will also apply to interest and foreign exchange losses carried forward from the past and accumulated as at 31 December 2017.

Substance over form requirements related to BEPS Action 5 and Action 6

A definition of a cross-border artificial transaction was introduced since 2016 in the Romanian Fiscal Code as well as the possibility of a cross-border transaction or a group of cross-border transactions being reclassified by the tax authorities so as to reflect their true nature. The Romanian anti-abuse rules in the Romanian Fiscal Code define 'artificial cross-border transaction' as a transaction or series of transactions without economic substance that normally would not be used as part of normal business practices and is intended to avoid tax or obtain tax benefits that otherwise could not be achieved. The anti-abuse rules provide that for such transactions advantage of DTTs cannot be taken.

Also, a 50% WHT rate can apply for income paid in a state with which Romania does not have a legal instrument in place for the exchange of information. Specifically, the 50% rate will apply only in situations where the income is paid as part of a transaction deemed artificial.

Transfer pricing related to BEPS Action 13

Taxpayers engaged in related-party transactions have to prepare and make their transfer pricing documentation file available based on certain materiality thresholds.

Large taxpayers that carry out inter-company transactions equal to or above certain thresholds are required to prepare transfer pricing documentation on an annual basis.

The rest of large taxpayers, and also the small and medium-sized taxpayers that carry out inter-company transactions equal to or above certain limits, have an obligation to prepare transfer pricing documentation where a written request is made by the tax inspector during a tax audit. The deadline for presenting the transfer pricing documentation is between 30 and 60 calendar days. A one-off extension of no more than 30 calendar days is allowed.

The content of the transfer pricing documentation file includes the elements referred to in the latest version of 'Chapter V: Documentation of the OECD Transfer Pricing Guidelines'.

Intergovernmental agreements (IGAs)

A Model 1 IGA is treated as 'in effect' by the United States (US) Treasury as of 2 April 2014.

The Model 1 IGA between the US and Romanian governments was signed on 28 May 2015 in order to improve international tax compliance and to implement the Foreign

Account Tax Compliance Act (FATCA). The agreement will enhance transparency between the two countries in the field of taxation, promote growing cooperation in combating tax evasion practises, simplify implementation of financial information transmission, and increase legal certainty for financial institutions in Romania.

The agreement between Romania and the United States to improve international tax compliance and implementation of FATCA was ratified by the Romanian Parliament and published in the Official Gazette on 30 October 2015.

Common Reporting Standard (CRS)

The status regarding the implementation of the CRS, as developed by the OECD, is the following:

- On 29 October 2014, the Romanian Minister of Finance signed the Declaration to comply with the provisions of the Multilateral Competent Authority Agreement (MCAA) on Automatic Exchange of Financial Account Information.
- On 1 November 2014, the Convention on Mutual Administrative Assistance in Tax Matters was enforced in Romania.
- In April 2016, the Romania government ratified the MCAA.

These two official documents are part of the process of implementing the CRS issued in February 2014 by the OECD.

Based on the MCAA, Romania implemented the first automatic information exchange by September 2017.

In addition, Romania transposed the provisions of Directive 2011/16/EU as amended and supplemented by Directive 2014/107/EU regarding the mandatory automatic exchange of information in the field of taxation. As such, Romania introduced in the national legislation a requirement for financial institutions to implement reporting and due diligence rules, which are fully consistent with the CRS developed by the OECD.

Under the CRS and FATCA, reporting financial institutions (e.g. depositary institutions [banks, credit co-operative organisations, savings and credit banks for housing, mortgage loans banks], custodial institutions, investment entities, and specified insurance companies) are required to report to the tax authorities the following information:

- Identity of the person (name, address, jurisdiction of residence, number/tax identification number [TIN], date and place of birth, if applicable).
- Identity of the entity that is the account holder (name, address, jurisdiction/jurisdiction of residence, number/TIN of the entity and the person(s) controlling the entity, as well as their date and place of birth, etc.).
- The account number, name, and identification number of the reporting financial institution, and information on the account balance or value.
- For deposit accounts, the total gross amount of interest paid or credited to the account during the calendar year.
- For custody accounts, the total gross amount of interest, dividends, or other earnings generated from assets held in the account, as well as the amount of gross revenue from the sale or redemption of financial assets.

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Significant developments

Recent significant changes in tax legislation

Taxation of movable property

Under the Russian Tax Code (RTC), all Russian legal entities and permanent establishments (PEs) of foreign legal entities were exempt from tax on movable property recorded as fixed assets since 1 January 2013. However, this tax incentive becomes a regional incentive starting from 2018. Russian taxpayers must check the laws of particular constituent regions before applying the incentive.

Investment deduction

The mechanism of investment deduction was introduced in the RTC. Starting from 2018, taxpayers will choose between using the standard method of depreciation of their fixed assets and deducting investment expenditures directly from the amount of tax within the set limit.

The law grants Russian constituent regions the right to introduce the deduction, and the regions reserve the option to decide whether to exercise that right. In addition, regions determine the categories of fixed assets (and taxpayers) that are or are not eligible for the deduction.

This tax regime is applicable only to newly commissioned (or modernised) assets with a useful life of 3 to 20 years (e.g. buildings, machinery, transport). *Please refer to Depreciation and amortisation in the Deductions section for details.*

Three-tier transfer pricing documentation

A requirement to prepare three-tier transfer pricing documentation for the financial years starting in 2017 has been introduced to the RTC. Thus, multinational groups of companies (MNCs) with a total income (revenue) over 50 billion Russian rubles (RUB) under consolidated financial statements for the previous financial year must submit three-tier documentation to tax authorities, including Master file, Local file, and Country-by-Country (CbC) report, as well as a notification on their membership in an MNC.

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Taxes on corporate income

Corporate income tax (CIT)

Russian legal entities pay tax on their worldwide income (credit relief is available for foreign tax paid, up to the amount of the Russian tax liability that would have been due on the same amount under Russian rules).

The maximum CIT rate for all taxpayers in the Russian Federation has been set at 20%. In the period 2017 through 2020, the following allocation proportion applies: 3% of CIT revenues is allocated to the federal budget, whereas 17% is allocated to the budgets of the relevant constituent regions. Individual Russian constituent regions may bring their CIT rates down to 12.5%; thus, the total minimum tax rate may be reduced to 15.5%.

Foreign legal entities (FLEs) pay tax on Russia-source income derived through a PE at 20% and are also subject to withholding tax (WHT) on income from Russian sources not related to a PE (at rates varying from 10% to 20%, depending on the type of income and the method used to calculate it).

Local income taxes

There are no provincial, municipal, or local taxes on income in the Russian Federation.

Corporate residence

FLEs managed from Russia can be recognised as Russian tax residents. Russian tax residency means that the worldwide income of such entities is taxable in Russia.

The tax residency rules set basic and additional criteria for determining the place of management. Moreover, the rules specify those situations that do not affect residency status (e.g. preparation of consolidated financial statements in Russia). Nevertheless, when assessing the risk of a company being deemed a Russian tax resident, it is advisable to evaluate all relevant facts and circumstances, even if the company's activities carried out in Russia would technically qualify for such exemptions.

The rules also specify four situations when a company may be deemed a Russian tax resident only on a willing basis. These situations are when a company is:

- a party to a production sharing agreement (PSA)
- an 'active' foreign holding or sub-holding company (subject to compliance with certain conditions)
- an operator of a new subsea field (or a direct shareholder of such an operator), or
- engaged as its core activity in offering for lease or sublease marine or mixed river-ocean vessels and/or the international transportation of goods, passengers, and their baggage, and providing related services.

Permanent establishment (PE)

A 'permanent establishment' is broadly defined in the RTC as 'a branch, division, office, bureau, agency, or any other place through which a foreign legal entity regularly carries out its business activities in Russia'.

Other taxes

Value-added tax (VAT)

VAT is a federal tax in Russia, which is payable to the federal budget.

There is no separate VAT registration in Russia (with the exception of electronic services). The established general tax registration requirements are applicable to all taxes, including VAT.

Taxpayers follow a 'classical' input-output VAT system, whereby a VAT payer generally accounts for VAT on a full sales price of the transaction and is entitled to recover input VAT incurred on inventory costs and other related business expenses. Although not originally based on the European Union (EU) model, the Russian VAT system has, nonetheless, converged more with it. Currently, however, it still differs from the EU VAT system in various ways.

Output VAT

VAT usually applies to the value of goods, work, services, or property rights supplied in Russia. The standard VAT rate is 18% in Russia (with a lower rate of 10% applicable to certain basic foodstuffs, children's clothing, medicines and medical products, printed publications, etc.). The same VAT rates (as for domestic supplies) apply to imports of goods into Russia.

Exports of goods, international transportation and other services related to the export of goods from Russia, international passenger transportation, and certain other supplies are zero-rated with the right of input VAT recovery. The application of the 0% VAT rate and recovery of relevant input VAT amounts are confirmed by submitting a number of documents to the tax authorities within certain time limits. Recovery of input VAT related to the export of goods (except for exports of raw materials) is performed according to general recovery rules (i.e. prior to submission of confirmation documents to the tax authorities). Special rules are in place for the documentary confirmation of the right to tax export supplies to Customs Union member countries at the 0% VAT rate. Since 1 January 2018, it is possible to waive the application of the 0% VAT rate in respect of export of goods, international transportation, and other services related to the export of goods from Russia and apply the 18% VAT rate.

The list of VAT-exempt goods and services includes basic banking and insurance services, services provided by financial companies (depositories, brokers, and some others), educational services provided by certified establishments, sales of certain essential medical equipment, passenger transportation, and certain other socially important services. Most accredited offices of FLEs (as well as their accredited employees) may be exempt from VAT on property rental payments. The provision of VAT-exempt supplies does not entail the right to recovery of attributable input VAT. Instead, costs associated with non-recoverable input VAT are, in most cases, deductible for CIT purposes.

A list of services rendered through the Internet or other similar electronic networks by foreign suppliers to Russian individuals are subject to Russian VAT. From 1 January 2019, new changes will be introduced, and these changes will require foreign entities to register for VAT purposes and pay taxes if they provide electronic services to legal entities and individual entrepreneurs. Depending on the particular type of service, either the 18% VAT rate or a VAT exemption may apply. If a foreign supplier is directly

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involved in settlements for electronic services provided, it would be required to register for tax purposes in Russia and fulfil its Russian VAT obligations (including payment of Russian VAT and filing VAT returns with the tax authorities).

Withholding VAT

The Russian VAT law provides rules for determining where services are supplied in terms of VAT. These rules divide all services into different categories in order to determine where they are deemed to have been supplied for VAT purposes. For example, certain services are deemed to have been supplied where they are performed, whereas some are deemed to have been supplied where the 'buyer' of the services carries out its activity, some where the relevant movable or immovable property is located, and still others where the 'seller' has its place of activity, etc.

Under the reverse-charge mechanism, a Russian buyer must account for VAT on any payment it makes to a non-tax registered foreign company if the payment is connected to the supply of goods or services considered to have been supplied in Russia, based on the VAT place of supply rules, and that do not fall under any VAT exemptions based on domestic VAT law. In such circumstances under the law, the Russian buyer shall act as a tax agent for Russian VAT purposes by withholding Russian VAT at the rate of 18/118 from payments to the foreign supplier and remit such VAT withheld to the Russian budget. The VAT withheld may be recovered by Russian payers in accordance with the standard input VAT recovery rules as provided by law.

Input VAT recovery

Taxpayers are usually eligible to recover input VAT associated with the purchase of goods, work, services, or property rights, provided that they adhere to the set of rules established by VAT legislation. Input VAT can potentially be recovered by the taxpayer in the following cases:

- VAT related to goods, services, or work acquired for the purpose of conducting VATable transactions.
- Input VAT related to advance payments remitted to Russian suppliers of goods (work, services), provided that such acquired goods (work, services) are for use in VATable activities. Please note that taxpayers are entitled (rather than obligated) to apply this rule, and they may choose whether or not to exercise this right.

Effective 1 January 2018, a tax-free system is established in Russia. Foreign individuals are entitled to refund VAT paid upon retail purchase of goods. The refund is available if the amount of purchase is higher than RUB 10,000 and the location where the goods were purchased is included in the special list established by the government.

VAT compliance requirements

Each taxpayer performing VATable supplies of goods, work, services, or property rights must issue VAT invoices and provide them to customers. A taxpayer supplying VATable goods, work, or services to a customer that is not a VAT payer may opt not to issue a VAT invoice if agreed in writing with the customer. VAT invoices must be issued within five days after the supply has occurred. The VAT invoice is a standard form that is established by the government. Compliance with invoicing requirements is crucial for the buyer's ability to recover input VAT.

Incoming and outgoing VAT invoices should usually be registered by taxpayers in special purchases and sales VAT ledgers.

VAT returns must be submitted electronically to the tax authorities on a quarterly basis. VAT must be paid after the end of each quarter in three instalments, no later than the 25th day of each of the three consecutive months following the quarter, except for remittance of VAT withheld by Russian buyers under the reverse-charge mechanism, which is to be remitted on the date of the external payment.

Import VAT

Import VAT is payable to customs upon importation of goods. The tax base for import VAT is generally the customs value of the imported goods, including excise duties. Either the 18% or 10% VAT rate may apply upon import of goods in Russia, depending on the specifics of the goods. Import VAT may generally be claimed for recovery by the importer, provided that the established requirements for such recovery are met.

A limited scope of goods is eligible for exemption from import VAT. The list of such goods includes, for example, certain medical products and goods designated for diplomatic corps. Relief from import VAT is available on certain technological equipment (including their components and spare parts), analogues of which are not produced in Russia. The list of such equipment has been established by the Russian government.

Import duties

Goods imported into the Russian Federation are subject to customs duties. The rate depends on the type of asset and the country of its origin (generally from 0% to 20% of the customs value). There is special relief from customs duties for qualifying goods contributed to the charter capital of Russian companies with foreign investments.

Russia was admitted to the World Trade Organization (WTO) in 2012.

Russia is a member of the Eurasian Economic Union (EAEU) as well (together with Belarus, Kazakhstan, Armenia, and Kyrgyzstan). The Union has a single customs territory, and sales between the member states are exempt from clearance formalities. Members of the EAEU apply unified customs tariffs and customs valuation methodology.

Customs processing fee

Goods transported across the Russian Federation's customs border are subject to a customs processing fee with a flat rate. The fee depends on the customs value of transported goods. The fee is usually insignificant.

Excise duty

Excise taxes are generally paid by producers of excisable products on their domestic supplies. Excise taxes are also charged on imports of excisable goods. Exports of excisable products are generally exempt from excise taxes. Excisable goods include cars, tobacco, alcohol, and certain oil products. Special excise rates for each type of excisable goods are established in the RTC. The rates vary widely and are based on various factors.

Property tax

The maximum property tax rate is 2.2%, and regional legislative bodies have the right to reduce it. Property tax is charged on fixed assets only (including leased out property). Intangible assets, inventories, work-in-progress, and financial assets are not subject to property tax in Russia.

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Property tax is not charged on:

- fixed assets included in the first or second depreciation groups (equipment used for up to three years), or
- movable property entered into a company's books as of 1 January 2013 as fixed assets, except for property obtained as a result of:
 - reorganisation or liquidation of legal entities, or
 - transfer or acquisition from related parties.

Starting from 2018, the exemption of movable property is available only in those Russian constituent regions where local legislation allows it. The maximum tax rate applicable to such property in 2018 is 1.1%.

From 2015 through 2034, a zero rate applies to trunk gas pipelines and structures constituting integral parts of such pipelines, as well as gas production project sites and helium production and storage facilities, subject to certain conditions (e.g. initial commissioning after 1 January 2015).

At the same time, the property of natural monopolies, which was previously exempted, is now taxed. The tax rates applicable under the laws of Russia's constituent regions to public railroads, trunk pipelines, power lines, and facilities constituting an integral technical component of the above objects cannot exceed 1.9% in 2018.

In most cases, the average book value of fixed assets is taxed.

Certain real estate properties are taxed based on their cadastral value (which is close to their market value), namely:

- Administrative and business centres.
- Shopping centres and premises therein.
- Offices, retail outlets, public eateries, and consumer facilities.
- Immovable property of foreign entities with no PE in Russia or not related to their operations through a PE in Russia.

The tax rate for such properties may not exceed 2%.

Actual tax rates and special rules for determining the taxable base for certain properties are currently set by individual constituent regions. According to the law of the City of Moscow, the tax rates on such property equal 1.5% in 2018.

Transfer taxes

There are no transfer taxes in Russia.

Transport tax

Transport tax is imposed on certain types of land, water, and air transport registered in Russia. Fixed rates apply (per unit of horsepower, gross tonnage, or unit of transport), which may differ based on engine capacity, gross tonnage, and type of transport.

The actual rates in Russia's regions may be subject to a maximum ten-fold increase/reduction by the legislative bodies of individual Russian constituent regions. Reporting and payment rules have been established by regional legislative authorities.

A multiplier (up to three) depends on the age and cost of a car. For example, in the City of Moscow, the tax may be as high as RUB 200,000 per year for the most high-end class of vehicle.

Payroll taxes

There are no payroll taxes in addition to social contributions (*see below*) that an employer is responsible for.

Social contributions

The annual salaries of all employees are taxed under the following rules in 2018:

- Contributions to the Social Insurance Fund: Only the first RUB 815,000 of salary is taxed (at a rate of 2.9%).
- Contributions to the Pension Fund: The first RUB 1,021,000 is taxed at 22%, and the excess is taxed at 10%.
- Contributions to the Medical Insurance Fund: A 5.1% rate applies to the total salary.

Remuneration of foreign nationals temporarily staying in Russia are covered by (i) pension insurance contributions at a rate of 22% within the threshold of RUB 1,021,000 and a 10% top-up charge on remuneration paid in excess of the threshold and (ii) social insurance contributions at a rate of 1.8% within the threshold of RUB 815,000. The only exception made is for highly qualified specialists who hold a relevant work permit.

Mineral Resources Extraction Tax (MRET)

The MRET calculation depends on the type of mineral resource.

The MRET for coal, oil, gas, and gas condensate is calculated using the extracted volume of the relevant resource. The tax rate is established as a fixed rate multiplied by various coefficients linked to world prices and field characteristics. A zero MRET rate applies to oil extracted from greenfields in certain regions of Russia (e.g. Eastern Siberia, internal and territorial waters in the northern polar zone, the Azov and Caspian Seas, and the Nenets and Yamal regions) during their initial production stage.

The MRET on other natural resources depends on the value of the resources extracted. The tax rate varies from 3.8% to 8%. For instance, 3.8% for potassium salt, 4.8% for ferrous metals, 6% for products containing gold, and 8% for non-ferrous metals and diamonds.

Reduced MRET rates apply to investors in Russia's Far East (*see Regional incentives in the Tax credits and incentives section for more details*).

Environmental levy

An environmental fee must be paid by manufacturers and importers of goods to be disposed of after they are no longer fit for use or consumption because of wear and tear, broken down by certain groups of goods. These include paper and paper products, rubber and plastic products, textile and leather, metals, and electronics.

It should be noted that the fee is not technically a tax, and is established by a special law that is not part of the RTC. It is levied on entities operating in specific industries whose products are determined to have an environmental impact that warrants compensation.

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The fee is calculated by multiplying three values: (mass/quantity of goods subject to utilisation [or mass of packaging]) * (levy rate) * (utilisation standard in relative units).

The following groups of goods are subject to the highest environmental fee amounts in 2018: rechargeable batteries, computer hardware, consumer electronics, and some types of industrial equipment.

Trade levy

Regional authorities may introduce a trade levy in their respective municipalities (or federal cities). It is to be applied towards assets used in retail and wholesale trade.

To date, the levy has only been enacted by Moscow.

Branch income

FLEs pay tax on profits attributable to a PE. The profits of an FLE's PE are calculated primarily on the same basis as Russian legal entities, including the composition of tax-deductible expenses. Although the RTC does not specifically mention the deductibility of expenses incurred outside of Russia by a foreign corporate head office with respect to its PE in Russia (including a reasonable allocation of administration costs), most double taxation treaties (DTTs) provide for such an option.

Russian tax law has recently been amended to include a special provision on the taxable income of PEs. When determining the taxable income of a PE in Russia, its functions, assets, and economic and commercial risks should be taken into account. This provision does not contain any guidance on specific transfer pricing methods that taxpayers should follow. In addition, court practice regarding this approach has not yet been developed.

If an FLE conducts free-of-charge preparatory and/or auxiliary services for the benefit of third parties, then a PE would be considered to have been formed, and the tax base of such a PE would be calculated as 20% of its expenses related to such activities.

FLEs operating in Russia through a PE must follow the filing and payment schedules established for Russian legal entities. Although they do not make monthly advance payments, they should pay CIT on a quarterly and annual basis.

Income determination

The accounting period in Russia is the calendar year. Different periods are not permitted. The taxable base is calculated on an accrual basis (only small-scale taxpayers are allowed to use a cash basis).

Taxable income is to be calculated following the rules and principles established in the RTC. Taxpayers must maintain tax accounting registers. Statutory accounts may be used for computing tax items for which accounting methods are the same. In practice, most taxpayers use statutory accounts as a basis and apply adjustments so as to arrive at their taxable income.

Inventory valuation

Inventory can be valued using one of the following methods: first in first out (FIFO), average cost, and individual unit cost.

Capital gains

Capital gains are subject to the same 20% CIT rate and are added to ordinary income in order to arrive at the taxable income.

There are two tax baskets for taxpayers performing operations with securities and derivatives: (i) general and (ii) results from operations with non-listed securities and non-listed derivatives. A loss on the second basket cannot be offset with profits on the first basket (however, the opposite offset is possible). It is worth noting that prices charged in transactions with securities and derivatives should be compared with the market price only if a transaction is controlled under transfer pricing rules.

Gains from the sale of fixed assets and other property are equal to the difference between the sale price and their net book value for tax purposes. Losses resulting from the sale of fixed assets should be deducted in equal monthly instalments during the period, defined as the difference between their normative useful life and the actual time of use.

A significant exemption is available for capital gains from the sale or other disposal (including redemption) of shares in Russian entities (interests in Russian entities' charter capital). One of the following conditions must be met in order to apply the 0% tax rate:

1. The shares have been non-listed securities over the entire period of the taxpayer's ownership.
2. The shares are listed securities, and the company issuing shares has been active in the high-tech/innovation sector of the economy over the entire period of the taxpayer's ownership.
3. As of the date of acquisition by the taxpayer, the shares qualified as non-listed securities and, as of the date of their sale by this taxpayer or of another disposal (including redemption) by this taxpayer, they are listed securities in the high-tech/innovative sector of the economy.
4. Real estate in Russia accounts for less than 50% (directly or indirectly) of the total assets of the company issuing shares.

The benefit is available provided that shares have been continuously held by a taxpayer for more than five years for bullets 1 and 4 and more than one year for bullets 2 and 3. One more criteria applies to bullets 1 and 4: shares have to be acquired by a taxpayer after 1 January 2011.

Dividend income

Dividends earned by Russian legal entities from Russian legal entities or FLEs are taxed in Russia at a 13% flat rate.

Dividends earned from 'strategic investments' are exempt from Russian income tax. An investment is considered strategic when:

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- the owner (recipient of dividends) owns at least 50% of the capital of the payer of dividends or owns depository receipts entitling it to receive at least 50% of the total amount of dividends paid out, and
- the shares or depository receipts have been owned for at least 365 calendar days on the date the dividends are declared.

Dividends from companies domiciled in offshore zones with preferential tax regimes are not eligible for this tax exemption. The Ministry of Finance maintains a list of offshore zones.

Tax on dividends from abroad withheld in the source country may be credited against Russian tax.

The standard 15% tax rate is applicable to dividends paid by Russian legal entities to FLEs. The tax should be withheld by the Russian legal entity paying dividends. The tax may be reduced based on a relevant DTT, usually to 10% or 5% (*see the Withholding taxes section for more details*).

Interest income

Interest income is taxed on an accrual basis. A standard CIT rate of 20% is applied to interest income, except for interest on government and municipal securities, which are taxed at 0%, 9%, or 15%, depending on the type of security.

The WHT rate on interest income paid abroad equals 20% and may be reduced (typically to zero) under a relevant DTT.

The level of interest income recognised for tax purposes may be subject to control (*see Interest expense in the Deductions section for more details*).

Royalty income

There is no separate tax on royalty income. A standard CIT rate of 20% applies.

Exchange gains and losses

Foreign exchange gains and losses are recognised for tax purposes on an accrual basis only.

Foreign income

Russian legal entities pay tax on their worldwide income. Credit relief is available for foreign taxes paid up to the amount of the Russian tax liability that would have been due on the same amount under Russian rules.

Current tax legislation does not contain provisions that allow tax deferral with respect to foreign income.

Deductions

Expenses are deducted on an accrual basis. The main criteria for deductibility of expenses is that the expense is properly documented, aimed at generating income, and not specified in the RTC as non-deductible for tax purposes.

Depreciation and amortisation

Two methods of depreciation are allowed: the straight-line method and the declining-balance method. The useful lifespans of assets for tax purposes are established in the Classification of Fixed Assets, which was approved by the Russian government, for example:

Fixed asset	Useful life (years)
Personal computer	2 to 3
Automobile	3 to 5
Truck (capacity above five tonnes)	7 to 10
Aircraft	10 to 15
Blast furnace	20 to 25

Accelerated depreciation is permitted in respect to some types of property (a special ratio of up to three may be applied). It is prohibited to apply several special coefficients to a normal rate of depreciation.

An upfront premium is allowed, which means that a taxpayer has the right to deduct 10% (or 30% for certain categories of fixed assets) of the cost of fixed assets purchased (or built) in the month when the depreciation started. The balance is depreciated over the useful life of the asset. A premium must be recaptured if a relevant asset is sold within five years of its acquisition (the requirement to recapture has not applied to sales to unrelated parties since 2013).

Intangible assets are amortised over their useful life, or over ten years (two years for certain types of intangible assets) if their useful life cannot be determined.

Starting from 2018, a new tax benefit stimulating the renewal of fixed assets applies. Taxpayers will have a choice to use depreciation or to deduct the cost of investment (cost of fixed assets acquired) directly from CIT. The choice is available in constituent regions where an appropriate law is adopted. Up to 90% of expenses can be deducted from the regional CIT and up to 10% from the federal CIT. Considering this, the amount of regional CIT must be at least 5% of the tax base before applying the deduction. The amount of federal CIT may be reduced to zero. The Russian regions may set a cap on the amount of the deduction. If the amount of investments exceeds the set cap, it may be carried forward for unlimited number of years. The deduction is applicable only to newly commissioned (or modernised) assets with a useful life of 3 to 20 years (e.g. buildings, machinery, transport). Only a few Russian regions have introduced the benefit, as it is associated with a temporary decrease in tax collection. There is no information as to whether the regime will be introduced in Moscow and St. Petersburg.

Goodwill

Under Russian tax law, a mark-up (the difference between the acquisition value and net assets of the business [property complex] purchased) should be recognised as goodwill for tax purposes and may be amortised by a buyer over five years. However, this tax regime often does not apply since a business (subject of a deal) needs to be registered as a property complex with the government authorities. However, sellers almost never do this.

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Start-up expenses

Russian tax law does not contain specific provisions on the deductibility of start-up expenses. In some cases, they may not be deducted by either a parent company or a subsidiary for tax purposes.

Interest expenses

The tax authorities can audit interest income and expenses only for transactions that are deemed as controlled under Russian transfer pricing rules (this means transactions with related parties in most cases) and only in accordance with these rules.

The following table shows how the market corridors (safe harbours) are applied to interest accrued:

Debt currency	Type of loan	Safe harbour rates
Russian rubles (RUB)	Ruble-denominated loans between Russian entities	75% to 125% of the Central Bank of Russia (CBR) key rate
	Other ruble-denominated loans	75% to 125% of the CBR key rate
Euros (EUR)	Foreign currency-denominated loans	EURIBOR +4% to EURIBOR +7%
Chinese renminbi (CNY)		SHIBOR +4% to SHIBOR +7%
British pounds (GBP)		LIBOR in GBP +4% to LIBOR in GBP +7%
Swiss francs (CHF) or Japanese yen (JPY)		LIBOR in relevant currency +2% to LIBOR in relevant currency +5%
Other		LIBOR in United States dollars (USD) +4% to LIBOR in USD +7%

The CBR's key rate has been 7.25% since 26 March 2018.

Free-of-charge loans between Russian related parties are not controlled under transfer pricing rules.

Bad debt

Losses in the form of bad debts written off are usually deductible. Companies may create a bad debt provision. The method of accrual for the provision for tax purposes may differ from that in financial accounting, as it is based only on the overdue payment period (i.e. if the delay exceeds 90 days, the full amount of the account receivable is included in the reserve).

A tax deductible bad debt provision can be created only to the extent of the excess of amounts receivable over amounts payable (if any) to the same counterparty.

Charitable contributions

Russian tax law does not provide any benefits with respect to charitable contributions. Such expenses are not deductible for tax purposes.

Research and development (R&D) expenses

R&D expenses (including R&D with a negative result) are deductible within one year after completion. Certain R&D expenses may be deducted using a coefficient of 1.5. The list of R&D categories is determined by the Russian government. A provision for future R&D expenses may be accrued for tax purposes.

Insurance premiums

Expenses related to all types of obligatory insurance are deductible and subject to government tariff limitations, wherever established. Voluntary insurance expenses are deductible to the extent that they relate to the insurance of damage and losses related to certain classes of assets, and the insurance of construction activity risks. Contract liability insurance expenses are deductible to the extent that such insurance is required by an international treaty to which Russia is a party or a generally accepted international trade custom.

Long-term life and pension insurance is deductible within a limit of 12% of the payroll fund. Voluntary medical insurance is deductible within a limit of 6% of the payroll fund.

Fines and penalties

Fines and penalties paid to contractors for violating contractual terms may be deducted for tax purposes.

Fines and penalties paid to a government budget are not deductible.

Taxes

Taxes paid by a taxpayer, as well as social contributions of employers, are deductible for tax purposes. Trade levies are credited against CIT.

Net operating and capital losses

The amount of a recognised loss of prior periods cannot exceed 50% of the current year tax base for CIT purposes. This limitation applies from 2017 through 2020. Starting from 2021, recognition of the entire amount of losses will be possible again.

At the same time, the limitation on carryforward of losses for a ten-year period has been abolished in principle (which means that losses incurred since 2007 may be carried forward until fully recognised).

Carryback of losses is not allowed.

Losses from the sale of fixed assets are recognised evenly during the remaining useful life.

Losses and income from different tax baskets are determined separately (*see Capital gains in the Income determination section for more details*).

Payments to foreign affiliates

There are no special tax provisions with respect to the deductibility of payments to foreign affiliates for services provided. They may be deducted in full if general deductibility criteria are met. Charges with respect to administrative support provided by foreign affiliates may be deductible. However, due care should be taken with regard to the documents used to support the nature and actual receipt of service.

Group taxation

Consolidated taxpayer regime

The consolidated taxpayer regime is available for large Russian corporate groups. A group can comprise two or more Russian entities in which the direct or indirect equity interest of one member in the charter/share capital of the other members equals at least 90%. In order to establish and apply this regime, all group members should meet the following requirements:

- At least RUB 10 billion in total CIT, VAT, excise tax, and MRET paid during the year preceding the year of tax registration of a new consolidated group.
- At least RUB 100 billion in sales proceeds and other income.
- Total value of assets of at least RUB 300 billion.

The advantages of applying this regime are as follows. First, transactions among group member entities are not controllable under Russian transfer pricing legislation (with one exception: transactions with mineral resources subject to MRET with a percentage rate are still subject to control). Second, for the purposes of calculating CIT, it is possible to consolidate group member entities' profits and losses.

A limitation on recognition of losses incurred by loss-making members of a consolidated group has been introduced. The limit is set as 50% of the given consolidated group's tax base for the current (tax) period.

Transfer pricing

Russian transfer pricing legislation is essentially based on Organisation for Economic Co-operation and Development (OECD) principles, with certain important deviations. This legislation establishes criteria for related parties and controlled transactions, transfer pricing methods for determining arm's-length prices/profitability, a list of permitted information sources, and compliance requirements.

According to the Base Erosion and Profit Shifting (BEPS) Action 13 report, Russia has implemented three-tier transfer pricing documentation. The requirement is applicable to financial years starting in 2017. Thus, MNCs with a total income (revenue) over RUB 50 billion under consolidated financial statements for the previous financial year must submit three-tier documentation to tax authorities, including Master file, Local file, and CbC report, as well as a notification on their membership in an MNC.

Advanced pricing agreements (APAs), including bilateral APAs, are available to Russian companies registered as 'largest' taxpayers.

Thin capitalisation

Under the RTC, interests are deductible if the debt does not exceed the amount of equity by three times (12.5 times for banks and leasing companies). If the debt amount exceeds this limit, excess interest will be reclassified for taxation purposes as dividends paid to foreign shareholders. Such dividends are not deductible for CIT purposes and are subject to WHT at the rate of 15% (treaty benefits may apply to reduce the rate).

Three types of Russian borrowers' debt are subject to thin capitalisation rules (with some exceptions provided):

- Debt to a foreign-related party if such a party has a direct or indirect equity interest in the borrower ('Party 1').
- Debt to a party related to Party 1 ('Party 2').
- Debt to another party if either Party 1 or Party 2 guaranteed the debt.

For debt from Party 1, the relationship would be defined based on the transfer pricing rules (in particular, the 25% participation criterion is applied).

The scope of thin capitalisation rules includes loans from foreign-related companies that do not hold a direct or indirect interest in Russian borrower (foreign 'sister' companies). At the same time, interest on loans from independent banks are exempted from the rules (provided the debt [both principal and interest] was not repaid by a foreign shareholder or its affiliates as a result of execution of a guarantee to the bank).

Among other features:

- Loans provided exclusively within Russia are not controlled (provided certain requirements are met).
- All listed liabilities of a taxpayer should be considered in aggregate (so the split of loans will not allow for avoiding the rules).
- A debt arising upon the issue of Eurobonds is not subject to the rules.

Controlled foreign companies (CFCs)

Under the Russian CFC rules, the retained earnings of a CFC that is controlled by a Russian tax resident are taxable in Russia on an annual basis (at the 20% CIT rate if the controlling person is a legal entity Russian tax resident, or at the 13% tax rate if the controlling person is an individual Russian tax resident).

Definition of a CFC

An entity is deemed to be a CFC (or other structure) if it meets the following criteria:

- it is not considered to be a Russian resident for tax purposes, but
- it is controlled by a Russian tax resident (control is determined based on ownership share and other metrics as outlined below).

A controlling person of a foreign company is defined as:

- a person whose direct and/or indirect participating interest in a foreign company (for individuals, jointly with their spouse and minor children) is more than 25%, or
- a person who directly or indirectly owns more than 10% of a foreign company if Russian tax residents (for individuals, jointly with their spouses and minor children) hold a direct or indirect interest(s) in the foreign company in excess of 50%.

The definition of 'control' is rather broad and thus could be construed to mean that control exists even when the percentage of a shareholding (interest) is less than the thresholds noted above. For example, the CFC Law stipulates that control may exist based on a management agreement or other means of control. Control may be established directly or indirectly. The existence of control should be determined on a case-by-case basis.

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Available CFC exemptions

The CFC Law provides that profits earned by the following types of companies (or other structures) are exempt from CFC taxation in Russia:

- Non-profit organisations that do not distribute profits.
- Companies incorporated in the Eurasian Economic Union.
- Companies resident in jurisdictions that have a tax treaty with Russia and share tax-related information with Russia, and that pay tax at an effective rate equal to at least 75% of the Russian blended CIT rate.
- Companies that qualify as ‘active companies’ as defined by the CFC Law (i.e. companies deriving less than 20% of their total income from passive sources, such as dividends, royalties, interest, rental/lease income, capital gains, consulting fees, and certain other types of income).
- Active foreign holding companies or active foreign sub-holding companies (a share of direct participation of at least 75% during a period of at least 365 calendar days, where passive income [except active dividend income] does not exceed 5% of total income).
- Banks and insurance companies if they operate in a jurisdiction that has a tax treaty with Russia and shares tax-related information with Russia.
- Issuers of certain types of listed bonds or an organisation authorised to earn interest income payable on listed bonds, or an organisation that is the assignee of the rights and obligations related to listed bonds issued by another foreign company, subject to certain conditions (e.g. if the interest income earned should equal at least 90% of the company’s total income for the period and these issuers operate in a jurisdiction that has a tax treaty with Russia and shares tax-related information with Russia).
- Companies participating in a PSA, concession agreement, or similar contract signed with the government of the relevant country, provided that the relevant income amounts to at least 90% of the company’s total income for the period.
- Operators of new subsea fields (or direct shareholders of such operators).

In addition, *de minimis* exemptions from the CFC rules are available for profits below RUB 10 million for 2017 onwards.

These exemptions may be applied by Russian controlling parties when calculating their taxable base in Russia. If such an exemption is applicable, then a CFC’s profits should not be included in the taxable base of its controlling party in Russia.

Calculating taxable profits

The taxable profits of a CFC are calculated using one of the following two methods:

- If the CFC is incorporated in a jurisdiction that has a tax treaty with Russia and shares tax-related information with Russia, then its profits are calculated based on its financial statements prepared in accordance with the laws of its home jurisdiction (provided that the financial statements are subject to audit).
- Profits are calculated in accordance with the requirements of the RTC. This method is more burdensome and likely to result in a higher Russian tax bill in most cases, as the RTC imposes a number of strict conditions on the tax deductibility of expenses.

A CFC’s taxable profits may be reduced by the amount of dividends paid out of such profits during the tax year in which they were generated (interim dividends) and the subsequent 12 months.

Losses incurred by a CFC may be carried forward without any time limitations (subject to certain restrictions). Losses incurred by a CFC before 1 January 2015 may be carried forward up to the amount of losses for the three financial years preceding 1 January 2015 and may be deducted from the CFC's profit.

Relief from foreign taxes

Foreign taxes paid on the profits of a CFC, either under Russian law or the laws of a foreign jurisdiction, may be offset against the Russian tax liabilities charged on the CFC's attributed profits.

Implications for affected entities

If none of the available exemptions may be applied, the CFC's chargeable profits must be apportioned among the relevant Russian controlling persons in proportion to their interest(s) in the CFC, and such persons should be taxed on their portion(s) at the applicable rate. However, the Russian CFC rules have no implications for the CFC itself.

Tax credits and incentives

At present, there are several types of incentives in Russia:

- Regional incentives granted by regional or local authorities with respect to taxes paid to their budgets.
- Special tax regimes in special economic zones (SEZs).
- Regional investment projects and special investment contracts.
- Advanced Development Zones (ADZs).
- The free port of Vladivostok.
- Incentives related to certain activities (e.g. R&D and information technology [IT] related activities).
- Incentives related to specific projects (e.g. Skolkovo, 2018 FIFA World Cup).

The incentives are briefly described below.

Also note that Russian tax law provides for special tax regimes to support small and medium-sized enterprises (SMEs). These include unified and simplified tax regimes, as well as a unified agricultural tax.

Regional incentives

Many industrial regions of Russia offer numerous tax and non-tax incentives and benefits to investors.

Regional incentives in the form of reduced tax rates (primarily the given region's portion of CIT, property tax, and transport tax) are granted to certain classes of taxpayers, typically large investors or entities operating in specific industries. Local land tax incentives are frequently available for such investors as well. The size of an entry investment is usually in the range of around RUB 50 million to RUB 150 million. Some regions require a lesser amount, and some do not require any minimal amount at all (it is subject to negotiation).

There are also several notable non-tax incentives, including the allocation of budget subsidies, partial compensation of capital expenditures, provision of guarantees

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to banks, simplified access to infrastructure facilities, lower rental charges, and administrative and legal support, among others.

Special economic zones (SEZs)

The following types of SEZs have been established in Russia:

- Industrial zones.
- Technical research and implementation zones for scientific projects.
- Tourism and recreation zones for the development and effective use of Russia's wealth of tourist attractions.
- Port zones.

The minimum amount of investment to be eligible for such incentives are:

- RUB 120 million. The investment of RUB 40 million should be made within the first three years from the date of obtaining resident status for residents of industrial zones.
- RUB 400 million within three years from the date of obtaining resident status in a port zone in cases of port facilities construction (RUB 120 million in case of reconstruction).

Moreover, most regions provide their own incentives with respect to CIT and transport tax.

In addition, reduced social contribution rates are available for residents of industrial zones if they are engaged in R&D.

Residents of SEZs may also enjoy free customs zones.

Advanced Development Zones (ADZs)

ADZs have been initially established to develop the Russian Far East. Currently, ADZs are expanded to some other Russian regions such as ADZs in Republic Komi, Smolensk region, etc. ADZs offer special terms for companies operating in various industries (e.g. agriculture, textiles, chemicals, pharmaceuticals, furniture, telecommunications, education, science and technology, etc.), including CIT and property tax incentives, free customs zones, project financing, and simplified rules for hiring foreign employees. In particular, residents of ADZs are provided with the following tax incentives:

- Zero rate on the federal portion of CIT for a five-year period.
- Reduced regional portion of CIT (not more than 5% during the first five years of profitable sales and at least 10% during the subsequent five years). Specific rates are established by regional law.
- Reduced social contributions (7.6% instead of the standard 30%) during a ten-year period.

Free port Vladivostok

Residents of the port enjoy the following tax incentives:

- Zero rate on the federal portion of CIT for a five-year period.
- Reduced regional portion of CIT (not more than 5% during the first five years of profitable sales and at least 10% during the subsequent five years). Specific rates are established by regional law.

- Reduced social contributions (7.6% instead of the standard 30%) during a ten-year period.

Activities incentives

The following 'activities' incentives are available to taxpayers in Russia:

- Reduced CIT rate for IT companies in several regions.
- Certain R&D services are exempt from VAT.
- Certain R&D service-related expenses, as listed by the government, are deductible using a coefficient of 1.5.
- Fixed assets used in science and technology may be depreciated with an accelerated coefficient of up to 3.
- Reduced rates for contribution payments to social funds are established for IT companies.

Special project incentives

Participants in the Skolkovo Innovation Centre enjoy a number of benefits, the main ones of which are: exemption from CIT and property tax, as well as from VAT liability, and reduced rates for mandatory social fund contributions.

The same approach is applicable to the *Fédération Internationale de Football Association* (FIFA) and its contractors.

Regional investment projects and special investment contracts

Incentives related to specific projects are not limited to Skolkovo and the 2018 FIFA World Cup. In addition to these projects, there are two types of contracts that may be concluded directly with the Russian Federation: a special investment contract and a regional investment project. Investors who have concluded such contracts may enjoy a reduced CIT rate and a number of non-tax incentives, including privileges regarding rental payment for land plots, 'grandfather' clauses, etc.

Foreign tax credit

Credit relief is available for foreign taxes paid up to the amount of the Russian tax liability that would have been due on the same amount under Russian rules.

Withholding taxes

Under the general provisions of the RTC, income earned by an FLE and not attributed to a PE in Russia is subject to WHT in Russia (to be withheld at source). WHT rates are as follows:

- 15% on dividends and income from participation in Russian enterprises with foreign investments.
- 10% on freight income.
- 20% on certain other income from Russian sources, including royalties and interest.
- 20% of revenue or 20% of the margin on capital gains (from the sale of immovable property in Russia or non-listed shares in Russian subsidiaries where the immovable property in Russia accounts for more than 50% of assets).

Taxation of margins (rather than gross income received from the types of sales listed above) may be applied only if expenses are properly documented.

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Income of foreign organisations (not performing activities in Russia through a PE) from the sale of certain listed securities of Russian entities (and their derivatives) is not regarded as income derived from sources in Russia subject to WHT.

The list of exempt income (not subject to WHT) also includes: (i) interest payments on Russian government securities; (ii) interest payments on tradable bonds, issued in accordance with the laws of foreign countries; and (iii) payments made by Russian companies to finance coupons on Eurobonds issued by special purpose vehicles (SPVs) incorporated outside of Russia.

Tax should be withheld by the tax agent and paid to the Russian budget. WHT rates may be reduced under a relevant DTT, provisions of which may be applied based on confirmation of tax residency, which is to be provided by a foreign company to the Russian tax agent prior to the payment date (no advance permission from the Russian tax authorities is required) and also as long as general conditions are fulfilled (proof of beneficial ownership, etc.).

The Russian tax authorities recognise the terms of treaties concluded by the Union of Soviet Socialist Republics (USSR) until they are renegotiated by the Russian government. Furthermore, the list of effective tax treaties is continuously updated.

Concept of 'beneficial ownership'

The concept of the actual owner of income (i.e. the 'beneficial owner') was introduced into Russian tax legislation by the so-called "Deoffshorisation" Law. It determines the ability to apply lower tax rates under a DTT.

There is not any test on beneficial ownership in the Russian tax legislation, which means that Russian tax agents cannot be entirely comfortable applying reduced tax rates on income paid abroad. In making any payments, they need to consider the risk of additional tax and penalties to be paid at their own expense.

According to the law, a tax agent has to request confirmation that a foreign entity is a beneficial owner of income. If the actual beneficial owner is known, the tax agent may apply the 'look through' approach (to use a treaty with the country where this beneficial owner resides).

If the beneficial owner is a Russian tax resident, the income paid is taxed under the RTC rules (note that a zero tax rate on dividends applies under special criteria).

Treaty rates

The list below indicates the WHT rates mentioned in treaties.

Recipient	WHT (%)			Construction site duration before creation of PE (months)
	Dividends	Interest (1)	Royalties	
Non-treaty	15	20	20	
Treaty:				
Albania/Russia	10	10	10	12
Algeria/Russia	5 (2)/15	0/15	15	6 months and an aggregated period of more than 3 months in any 12-month period for furnishing services
Argentina/Russia	10 (2)/15	0/15	15	6
Armenia/Russia	5 (2)/10	0/10	0	12

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Recipient	WHT (%)			Construction site duration before creation of PE (months)
	Dividends	Interest (1)	Royalties	
Australia/Russia	5 (3)/15	10	10	12
Austria/Russia	5 (4)/15	0	0	12
Azerbaijan/Russia	10	0/10	10	12
Belarus/Russia	15	0/10	10	No special provisions in the relevant DTT; local tax legislation provisions should apply
Belgium/Russia	10	0/10	0	12
Botswana/Russia	5 (2)/10	0/10	10	6
Brazil/Russia	10 (5)/15	0/15	15	9
Bulgaria/Russia	15	0/15	15	12
Canada/Russia	10 (6)/15	0/10	0 (7)/10	12
Chile/Russia	5 (2)/10	15	5 (8)/10	6
China/Russia	5 (9)/10	0	6	18
Croatia/Russia	5 (10)/10	10	10	12
Cuba/Russia	5 (11)/15	0/10	0 (12)/5	12
Cyprus/Russia	5 (13)/10	0	0	12
Czech Republic/ Russia	10	0	10	12 months and an aggregated period of more than 6 months in any 12-month period for furnishing services
Denmark/Russia	10	0	0	12 months and an aggregated period of more than 365 days in any 18-month period for a drilling rig
Egypt/Russia	10	0/15	15	6 months and an aggregated period of more than 6 months in any 12-month period for furnishing services
Finland/Russia	5 (14)/12	0	0	12 months and an 18-month period for particular types of construction work
France/Russia	5 (15)/10 (16)/15	0	0	12
Germany/Russia	5 (17)/15	0	0	12
Greece/Russia	5 (11)/10	7	7	9
Hong Kong/Russia	0 (18)/5 (19)/10	0	3	12
Hungary/Russia	10	0	0	12
Iceland/Russia	5 (20)/15	0	0	12
India/Russia	10	0/10	10	12 (may be extended on agreement with the competent authorities)
Indonesia/Russia	15	0/15	15	3

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Recipient	WHT (%)			Construction site duration before creation of PE (months)
	Dividends	Interest (1)	Royalties	
Iran/Russia	5 (11)/10	0/7.5	5	12
Ireland/Russia	10	0	0	12
Israel/Russia	10	0/10	10	12
Italy/Russia	5 (21)/10	10	0	12
Japan/Russia (22)	5 (23)/10/15 (24)	0/10 (25)	0	12
Kazakhstan/Russia	10	0/10	10	12
North Korea/Russia	10	0	0	12 months and an aggregated period of more than 6 months in any 12-month period for furnishing services
South Korea/Russia	5 (26)/10	0	5	12 (may be extended up to 24 months upon agreement with the competent authorities)
Kuwait/Russia	0 (18)/5	0	10	6 months and an aggregated period of more than 3 months in any 12-month period for furnishing services
Kyrgyzstan/Russia	10	0/10	10	12
Latvia/Russia	5 (27)/10	0/5 (28)/10	5	9
Lebanon/Russia	10	0/5	5	12
Lithuania/Russia	5 (20)/10	0/10	5 (8)/10	9
Luxembourg/Russia	5 (29)/15	0	0	12
Macedonia/Russia	10	10	10	12
Malaysia/USSR	15	0/15 10 (30)/15 (31)		12 months and more than a 6-month period for installation or assembly projects
Mali/Russia	10 (32)/15	0/15	0	No special provisions in the relevant DTT; local tax legislation provisions should apply
Malta/Russia	5 (33)/10	5	5	12
Mexico/Russia	10	0/10	10	6
Moldova/Russia	10	0	10	12
Mongolia/Russia	10	0/10	rates in accordance with local legislation	24
Montenegro/Russia	5 (20)/15	10	10	18
Morocco/Russia	5 (34)/10	0/10	10	8
Namibia/Russia	5 (35)/10	0/10	5	9 months and more than a 6-month period for furnishing services and installation projects
Netherlands/Russia	5 (36)/15	0	0	12

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Recipient	WHT (%)			Construction site duration before creation of PE (months)
	Dividends	Interest (1)	Royalties	
New Zealand/Russia	15	10	10	12
Norway/Russia	10	0/10	0	12
Philippines/Russia	15	0/15	15	183 days and an aggregate period of more than 183 days in any 12-month period for furnishing services
Poland/Russia	10	0/10	10	12 (may be extended up to 24 months upon agreement with the competent authorities)
Portugal/Russia	10 (37)/15	0/10	10	12
Qatar/Russia	5	0/5	0	6
Romania/Russia	15	0/15	10	12
Saudi Arabia/Russia	0 (18)/5	0/5	10	6 months and an aggregated period of more than 6 months in any 12-month period for furnishing services
Serbia/Russia	5 (20)/15	10	10	18
Singapore/Russia	0 (18)/5 (38)/10	0	5	12
Slovakia/Russia	10	0	10	12
Slovenia/Russia	10	10	10	12
South Africa/Russia	10 (39)/15	0/10	0	12
Spain/Russia	5 (40)/10 (41) /15	0/5	5	12
Sri Lanka/Russia	10 (11)/15	0/10	10	6 months and an aggregated period of more than 183 days in any 12-month period for furnishing services
Sweden/Russia	5 (42)/15	0	0	12
Switzerland/Russia	0 (18)/5 (43)/15	0	0	12
Syria/Russia	15	0/10	4.5 (44) /13.5 (45)/18 (46)	6
Tajikistan/Russia	5 (2)/10	0/10	0	24 (may be extended on agreement with the competent authorities)
Thailand/Russia	15	0/10	15	6 months and an aggregated period of more than 3 months in any 12-month period for furnishing services
Turkey/Russia	10	0/10	10	18
Turkmenistan/Russia	10	5	5	12
Ukraine/Russia	5 (47)/15	0/10	10	12

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Recipient	WHT (%)			Construction site duration before creation of PE (months)
	Dividends	Interest (1)	Royalties	
United Kingdom/Russia	10	0	0	12
United States/Russia	5 (6)/10	0	0	18
Uzbekistan/Russia	10	0/10	0	12
Venezuela/Russia	10 (4)/15	0/5 (48)/10	10 (49)/15	9
Vietnam/Russia	10 (50)/15	10	15	6 months and more than a 12-month period for furnishing services

Information is provided for reference purposes. Please review the relevant DTT for full information.

Notes

- In most cases, a 0% tax rate applies to interest payments to the governments of contracting states and to payments guaranteed by the government.
- If the beneficial owner of the dividends directly holds at least 25% of the capital of the company paying the dividends.
- If the following conditions are met:
 - Dividends are paid to a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends.
 - The resident of the other contracting state has invested a minimum of 700,000 Australian dollars (AUD), or an equivalent amount in Russian rubles, in the capital of that company.
 - If the dividends are paid by a company that is resident in Russia, the dividends are exempt from Australian tax.
- If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 10% of the capital of the company paying the dividends and the participation exceeds USD 100,000 or an equivalent amount in any other currency.
- If the beneficial owner directly holds at least 20% of the total capital of the company paying the dividends.
- If the beneficial owner of the dividends is a company that owns at least 10% of the voting stock (or in the case of Russia, if there is no voting stock, at least 10% of the statutory capital) of the company paying the dividends.
- 0% WHT is applied to the following types of Royalties:
 - Royalties for the production or reproduction of any literary, dramatic, musical, or other artistic work (but not including royalties for motion picture films or works on film or videotape or other means of reproduction for use in connection with television broadcasting).
 - Royalties for the use of, or the right to use, computer software.
 - Royalties paid to an unrelated party for the use of, or the right to use, any patent or any information concerning industrial, commercial, or scientific experience.
- For the use of any industrial, commercial, or scientific equipment.
- If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends and this holding amounts to at least EUR 80,000 or its equivalent in any other currency.
- If the beneficial owner of the dividends is a company that directly holds at least 25% of the capital of the company paying the dividends (this share should be at least USD 100,000 or its equivalent in another currency).
- If the beneficial owner of the dividends is a company (excluding partnerships) that directly holds at least 25% of the capital of the company paying the dividends.
- Royalties paid for copyrights and other similar remuneration for the production of a literary, dramatic, musical, or artistic work.
- If the beneficial owner of the dividends has directly invested in the capital of the company not less than EUR 100,000 or its equivalent in another currency.
- If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 30% of the capital of the company paying the dividends, and the foreign capital invested exceeds USD 100,000 or its equivalent in the national currencies of the contracting states at the moment when the dividends become due and payable.
- If the following conditions are met:
 - Where the beneficial owner of the dividends has invested in the company paying the dividends, irrespective of the form or the nature of such investments, a total value of at least 500,000 French francs (FF) or the equivalent in another currency; as the value of each investment is appreciated as of the date it is made.

- b. Where that beneficial owner is a company that is liable to tax on profits under the general tax laws of the contracting state of which it is a resident and which is exempt from such tax in respect of such dividends.
16. If only one of the conditions of 15(a) or 15(b) are met.
17. If the beneficial owner of the dividends is a company that directly holds at least 10% of the basic or common stock of the company paying the dividends and such capital share amounts to at least EUR 80,000 or the equivalent value in rubles.
18. The 0% rate applies to income paid to governmental agencies or governmental financial institutions (to pension funds in case of Switzerland as well).
19. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 15% of the capital of the company paying the dividends.
20. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends and the foreign capital invested exceeds USD 100,000 or its equivalent in the national currency of the contracting state.
21. If the beneficial owner of the dividends is a company that directly holds at least 10% of the capital of the company paying the dividends (this share should be at least USD 100,000 or its equivalent in another currency).
22. The new treaty replaces the old treaty of 1986. We expect that the new treaty will be ratified in 2018, and it will take effect from 2019.
23. If the beneficial owner of the dividends is a company that has directly owned at least 15% of the voting power of the company paying the dividends for the period of 365 days ending on the date on which entitlement to the dividends is determined.
24. Notwithstanding the provisions of paragraphs 2 and 3 of this Article, dividends derived by a resident of a contracting state from shares of a company or comparable interests, such as interests in a partnership, trust, or investment fund, may be taxed in the other contracting state according to the laws of that other contracting state if, at any time during the 365 days preceding the payment of the dividends, these shares of comparable interests derived at least 50% of their value directly or indirectly from immovable property referred to in Article 6 of this Convention and situated in that other contracting state. The tax so charged shall not exceed 15% of the gross amount of the dividends.
25. Notwithstanding the provisions of paragraph 1 of this Article, interest arising in a contracting state that is determined by reference to receipts, sales, income, profits, or other cash flow of the debtor or a related person, to any change in the value of any property of the debtor or a related person or to any dividend, partnership distribution, or similar payment made by the debtor or a related person, or any other interest similar to such interest arising in a contracting state, may be taxed in that contracting state according to the laws of that contracting state, but if the beneficial owner of the interest is a resident of the other contracting state, the tax so charged shall not exceed 10% of the gross amount of the interest.
26. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 30% of the capital of the company paying the dividends and invests not less than USD 100,000 or the equivalent in local currencies to the company paying the dividends.
27. If the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of a company paying dividends and the capital invested exceeds USD 75,000.
28. Applicable to interbank loans only.
29. If the beneficial owner of the dividends directly holds at least 10% of the capital in the company paying the dividends and the investment exceeds EUR 80,000 or its equivalent in rubles.
30. Any patent, trademark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.
31. Cinematograph films or tapes for radio or television broadcasting, any copyright of literary or artistic work.
32. If the invested amount equals or exceeds FF 1 million.
33. 5% where the participation interest is at least 20% (if the owner is not a partnership) and the investment exceeds EUR 100,000; 10% in all other cases.
34. If the beneficial owner of the dividends has invested in the capital of the company paying dividends of more than USD 500,000.
35. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the share capital of the company paying the dividends and has directly invested in the equity share capital of that company not less than the equivalent of USD 100,000.
36. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends and has invested in it at least 75,000 European Currency Units (ECU) or its equivalent in the national currencies of the contracting states.
37. If the beneficial owner of the dividends is a company that, for an uninterrupted period of two years prior to the payment of the dividends, directly owned at least 25% of the capital of the company paying the dividends.
38. If the beneficial owner of the dividends is a company that directly holds at least 15% of the capital of the company paying the dividends.
39. If residents of the other contracting state hold at least 30% of the capital of the company paying the dividends and have directly invested in the equity share capital (authorised fund) of that company an amount of not less than USD 100,000 or its equivalent in the currency of the first state.
40. If the following conditions are met:

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- a. The beneficial owner of the dividends is a company (other than a partnership) that has invested at least ECU 100,000 or its equivalent in any other currency in the capital of the company paying the dividends.
- b. Those dividends are exempt from tax in the other contracting state.
- 41. If only one of the conditions of 40(a) or 40(b) are met.
- 42. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 10% of the share capital of the company paying the dividends (except for investment fund paying the dividends) and such capital share amounts to at least EUR 80,000 or the equivalent value in any other currency at the moment of actual distribution of dividends.
- 43. If the beneficial owner of the dividends is a company (other than a partnership) that directly holds at least 20% of the capital of the company paying the dividends and the foreign capital invested exceeds 200,000 Swiss francs (CHF) or its equivalent in any other currency at the moment when the dividends become due.
- 44. Cinematography films, programmes, and recordings for radio or television broadcasting.
- 45. Any copyright of literary, artistic, or scientific work.
- 46. Any patent, trademark, design or model, plan, secret formula or process, any computer software programme, or for information concerning industrial, commercial, or scientific experience.
- 47. If a resident of the other contracting state has invested in its joint-stock capital (registered fund) at least USD 50,000 or its equivalent in the national currencies of the contracting states.
- 48. In the case of banks.
- 49. In the case of fees for technical assistance.
- 50. If the residents of the other contracting state have directly invested in the equity share capital of that company not less than USD 10 million.

Tax administration

All taxpayers are required to obtain tax registration and be assigned a taxpayer identification number, irrespective of whether their activities are subject to Russian taxation.

Taxable period

The taxable period runs from 1 January to 31 December.

Tax returns

An annual CIT return must be filed by 28 March of the year following the end of the reporting year.

Payment of tax

Companies pay advance CIT payments on a monthly or quarterly basis. The final payment for the year is due by 28 March of the following year.

Tax audit process

Tax dispute resolution at the pre-trial (administrative) stage

Tax disputes happen quite frequently in Russia. Most corporate taxpayers have to go through the tax litigation process at least once while doing business in the country.

At present, if taxpayers seek to challenge decisions and other documents/actions (or failure to act) of the tax authorities in court, before going to court, they must first contest such decisions/actions with the relevant higher tax office.

In recent times, tax disputes have been increasingly resolved at the pre-trial (administrative, superior tax office) stage. However, taxpayers cannot formally negotiate tax audit results or enter into formal settlement agreements with the tax authorities at the pre-trial stage. So, in many cases, they still must litigate in order to uphold their rights.

Tax dispute resolution in court

Taxpayers can file claims against the tax authorities through *arbitrazh* courts (i.e. courts that review and resolve economic disputes mainly among legal entities/entrepreneurs or between legal entities/entrepreneurs and state authorities, including the tax authorities). Claims may be filed with a court within three months after a contested decision takes effect or within three months after a taxpayer discovers that its rights have been violated (provided that the taxpayer has already sought redress through the mandatory pre-trial stage mentioned above).

Courts of the first instance (first level) initially review disputes and issue decisions. Decisions of a first instance court can be appealed to appellate courts (second instance or level) and *cassational* courts (third instance or level). If litigation goes through all three instances (levels), the process usually takes up to a year.

Resolutions/decisions of courts at these three levels may be appealed to the Russian Federation Supreme Court (as a supervisory authority). However, in practice, very few such disputes are actually heard by the Supreme Court.

Statute of limitations

The statute of limitations is established for three years. For example, tax authorities may examine 2017, 2016, and 2015 CIT returns by conducting a site tax audit in 2018.

Topics of focus for tax authorities

The recent court practice demonstrates that tax authorities concentrate on (i) tax evasion schemes and relationships with one-day contractors, (ii) financing structures and thin capitalisation rules, and (iii) passive income (e.g. interests, dividends, royalties) paid abroad.

Other issues

Common Reporting Standard (CRS) in Russia

Russia adopted Common Reporting Standard (CRS) legislation at the end of 2017. It enables Russian tax authorities to obtain information on financial accounts held by Russian tax resident individuals and companies from the tax authorities of the partner countries. The list of such partner countries is available on the OECD website:

www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/exchange-relationships

Russian tax authorities will provide similar information about foreign tax residents to partner countries. The exchange of information will occur annually. The first exchange is expected at the end of 2018.

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Significant developments

The latest amendments to the tax laws were enacted in December 2017 and April 2018 and relate to the corporate income tax (CIT) and value-added tax (VAT).

Starting from CIT assessment for 2018, tax depreciation of intangible assets will be equal to their accounting depreciation, while assets consisting of movable and immovable parts will be classified into tax depreciation groups pursuant to the manner in which they are recognised in the taxpayer's statutory financials. As of 1 April 2018, the scope of withholding tax (WHT) in terms of service fees paid to non-residents, other than those to tax havens, will include solely market research services, accounting and audit services, and other legal and business consulting services.

Most significant changes to the VAT Law relate to the rules that govern the status of supply of goods and services between the grantor of concession and concessionaire. As of 1 January 2018, supply of goods or services between the grantor and the concessionaire is not subject to VAT, provided that certain conditions are met. As of 1 July 2018, VAT payers will be obligated to submit a VAT assessment overview to the tax authorities, along with the VAT return. As of 1 January 2019, foreign taxpayers will have the right to a VAT refund if one performs taxable supply of goods and services in Serbia to a Serbian VAT payer.

Taxes on corporate income

Residents are taxed on their income generated in Serbia, as well as on their worldwide income. Non-residents are taxed only on their income sourced through a permanent establishment (PE) in Serbian territory.

The CIT rate is 15%.

Local income taxes

There are no municipal or local taxes on income in Serbia.

Corporate residence

A legal entity is considered to be a resident of Serbia if it is established or has its place of effective management and control in Serbia.

Permanent establishment (PE)

A PE is any permanent place of business through which a non-resident conducts its business.

Other taxes

Value-added tax (VAT)

The VAT was introduced on 1 January 2005 and generally follows the European Union's (EU's) Sixth Directive.

The standard VAT rate is 20% for most taxable supplies. A reduced VAT rate of 10% applies for basic food stuffs, daily newspapers, medicines, publications, public transportation services, utilities, etc.

In addition to these tax rates, there is a 0% tax rate with the right of deduction of the input VAT that applies to the export of goods, transport and other services directly related to exports, international air transport, etc.

A 0% tax rate without the right of deduction of the input VAT applies to trading in shares and other securities, insurance and reinsurance, and the lease of apartments, business premises, etc.

A taxpayer for VAT purposes is a person who independently, and in the course of its business activities, undertakes the supply of goods and services or import of goods. Business activity is defined as the permanent activity of a manufacturer, salesperson, or service provider for the purpose of gaining income. A branch or other operating unit can be a taxpayer.

A non-resident that carries out taxable supply of goods and services in Serbia is obligated to appoint a fiscal representative and to register for VAT in Serbia, irrespective of the amount of the turnover realised in the previous 12 months. A foreign entity that performs a taxable supply of goods and services exclusively to VAT payers or entities referred to as governmental institutions (which includes the Republic and its authorities, the territorial autonomy and local self-government authorities, as well as legal entities established under law or other act of the Republic, territorial autonomy, or local government authority for the purpose of execution of activities of the state administration or local government) or performs passengers transportation service by buses (in special case envisaged by the Law) has no obligation to appoint a fiscal representative in Serbia and to register for VAT. A foreign taxpayer that fails to register for VAT in Serbia may be subject to penalties for non-compliance.

The usual taxable period is a calendar month; however, if a taxpayer's total annual turnover is less than 50 million Serbian dinars (RSD), the taxable period is a calendar quarter. For newly established businesses, the VAT period is the calendar month for the current and next calendar year. Taxpayers are required to submit returns within 15 days of the end of each taxable period. Tax debtors who are not taxpayers are required to submit returns within ten days of the end of the taxable period.

Supply of goods and services between the grantor of concession and concessionaire is not subject to VAT as of 1 January 2018, provided that the following conditions are cumulatively met:

- Supply is performed based on the public private partnership contract with elements of concession.
- The grantor of the concession and concessionaire are VAT payers.

If such supply would be subject to VAT, the customer would be entitled to input VAT recovery.

As of 1 July 2018, VAT payers will be obligated to submit a VAT assessment overview to the tax authorities, along with the VAT return.

As of 1 January 2019, foreign taxpayers will have the right to a VAT refund if one performs taxable supply of goods and services in Serbia to a Serbian VAT payer.

Customs duties

Goods imported into Serbia are subject to customs duty rates provided in the Law on Customs Tariff. These rates are *ad valorem* (the only exception is related to the importation of other cigarettes containing tobacco, where a combined *ad valorem* and specific customs duty rate is prescribed) and apply to goods originating in countries that have a most favoured nation (MFN) status in trading with Serbia. Goods originating in other countries are subject to MFN duty rates increased by 70%.

At the moment, the only trading partner with Serbia that does not have MFN status is Taiwan.

Customs duty rates in Serbia range from 0% to 57.6%, with most being under 30%. At the moment, the 57.6% rate only applies to cigarettes containing tobacco.

Excise duties

Excise duties are levied on producers and importers of the following goods:

- Oil derivatives.
- Tobacco products.
- Alcoholic beverages.
- Coffee (green, roasted, ground, and coffee extracts).
- Bio liquids and biofuels.
- Fuels for filling electronic cigarettes.
- Electricity for final consumption.

Excise duty in Serbia is specific (for oil derivatives, alcoholic beverages, cigars, cigarillos, and coffee), *ad valorem* (for pipe tobacco), and combined (specific + *ad valorem* on retail price for cigarettes).

Excise duties stated in Serbian currency are adjusted on a half-year basis according to variations of the consumer price index (CPI) declared by relevant government bodies in charge of statistics. For oil derivatives, the government can modify the specific excise duty amounts during the year according to changes in prices of crude oil on the market.

Property tax

Property tax is payable annually in Serbia by all legal entities and individuals who own or have rights over real estate located in Serbia, such as:

- Ownership rights.
- Right of occupancy.
- Tenancy rights over an apartment or a building for a period longer than one year or for an indefinite period.

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- Urban land usage right (municipal, public, and other state-owned land) larger than ten acres in area.

Where the taxpayer keeps books, the property tax on real estate is levied at a flat rate that cannot exceed 0.40%.

Transfer tax

Transfer tax is levied on the transfer for a consideration of rights over real estate when VAT is not payable on such a transfer; intellectual property rights; ownership over used vehicles, vessels, and aircraft (unless owned by the state); right to use urban and/or public building land; as well as rights relating to expropriated real estate.

The contract price is used as a tax base; however, the tax authorities have the right to adjust the tax base in case they estimate that the price agreed to in the contract is lower than under market conditions. The tax is payable at a 2.5% rate.

Stamp taxes

There are no stamp taxes in Serbia.

Capital gains tax of non-residents

Capital gains realised by non-residents from both residents or other non-residents are subject to 20% capital gain tax. Non-residents should appoint a fiscal representative in Serbia who should submit a tax return within 30 days from the realisation of capital gain. Based on the tax return, tax authorities will issue a decision assessing tax liability (if any).

In order to benefit from application of a relevant double tax treaty (DTT), the same rules are applicable as for WHT. Non-residents (i.e. the income recipient) must provide a tax residency certificate (on the form prescribed by the Serbian Ministry of Finance stamped by the relevant body from the non-resident's country of residence or official translation of certificate issued by foreign tax authorities), and the income recipient must be the beneficial owner of the income.

Payroll taxes and social security contributions

The employer is liable to withhold personal income tax (PIT) and social security contributions on payment of salaries to employees, at the following rates:

- 10% PIT.
- 19.9% social security contributions payable by the employee.
- 17.9% social security contributions payable by the employer.

The tax and contributions base is gross salary. The social security contributions base is limited to five average monthly salaries in Serbia.

Branch income

Non-residents carrying on business in Serbia through a branch are taxed on their Serbian-sourced income at the CIT rate of 15%. A branch is considered to be a PE.

Income determination

Taxable profit is determined by adjusting the accounting profit as stated in the profit and loss statement (determined in accordance with International Financial Reporting Standards [IFRS] and local accounting and audit legislation) and in accordance with the provisions of the CIT Law.

For taxpayers who, according to local legislation, are not obligated to apply IFRS, taxable profit is determined according to the special guidelines prescribed by the Ministry of Finance.

Inventory valuation

Cost of materials and the purchase value of merchandise are tax deductible up to an amount calculated by applying the average weighted cost method or the first in first out (FIFO) method. If another method is used, an adjustment for tax purposes should be made.

Capital gains

Capital gains are generated by the sale or other transfer of real estate, rights related to industrial property, as well as shares, stocks, securities, certain bonds, and investment units. A capital gain is determined as the difference between the sale and purchase price of the asset concerned, determined in accordance with the provisions of the Law. If the amount is negative, a capital loss is realised.

Capital gains and operational profit are disclosed in the same tax return, but they are taxed separately. Consequently, capital gains/losses cannot be used to offset business losses/gains.

However, capital gains can be offset with capital losses occurring in the same period. A capital loss can be carried forward for five years.

The capital gains tax rate is 15%.

However, the rate applicable for capital gains incurred by non-residents is 20%, unless envisaged otherwise by a relevant DTT (*see the Other taxes section for more information*).

Dividend income

Dividends received by a Serbian company from another Serbian company are not subject to CIT.

Dividends received from a non-resident will be treated as taxable income of a Serbian company and subject to 15% CIT. However, a Serbian entity will have the right to decrease its tax liability by taking a tax credit for the WHT and underlying CIT paid in a subsidiary's country, provided that the taxpayer holds at least 10% of the shares in the subsidiary. If the taxpayer holds less than 10% of the shares in the subsidiary, the tax credit should not exceed the amount of tax that would be paid in Serbia on that income, where the tax basis represents 40% of the received gross income (*see the Tax credits and incentives section for more information*).

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Interest income

Interest income will be included in accounting profit determined in accordance with IFRS and will be taxable at the CIT rate of 15%. A Serbian resident has the right to decrease its CIT liability for WHT on interest paid abroad. The amount of the tax credit should not exceed the amount of CIT that would be paid in Serbia on that income, where the tax basis represents 40% of the received gross income.

Royalty income

Royalty income will be treated as business income and subject to the general CIT rate.

A resident taxpayer also has the right to decrease its CIT liability for WHT on royalties paid abroad. The amount of the tax credit should not exceed the amount of CIT that would be paid in Serbia on that income, where the tax basis represents 40% of the received gross income.

Unrealised currency exchange gains

Unrealised currency exchange gains will be included in accounting profits under IFRS rules. Serbian legislation does not provide any exception of taxation of this income.

Foreign income

Companies resident in Serbia are taxed on their worldwide income.

When profit generated in another country is taxed in the foreign country, a company has the right to decrease its tax liability by claiming a tax credit from the tax authorities in Serbia (*see the Tax credits and incentives section for more information*).

There are no provisions that provide for the possibility that taxation of income earned abroad may be deferred.

Deductions

Depreciation and amortisation

Fixed and intangible assets are divided into five groups, with depreciation and amortisation rates prescribed for each (Group I: 2.5%; II: 10%; III: 15%; IV: 20%; and V: 30%). A straight-line depreciation method is prescribed for the first group, which includes real estate, while a declining-balance method is applicable for assets in the other groups.

Assets subject to tax depreciation and amortisation are all tangible and intangible (except goodwill and renewable resources) assets with a useful life longer than one year that are recognised as non-current assets under IFRS.

Starting from CIT assessment for 2018, tax depreciation of intangible assets will be equal to their accounting depreciation, while assets consisting of movable and immovable parts will be classified into tax depreciation groups pursuant to the manner in which they are recognised in the taxpayer's statutory financials.

Goodwill

Goodwill is not subject to tax amortisation.

Start-up expenses

Generally, start-up expenses are tax deductible for CIT purposes.

Interest expenses

Interest on related-party loans exceeding thin capitalisation and transfer pricing thresholds are not deductible (*see the Group taxation section*).

Bad debts

Bad debt provisions are generally tax deductible if they are at least 60 days overdue. Provisions have to be made individually for each receivable.

Write-off of individual debts, except for those from debtors who are at the same time creditors, is recognised as an expense under the following conditions:

- They were written off as uncollectable.
- The taxpayer has initiated a court procedure to collect debt or duly reported the receivables in case of liquidation or bankruptcy procedure over the debtor.

Taxable income should be increased for receivables that are written-off and do not meet the above requirements and for which tax-deductible provisions were previously made.

Charitable contributions

Expenses for health care, scientific, educational, humanitarian, religious, ecological, cultural, and sport related purposes, as well as humanitarian aid given to the Republic of Serbia, its autonomous provinces, and the local government for sanitation of consequences that emerged during emergency situations, are deductible, at up to 5% of total revenues.

Fines and penalties

Fines and penalties (both commercial and those charged by the authorities) are not deductible.

Taxes

All taxes, duties, and contributions that do not depend on the profitability of the company are deductible in the tax period that the liability in this respect was settled.

Other significant items

The following other expenses are not recognised for CIT purposes:

- Non-documented expenses.
- Provisions for receivables from entities that are creditors at the same time, up to the amount of the liability due to that entity.
- Presents provided to political organisations.
- Presents provided to related parties.
- Penalty interest for late payment of taxes, contributions, and other charges.
- Expenses related to forced collection of taxes and other liabilities.
- Non-business related expense.
- Share in the profit paid to employees or other individuals.
- Calculated but unpaid redundancy payments (deductible when paid).
- Expenses related to employment costs, apart from salaries (deductible when paid).

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- Impairment of assets (deductible in tax period in which asset is disposed of or used).
- Direct write-off of receivables (under certain conditions).
- Long-term provisions (deductible when paid).

The following other expenses are recognised for CIT purposes only up to a certain limit:

- Advertising and promotional expenses, up to 10% of total revenues.
- Business entertainment expenses, up to 0.5% of total revenues.
- Membership fees paid to chambers of commerce and other associations (except political parties), up to 0.1% of gross revenue.

Net operating losses

The taxpayer has the right to carry forward and utilise tax losses incurred over the following five years.

Carryback rules do not exist in Serbia.

Payments to foreign affiliates

Generally, there are no restrictions on the deductibility of royalties and service fees paid to foreign affiliates, provided they are at arm's length, appropriately documented (by agreements, contracts, calculation sheets, etc.), and incurred for business purposes only.

Payment of interest to foreign affiliates is restricted and regulated by thin capitalisation rules and transfer pricing rules (*see the Group taxation section*).

Group taxation

Tax grouping/consolidation is allowed to a group of companies where all members are Serbian residents and one company directly or indirectly controls at least 75% of the shares in another company. Each company files its own tax balance sheet, and the parent company files a consolidated tax balance sheet for the whole group.

In the consolidated tax balance sheet, losses of one or more companies are offset by the profits of other related companies. Each company is liable for the portion of tax attributable to its share of the group's taxable profit.

Once approved by the Ministry of Finance, tax grouping/consolidation applies for at least five years.

Transfer pricing

A transfer price is the price of transactions between related parties. Related parties exist if there is a possibility of control or influence over business decisions between them. Ownership of 25% or more, or a majority of shares, is considered as potential control. Influence over business decisions exists when an associated party holds 25% or more, or individually holds the greatest portion, of votes in the taxpayer's management bodies. If the same persons participate in management or control of both companies, a connection between them will be deemed to exist.

Close family members are also regarded as related parties. Non-resident entities from tax havens are considered as related parties of resident entities. The Serbian Ministry of

Finance prescribed the list of countries that are to be considered as tax havens for the application of relevant CIT Law provisions.

A company should disclose transactions with related parties separately at transfer prices and at arm's-length prices in its CIT calculation. Positive difference between these prices (adjustments of expenses) and negative difference (adjustments of revenues) is included in taxable profit.

Serbian CIT Law recognises the following methods for determining arm's-length prices:

- Comparable uncontrolled price (CUP).
- Cost plus.
- Resale minus.
- Transactional net margin (TNMM).
- Profit split.
- Any other method that allows determination of arm's-length prices if none of the above methods can be applied.

It is mandatory to prepare and submit transfer pricing documentation together with the CIT return.

Transfer pricing rules for intra-group loans

Any interest incurred on related-party loans exceeding the arm's-length interest rate is not tax deductible. Arm's-length interest is deemed to be the:

- weighted average key policy rate for the tax period for loans denominated in dinars, and
- weighted average interest rate at which domestic banks borrowed from foreign lenders in the related tax period for foreign currency loans.

These indicators are determined by the National Bank of Serbia and published by the Ministry of Finance. However, taxpayers are entitled to determine market interest rates by using all general methods for determining arm's-length interest rates. In case the taxpayer decides to determine interest rates by applying general methods, it will be obligated to apply such interest rates for assessment of all related-party loans.

Transfer pricing rules in this respect are applied up to the amount of tax-deductible interest determined in accordance with the thin capitalisation threshold (*see below*).

Thin capitalisation

The interest and related costs will be fully deductible if the loans from related parties do not exceed four times the taxpayer's net equity (ten times for banks and leasing companies). The amount of a taxpayer's net equity for this purpose is calculated as the average of the total assets less total liabilities at the beginning and the end of the year, while the amount of loans from related parties is calculated as a daily average for the year.

In cases where the loans from related parties exceed the prescribed threshold, the amount of non-deductible interest will be calculated as proportional to the amount of loans exceeding the 4:1 (10:1) threshold.

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Controlled foreign companies (CFCs)

There are no CFC rules in Serbia.

Tax credits and incentives

Foreign tax credit

A Serbian entity is entitled to a tax credit for the WHT paid on foreign-sourced dividends and underlying CIT paid abroad (by its non-resident subsidiary), provided that the taxpayer holds at least 10% of the shares in the subsidiary for at least one year before filing a return. If the taxpayer holds less than 10% of the shares in the subsidiary, the tax credit should not exceed the amount of tax that would be paid in Serbia on that income, where the tax basis represents 40% of the received gross income. Non-utilised tax credit can be carried forward by the parent company for five years.

A resident taxpayer also has the right to decrease its tax liability for WHT paid abroad on interest and authorship fees. The tax credit should not exceed the amount of tax that would be paid in Serbia on that income, where the tax basis represents 40% of the received gross income. Carryforward of unused tax credits is not allowed.

Tax holiday

A ten-year tax holiday is available for companies with a minimum investment in property, plant, and equipment (PPE) of RSD 1 billion. To qualify for the credit, a taxpayer must employ at least 100 new workers for an indefinite period. The tax holiday is available for the ten-year period in proportion to the investment made. The number of employees employed in the tax period in which the taxpayer qualified for the tax holiday must be retained throughout the whole tax holiday period.

Withholding taxes

WHT is calculated and paid at the rate of 20% on payments such as dividends/share in profit, royalties (including neighbouring authorship rights, intellectual property rights, and related rights), interest income, fees for services provided or used in Serbia, income from distributed surplus of a company in bankruptcy, revenues derived from the liquidation surplus of a company in liquidation, and lease payments for real estate and other assets made to a non-resident, unless a DTT applies to provide a reduced rate or exemption.

According to the latest amendments of the CIT Law, as of 1 April 2018, the scope of WHT in terms of service fees paid to non-residents, other than those to tax havens, will include solely market research services, accounting and audit services, and other legal and business consulting services.

WHT is also payable on a non-resident's income realised on the basis of performing entertaining, artistic, sports, and similar programs in Serbia, which is not taxed as income of an individual (performer, musician, sportsman, etc.).

In order to benefit from application of a relevant DTT, non-residents (i.e. the income recipient) must provide a tax residency certificate on the form prescribed by the Serbian Ministry of Finance stamped by the relevant body from the non-resident's country of residence.

Special WHT rules apply in case of non-resident entities from tax havens. WHT is payable at the rate of 25% on royalties, interest, income from lease of immovable property and other assets, and service fees paid to non-resident entities from tax havens. Dividend payments to non-residents from tax havens are subject to WHT at 20%. The Serbian Ministry of Finance publishes a list of jurisdictions that are regarded as tax havens (<http://www.poreskauprava.gov.rs/pravna-lica/pregled-propisa/pravilnici/312/pravilnik-o-listi-jurisdikcija-sa-preferencijalnim-poreskim-sistemom.html>).

WHT rates envisaged by applicable DTTs are provided in the following table.

Recipient	WHT (%)			Applicable from
	Dividends (1)	Interest	Royalties (3)	
Non-treaty	20	20	20	
Tax haven	20	25	25	
Treaty:				
Albania	5/15	10	10	2006
Armenia	8	8	8	2017
Austria	5/15	0/10 (5)	5/10	2011
Azerbaijan	10	0/10 (5)	10	2011
Belgium	10/15	15	10	1982
Belorussia	5/15	8	10	1999
Bosnia and Herzegovina	5/10	0/10 (5)	10	2006
Bulgaria	5/15	10	10	2001
Canada	5/15	0/10 (5)	10	2014
China	5	0/10 (5)	10	1998
Croatia	5/10	10	10	2005
Cyprus	10	10	10	1987
Czech Republic	10	0/10 (5)	5/10	2006
Denmark	5/15	0/10 (5)	10	2010
Egypt	5/15	15	15	2007
Estonia	5/10	0/10 (5)	5/10	2011
Finland	5/15	0	10	1988
France	5/15	0	0	1976
Georgia	5/10	0/10 (5)	10	2014
Germany	15	0	10	1989
Ghana (2)	5/15	10	10	N/A
Greece	5/15	10	10	2011
Hungary	5/15	10	10	2003
India	5/15	0/10 (5)	10	2009
Indonesia (2)	15	0/10 (5)	15	N/A
Iran (2)	10	0/10 (5)	10	2012
Ireland	5/10	0/10 (5)	5/10	2011
Italy	10	10	10	1986
Kazakhstan	10/15	0/10 (5)	10	2017
Kuwait	5/10	0/10 (5)	10	2004
Latvia	5/10	0/10 (5)	5/10	2007
Libya	5/10	0/10 (5)	10	2011
Lithuania	5/10	0/10 (5)	10	2010
Luxembourg	5/10	0/10 (5)	5/10	2017
Macedonia	5/15	10	10	1998
Malaysia	0 (4)	10	10	1991

Serbia

Recipient	WHT (%)			Applicable from
	Dividends (1)	Interest	Royalties (3)	
Malta	5/10 (6)	10	5/10	2011
Moldova	5/15	10	10	2007
Montenegro	10	0/10 (5)	5/10	2012
Morocco (2)	10	0/10 (5)	10	N/A
Netherlands	5/15	0	10	1983
North Korea	10	0/10 (5)	10	2002
Norway	0 (7)/5/15	0/10 (5)	5/10	2016
Pakistan	10	0/10 (5)	10	2011
Palestine (2)	10	0/10 (5)	10	N/A
Poland	5/15	10	10	1999
Qatar	5/10	0/10 (5)	10	2011
Romania	10	0/10 (5)	10	1998
Russia	5/15	10	10	1998
Slovak Republic	5/15	10	10	2002
Slovenia	5/10	0/10 (5)	5/10	2004
South Korea	5/10	0/10 (5)	5/10	2017
Spain	5/10	0/10 (5)	5/10	2011
Sri Lanka	12.5	10	10	1987
Sweden	5/15	0	0	1982
Switzerland	5/15	10	10	2007
Tunisia	10	10	10	2014
Turkey	5/15	0/10 (5)	10	2008
Ukraine	5/10	0/10 (5)	10	2002
United Arab Emirates	0 (7)/5/10	0/10 (5)	10	2014
United Kingdom	5/15	10	10	1983
Vietnam	10/15	10	10	2014
Zimbabwe (2)	5/15	10	10	N/A

Notes

1. If the recipient company owns/controls at least 25% (5% depending on the relevant DTT) of the equity of the paying company, the lower of the two rates applies.
2. The treaty has not been ratified by one of the parties.
3. A tax rate of 5% will be applicable to literary, scientific, and work of art; films and works created like films; or other source of reproduction tone or picture. A tax rate of 10% will be applicable to patents, petty patents, brands, models and samples, technical innovations, secret formulas, or technical procedures.
4. Only in cases when dividends are to be paid to Serbian residents. If paid to Malaysian residents, they are taxable at 20% in Serbia.
5. A 0% rate is applicable in cases when the income recipient is the government or government owned banks. In all other cases, a higher rate envisaged by the DTT should apply.
6. WHT rate refers solely to dividends distributed from Serbia. In Malta, WHT cannot be higher than CIT on profit before dividend distribution.
7. A 0% rate is applicable in cases when the dividend income recipient is the government of the contracting state.

Tax administration

Taxable period

The tax period in Serbia is the calendar year. However, entities have a possibility to opt for a different tax period other than the calendar year (subject to the approval of the Ministry of Finance), but still 12-months long. Once approved, such tax period must be applied for at least five years.

Tax returns

CIT returns, together with all supporting documents (e.g. tax depreciation and tax credit forms), must be filed with the tax authorities not later than 180 days after expiration of the tax year (e.g. 30 June).

A newly established company needs to register with the tax authorities within 15 days of registration with the Serbian Business Registry.

Payment of tax

CIT is payable monthly in advance instalments by the 15th day of the following month for the prior calendar month. The amount of payable advances is determined on the basis of a company's CIT calculation for the previous year.

The due date for final settlement of CIT liability is the date of filing the annual tax return.

Tax audit process

The tax authorities may undertake an unlimited number of tax audits in respect of the same taxes within a reviewed period. In principle, re-performing of an audit of the same tax within a reviewed period is based on existence of new facts that were previously unavailable to the tax authorities.

Statute of limitations

The statute of limitations period for assessment of tax liabilities is five years from the year in which tax should have been assessed. The statute of limitations for collection of tax liabilities is five years from the year in which tax was due for payment. This is with the exception of pension insurance contributions, which do not become statute barred.

The statute of limitations commences from 1 January of the year following the year in which the tax return/liability was due.

Topics of focus for tax authorities

Historically, audits by the tax authority have been focused primarily on VAT, PIT, and social security contributions assessment.

Other issues

Intergovernmental agreements (IGAs)

United States (US) Foreign Account Tax Compliance Act (FATCA)

FATCA is a set of regulations of the United States adopted in order to combat tax evasion. It requires that foreign financial institutions or other financial intermediaries participate in preventing tax evasion by reporting (i.e. providing) information concerning US 'account holders', which include bank account holders, investors, and shareholders, to the US Internal Revenue Service (IRS).

The Model 1 IGA has not yet been signed by the United States and Serbia. However, the IGA is treated as 'in effect' by the US Treasury as of 30 June 2014. Serbia has consented to disclose this status since the United States and Serbia have reached an agreement in substance. In accordance with this status, the text of such IGA has not been released and financial institutions in Serbia are allowed to register on the FATCA registration

Serbia

website consistent with the treatment of having an IGA in effect, provided that the jurisdiction continues to demonstrate firm resolve to sign the IGA as soon as possible.

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Significant developments

New Law on the Amendment of Tax Laws

The Law on the Amendment of Tax Laws, Laws, and Secondary Laws, which includes several changes on tax regulations, was accepted by the Parliament's General Assembly and will be submitted for the approval of the president.

The Law proposes amendments on several tax laws. Very brief information of the amendments are as follows.

Changes to Corporate Income Tax (CIT) Law

The Omnibus Bill that was passed early on 5 December 2017 includes important amendments to the CIT Law.

On 23 December 2017, the tax authority updated its Corporate Income Tax Communiqué numbered 1, parallel with the amendments adopted.

CIT rate

The Omnibus Bill numbered 7061 increased the CIT rate from 20% to 22% for 2018, 2019, and 2020. The increase also applies to the advance tax filings to be made in respect of the concerned years.

For companies with a special accounting period, the increased rate will apply in the tax years starting in 2018, 2019, and 2020.

Please note that the Finance Minister has recently announced that the rate may be reduced soon within 2018 as one of the steps of fiscal tightening policy.

According to the Law, the regulation shall enter into force and be applied on earnings that should be stated in CIT returns to be submitted after 1 January 2018.

Exemption of earnings from immovable and participation share sales

The Omnibus Bill reduced the CIT exemption on sale of qualifying immovable property from 75% to 50% of the capital gains after 5 December 2017.

The two-year holding period requirement for qualification remained unchanged.

The recent Communiqué clarifies that qualifying sales transactions that took place before 5 December 2017 can benefit from the exemption rate of 75% provided under the old legislation.

Turkey

2018 rates for investments with incentive certificates

For investments within the scope of the investment incentive certificates (IICs), the additional investment contribution rate and reduced CIT practice applied in 2017 is extended to 2018 by the Law.

Consideration of special reserves as deductible expense in finance companies

It is ensured that all special reserves allocated by leasing companies, factoring companies, and financing companies are considered as tax deductible expense in the fiscal year when reserves are allocated.

Regulations on reserves are based on the 'Regulation on Accounting Practices and Financial Statements of Finance Leasing, Factoring, and Financing Companies'.

The new regulation shall enter into force starting from 1 January 2019.

Changes to Income Tax Law

Lump-sum expense rate in the taxation of rental income

With the Law, the lump-sum expense rate taken into consideration in the event that the lump-sum method is selected in the taxation of rental income is reduced from 25% to 15%.

The regulation entered into force on the publication date and is effective since 1 January 2017.

Changes to Value-added Tax (VAT) Law

VAT responsibility

The Law proposes that the VAT registration requirement applies to non-residents who provide online services in electronic media to real persons in Turkey.

The regulation shall enter into force in the beginning of the month after the publication date.

Roaming services

With the Law, the roaming services from abroad within the framework of international roaming agreements and charge of such services to customers in Turkey will be exempt from VAT.

Regarding the mobile phone subscribers' usage abroad, the fee for the roaming services provided by the operator abroad to the domestic operator, and the charge of usage fee to the consumer, are exempt from VAT with the amendment.

The regulation shall enter into force in the beginning of the month after the publication date.

Transfer of immovable properties to leasing and financing companies

With the Law, leasing and financing companies debtors' and their guarantors' transferring immovable properties and participation shares in return for such debts are exempt from VAT. The existing exemptions available for the transfers to the banks will be applicable for the leasing and financing companies with the Law.

The regulation shall enter into force on 1 January 2018.

VAT exemption for machinery and equipment purchases

New machine and equipment deliveries to those:

- in the manufacturing industry exclusively for taxpayers who possess an Industrial Registry Certificate, and
- located in technology development zones, specialised technology development zones, research and development (R&D) and design centres, and research laboratories with the activities in R&D, innovation, and design, to be used exclusively for these activities,

have been exempted from VAT until 31 December 2019.

This exemption is a full exemption. Taxes burdened due to deliveries within the scope of exemption will be refunded if it cannot be deducted.

In case the machinery and equipment acquired within the scope of the exemption is used for activities besides R&D, innovation, and design activities or is disposed of within three years from the beginning of the calendar year following the date of delivery of the machinery and equipment, VAT that wasn't calculated during the delivery shall be collected with late tax loss penalty and late interest.

The regulation entered into force on 1 May 2018.

VAT exemption in health services provided to foreigners

Healthcare and rehabilitation services provided by those who are permitted by the Ministry of Health to real persons who are non-resident foreign nationals in only the health institutions and health care centres in Turkey are exempted from VAT.

The following services are covered by the exemption: preventive medicine, diagnosis, treatment, and rehabilitation services. Other deliveries and services provided with these services do not fall within the scope of exemption.

The exemption is a full exemption.

The amendment shall enter into force on the second month following the publication of the Act.

Tax amnesty

Law No. 7143 published in the Official Gazette dated 18 May 2018 and numbered 30425, which brings into effect a tax amnesty, has entered into force. Under the program taxpayers can:

- restructure their unpaid tax debts and other payables to the state for all types of taxes and penalties that were accrued by 31 March 2018
- settle their pending tax litigation
- protect their past accounts against potential tax audits by making voluntary tax base increases (income tax, CIT, VAT, income withholding/corporate withholding tax [WHT] [limited to specific payments]) for the years between 2013 and 2017 (inclusive)
- correct their business records to reflect the reality of their situations, and

Turkey

- declare previously undeclared foreign and domestic assets without being subjected to taxation.

Recent developments regarding foreign exchange borrowing restrictions

The Council of Ministers published a decree amending the Decree No. 32 on the Protection of the Value of the Turkish Currency (Decree No. 32) in the Official Gazette No. 30312 on 25 January 2018. The amendments providing restrictions on foreign exchange loans entered into force on 2 May 2018.

Prior to the amendments, real person Turkish residents were not entitled to utilise foreign-currency denominated loans from abroad. With the amendments, Turkish residents that do not have foreign exchange income will no longer be able to utilise foreign-currency denominated loans from abroad, save for certain exceptions.

Taxes on corporate income

Corporations are liable for CIT at a rate of 22% for the years 2018, 2019, and 2020 on net profits generated, as adjusted for exemptions and deductions and including prior-year losses carried forward, to a limited extent.

According to Turkish tax legislation, income taxation differs significantly based on the taxpayer's place of residence. Resident entities are subject to tax on their worldwide income, whereas non-resident entities are taxed solely on the income derived from activities in Turkey.

Local income taxes

There are no provincial or municipal taxes on corporate income in Turkey.

Corporate residence

If both the legal and the business headquarters of a company are located outside Turkey, the company is regarded as a non-resident entity for Turkish tax purposes. If one of these headquarters is located within Turkey, the company is regarded as a resident entity for Turkish tax purposes.

Note that there is no distinction between CIT and VAT registration in Turkey. Therefore, corporations or permanent establishments (PEs) are liable for all taxes (e.g. CIT, VAT, WHT, stamp tax) once they are registered for tax purposes in Turkey.

Permanent establishment (PE)

Unlike the provisions of the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention on Income and on Capital, there is no minimum period of presence in Turkey before a presence is regarded under the Turkish tax legislation as a PE. In this regard, we believe that the PE evaluation should be made for each case depending on the merits of the case, both from a local legislation perspective and from a treaty (if applicable) perspective.

Other taxes

Value-added tax (VAT)

Deliveries of goods and services are subject to VAT at rates varying from 1% to 18%. The general rate is 18%.

VAT payable on local purchases and on imports is regarded as 'input VAT', and VAT calculated and collected on sales is considered 'output VAT'. Input VAT is offset against output VAT in the VAT return filed at the related tax office. If output VAT is in excess of input VAT, the excess amount is paid to the related tax office. Conversely, if input VAT exceeds output VAT, the balance is carried forward to the following months to be offset against future output VAT. With the exception of a few situations, such as exportation and sales to an investment incentive holder, there is no cash refund to recover excess input VAT.

Turkish VAT principles contain a 'reverse-charge VAT mechanism', which requires the calculation of VAT by resident entities on payments to persons in foreign countries. Under this mechanism, VAT is calculated and paid to the related tax office by the resident entity. The resident entity treats this VAT as input VAT and offsets it in the same month. This VAT does not create a tax burden for the resident or non-resident entity, except for its cash flow effect on the former if there is insufficient output VAT to offset the input VAT.

VAT is also collected at the point of import. The VAT rate is the same rate as the one that is applied for transactions in the country of origin. The base for VAT is the value of the goods for customs tax purposes plus any kind of tax payable at the point of import and all the expenses incurred until the single administrative document is registered.

Reduced rates

For the deliveries and services mentioned in List No. I (e.g. agricultural products such as raw cotton, dried hazelnuts, supply and leasing of goods within the scope of the Finance Leasing Law), the reduced rate is 1%.

For the deliveries and services mentioned in List No. II (e.g. basic food stuffs, textiles, books and similar publications), the reduced rate is 8%.

Foreign trade: imports and exports

Importation of goods and services is a taxable transaction, whether or not the importation is made for business purposes. Export transactions are exempt from VAT, and credit and refund is available for input VAT for the export goods.

Importation of goods and services

For VAT purposes, any importation of goods or services into Turkey is a taxable transaction, regardless of the status of the importer or the nature of the transaction. To equalise the tax burden on importation and domestic supply of goods and services, VAT is levied only on the importation of goods and services that are liable to tax within Turkey. Accordingly, any transaction exempt in Turkey may also be exempt on import. The VAT on importation is imposed at the same rates applicable to the domestic supply of goods and services. In the case of importation, the taxable event occurs at the time of actual importation. Importation of machinery and equipment under an investment incentive certificate (IIC) is exempt from VAT.

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Banking and insurance transactions tax (BITT)

The transactions being performed by licensed banks and insurance companies are generally exempt from VAT but are subject to BITT at a rate of 5% in general (although some transactions are subject to 1% or 0% BITT), which is due on the gains of such corporations from their transactions.

The purchase of goods and services by banks and insurance companies are subject to VAT, but this is considered an expense or cost item. Therefore, it is not recoverable (i.e. for VAT purposes by offsetting against the output VAT) in the hands of these corporations.

Special consumption tax

There are four main product groups that are subject to special consumption tax at different tax rates, depending on the GTIP numbers (tariff numbers):

- Petroleum products, natural gas, lubricating oil, solvents, and derivatives of solvents.
- Automobiles and other vehicles, motorcycles, planes, helicopters, yachts.
- Tobacco and tobacco products, alcoholic beverages.
- Luxury products.

Unlike VAT, which is applied on each delivery, special consumption tax is charged only once (except for some activities, such as production).

Customs and foreign trade

Following the changes in Turkish economic policy in the 1980s, there has been rapid growth in the foreign trade volume of Turkey.

Turkey is a member of the World Trade Organization (WTO) and World Customs Organization (WCO). Turkey signed a 'Customs Union Agreement' with the European Union (EU) on 1 January 1996 and has amended its customs code and legislation in line with those of the EU customs code.

According to the Customs Union Agreement, with the exception of certain goods (e.g. agricultural products), no customs tax is incurred on trade between Turkey and the European Union as long as the goods are imported to Turkey with an A.TR Movement Certificate proving that the goods are in free circulation in the European Union.

In order to harmonise its foreign trade, Turkey has also signed several Free Trade Agreements (FTAs) with the trade partners of the European Union.

The Turkish Customs Code is very similar to that of the EU, and its aim is to harmonise the customs practices of Turkey with EU customs practices.

The Turkish Customs Code defines the 'Turkish Customs Territory' as the territory of the Republic of Turkey including the territorial waters, the inland maritime zone, and the airspace of Turkey.

The Turkish Customs Code has also brought into force the customs regimes with economic impact that have been in use in the EU countries for a long time. The import taxes, VAT, other taxes, and funds are collected at the time of importation. The main

tax collected at customs is the import tax. The import tax differs according to the classification of the commodity and to the country of origin.

VAT is also collected at the point of import. The VAT rate is the same rate as the one that is applied for the transactions in the country of origin. The base for VAT is the value of the goods for customs tax purposes plus any kind of tax payable at the point of import and all the expenses incurred until the single administrative document is registered.

The VAT rates are 1%, 8%, and 18%, varying according to the type of goods imported.

In addition, if the import transaction is not conducted in cash, there is a special Resource Utilisation Support Fund (RUSF), which should also be paid during importation. RUSF is a special kind of fund applied to importations on a credit basis. According to the RUSF legislation, any importation conducted on credit (if the payment related to the importation is not paid before the actual importation) is subject to a special payment of 6% of the value of the goods to be imported. The important criteria are payment term and whether it is a cash payment or payment on credit.

Dumping and anti-dumping duties are collected at the point of import.

In certain cases, such as temporary importation or inward processing, the customs administration shall require a kind of guarantee letter to secure the taxes. The amount of this guarantee shall cover all the taxes payable in the case of an importation.

There is no customs tax on trade between the EU and Turkey except for certain products (e.g. agricultural products). However, it is crucial that the imported goods are imported together with an A.TR Movement Certificate proving that the goods are in free circulation.

In the case of FTAs, the goods must be imported with a EUR.1 certificate, giving proof of their country of origin in order to benefit from the FTA.

Turkey applies the Common Customs Tariff of the EU to third countries, except for agricultural products.

Property taxes

Buildings and land owned in Turkey are subject to an annual real estate tax at different rates.

Stamp tax

Stamp tax applies to a wide range of documents, including, but not limited to, agreements, financial statements, and payrolls. Stamp tax is levied as a percentage of the value stated on the agreements at rates varying between 0.189% and 0.948%.

Salary payments are subject to stamp tax at a rate of 0.759% over the gross amounts, whereas a lump-sum stamp tax is calculated for certain types of documents, such as the printed copies of the financial statements.

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Resource Utilisation Support Fund (RUSF)

According to the current legislation, regressive RUSF rates apply to foreign exchange and gold borrowings provided to Turkish residents (banks and financing institutions are exempt) from abroad depending on the maturity.

The RUSF rates on foreign currency denominated loans are as follows:

- 3% if the maturity is under one year.
- 1% if the maturity is between one and two years (including one year).
- 0.5% if the maturity is between two and three years (including two years).
- 0% if the maturity is three or more than three years (including three years).

The RUSF rates on Turkish lira (TRY) denominated loans are as follows:

- 1% if the maturity is under one year.
- 0% if the maturity is one or more than one year (including one year).

Moreover, RUSF bases differ based on the type and the currency of the loan. RUSF is calculated:

- Over the principal amount in case the loan is foreign exchange denominated.
- Over the interest payments in case the loan is Turkish lira denominated.
- Over the interest payments plus the exchange difference of the principal between the drawdown date and the re-payment date in case the loan is indexed to a foreign exchange.

Payroll taxes

In accordance with the Turkish tax regulations, all employees working under a resident employer are included into the local payroll. The employer withholds taxes and other duties on income at source, and the employees receive the net amount after the deductions. The income tax and the stamp tax should be declared by the employers filing the withholding tax return. *The tax tables applicable to individuals are provided in the Taxes on personal income section of Turkey's Individual tax summary at www.pwc.com/taxsummaries.*

The social security premiums and the unemployment premiums should be declared by the employers filing the social security premium declaration on a monthly basis.

Income tax, stamp tax, social security premiums, and unemployment premiums are the legal deductions from the salary.

Social security premiums

Social security premiums for both the employer and the employee total 34.5% of an employee's salary; 14% for the employee and 20.5% for the employer. In addition to social security payments, unemployment contribution is 3% of the salary, 1% for the employee and 2% for the employer.

The social security ceiling is determined as TRY 15,221.40 for the period 1 January 2018 through 31 December 2018.

Branch income

Branches are taxed solely on the income derived from activities in Turkey since they are regarded as non-resident entities for Turkish tax purposes. Branch profits are subject to Turkish CIT at the rate of 22%.

The branch profit transferred to headquarters (i.e. upstream income repatriation) is subject to dividend WHT at a rate of 15%, which might be reduced if there is a bilateral tax treaty between Turkey and the country of which the principal is a resident for income tax purposes. *See the Withholding taxes section for a list of countries with which Turkey has an applicable tax treaty.*

Income determination

Inventory valuation

The weighted average and first in first out (FIFO) methods are allowed for calculating the value of year-end stock or goods sold. Last in first out (LIFO) is not permitted. Stock-count deficits are recorded as disallowable expenses, whereas stock-count surpluses are treated as income at year-end for CIT purposes. Necessary VAT adjustments should also be made accordingly.

Capital gains

No separate rules exist with respect to capital gains taxation in Turkey. Capital gains and losses are included in the determination of taxable corporate income.

See Capital gains exemption in the Tax credits and incentives section for information about an incentive that can reduce the effective CIT rate on capital gains in certain instances.

Dividend income

In dividend distribution's between Turkish resident companies, the dividend payer is exempt from WHT and the recipient is exempt from CIT.

Interest income

In principle, all interest income is subject to tax. Interest income on bank deposits denominated in both Turkish lira and foreign currency is subject to WHT. Interest income is recorded at gross, and any WHT incurred on this income is offset against CIT calculated.

Royalty income

In principle, royalty income (e.g. on patents, copyrights, licence) derived by non-resident individuals or corporations not constituting a PE in Turkey is subject to WHT at the rate of 20%. However, the bilateral tax treaty between Turkey and the country of residence of the foreign company may reduce the local tax rate.

Foreign income

In principle, foreign-sourced income is taxable in Turkey. However, foreign-sourced dividend income may also be subject to a participation exemption if certain conditions are fulfilled. A participation exemption for capital gains generated from a foreign subsidiary may also be available in Turkey, under certain conditions.

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Other foreign-sourced income, such as royalties and interest, is fully taxable in Turkey. Partial relief from taxation is granted insofar as the foreign tax paid does not exceed the rate of tax payable for the same income in Turkey.

Although undistributed income of foreign subsidiaries should not be taxable in Turkey, controlled foreign company (CFC) rules should also be taken into consideration in this respect. *See Controlled foreign companies (CFCs) in the Group taxation section for more information.*

Deductions

Turkish CIT legislation allows a deduction for all the 'ordinary and necessary expenses paid or incurred for the generation and sustenance of income during the taxable year in carrying on any trade or business'.

The general principle for tax deductibility is that the payment should be a necessary business expense and it should be properly documented in accordance with the relevant provisions of the Turkish transfer pricing regulations and those in the local tax procedural law.

Depreciation and amortisation

Fixed assets are subject to depreciation at rates determined by the Turkish Ministry of Finance (MoF), based on their useful life.

Intangible assets (i.e. licence, franchise, copyright, etc.) and goodwill are depreciated over 15 years and five years, respectively. Additionally, leasehold improvement is depreciated based on lease period.

Depreciation can be calculated by applying either the straight-line or declining-balance method (limited to 50%), at the taxpayer's discretion. The taxpayer may also change the option from declining-balance to straight-line (but not vice versa) at any time during the life of the asset. The applicable rate for the declining-balance method is twice the rate of the straight-line method, subject to certain limitations. Furthermore, in special cases, the tax authorities may determine higher depreciation rates.

Intangible assets are amortised by the straight-line method over their estimated useful lives, if objectively determinable.

Profits or losses on disposal of fixed assets (i.e. the difference between the proceeds and the written-down values) are included in taxable income in the year of disposal. If the renewal of disposed-of assets is considered necessary by the owners of the business concern, the profit accrued may be retained for a certain amount of time. After the purchase of new fixed assets, the profits may be offset against the depreciation of the new assets.

Start-up expenses

Start-up expenses are considered as deductible expenses as incurred. Also, the taxpayer has the option to capitalise such expenses and to depreciate them over five years at equal amounts.

Interest expenses

Deemed-interest deduction on cash injection as capital

The Law No: 6637, which has been published in the Official Gazette dated 7 April 2015, introduced a concept of tax incentives where Turkish resident companies are allowed a deemed-interest deduction on cash injection as capital from the corporate tax base of the relevant year.

Turkish resident companies, except for those that operate in banking, finance, and insurance sectors, will be able to benefit from such incentive.

According to the incentive, the deductible interest amount is calculated as follows:

- The latest 'annual weighted average interest rate applied to loans provided by banks' that is announced by the Central Bank of Turkey (13.57% for 2016) will be applied to the capital increases paid in cash and cash part of initial capital for newly established entities.
- Only 50% of the calculated amount can be deducted from the CIT base.

In order to benefit from this deduction, the company should have taxable profit (i.e. the companies that have carryforward tax losses or current year tax losses are not able to benefit from this deduction).

The following capital increase alternatives are not included on the calculation or determination of the deduction amount:

- Capital increase made from capital in kind items (e.g. via real estate).
- Capital increase made during mergers, acquisitions, or spin-offs.
- Capital increase made from internal sources (e.g. legal reserves) that are booked under shareholders' equity.
- Capital increase made via borrowing from shareholders.

By the Decree of Council of Ministers (no: 2015/7910), the Council of Ministers has re-determined the deemed interest deduction rate for the following cases:

- Publicly traded companies (listed in Borsa Istanbul [BIST]): For the companies that are publicly traded in BIST at the last day of the year in which the 50% interest deduction is benefited, the rate would be increased by:
 - 25 points if the publicly traded rate of nominal/value or the amount of registered shares of the company is 50% or less (totally 75%).
 - 50 points if more than 50% of the nominal/registered shares of the company is traded in BIST (totally 100%).
- Capital increase for investments with investment incentives: In case the capital increase made in cash has been used for investments on manufacturing or industrial plants, purchase of machines or equipment required for such plants, or lands or states for building of such plants, the 50% rate has been increased by 25 points.
- Other companies: Any company that is not subject to 0% or falls under category (a) and (b) will benefit from a 50 points deduction.

The Decree reduced the rate to 0% for the capital increases made for the following cases:

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- The income of the company consists at least 25% of passive income (e.g. interest, dividends, rental income, license fees, capital gains obtained from sales of marketable securities).
- At least 50% of the total assets of the company consists of affiliate marketable securities, shares, and subsidiary companies.
- Invest capital or provide a loan to another company, which are limited only with the corresponding capital increase made in cash amount.
- Investment in real estate companies (limited only with the corresponding investment amount).

Bad debt

Bad and doubtful accounts receivable are deductible under certain conditions. Amounts of the receivables collected afterwards are added to the profits of the year in which they are collected.

Charitable contributions

Donations to listed charities and for construction of schools, hospitals, and scientific research organisations are deductible at up to 5% of the company's gross profit.

Pensions and employee termination benefits

Payments for pensions and employee termination benefits are deductible for CIT purposes under certain conditions.

Fines and penalties

In principle, fines and penalties incurred due to the wrong-doings of the taxpayer or its employees are not tax deductible.

Taxes

Essentially, the CIT itself and VAT are, subject to certain exceptions, not deductible for CIT purposes.

Fees and duties paid in relation to assets of the company are, in principle, deductible in determining taxable corporate income.

Net operating losses

Corporate losses may be carried forward for five years. Losses cannot be carried back.

Payments to foreign affiliates

Charges for royalties and interest by foreign affiliates may be deductible for CIT purposes, provided that transfer pricing and thin capitalisation rules are followed (see *the Group taxation section for more information*).

Group taxation

Consolidation of the accounts of group companies for tax purposes is not allowed in Turkey since each company is regarded as a separate taxpayer.

Transfer pricing

The Corporate Tax Law (CTL) includes transfer pricing regulations, using the OECD's guidelines as a basis. If a taxpayer enters into transactions regarding the sale or

purchase of goods and services with related parties in which prices are not set in accordance with the arm's-length principle, the related profits are considered to have been distributed in a disguised manner through transfer pricing. Such disguised profit distribution through transfer pricing is not accepted as deductible for CIT purposes. The methods prescribed in the law are the traditional transaction methods described in the OECD's transfer pricing guidelines.

Thin capitalisation

According to local thin capitalisation regulation, if the ratio of the borrowings from shareholders or from persons related to the shareholders exceeds triple the shareholders' equity of the borrower company at any time within the relevant year, the exceeding portion of the borrowing will be considered thin capital and the corresponding interest will not be deductible. Accordingly, the ratio of loans received from related parties to shareholders' equity must be no more than 3:1 in order to eliminate Turkish thin capitalisation issues.

Controlled foreign companies (CFCs)

A CFC is a company established abroad with at least 50% of the organisation controlled directly or indirectly by tax-resident companies and real persons by means of separate or joint participation in the capital, dividends, or voting rights. A CFC also must meet certain conditions (e.g. 25% or more of its gross revenue must be comprised of passive income, it must be subject to an effective income tax rate lower than 10% for its commercial profit in its home country, gross revenue of the subsidiary established abroad must be more than the foreign currency equivalent of TRY 100,000 for the related fiscal year).

The CFC's profit is included in the CIT base of the controlling resident corporation at the rate of the shares controlled, irrespective of whether it is distributed.

Tax credits and incentives

Foreign tax credit

A partial relief from income taxation is granted for the foreign tax paid that does not exceed the rate of tax payable for the same income in Turkey.

Participation exemption for dividends

There is an unconditional CIT and dividend WHT exemption for dividend income between Turkish companies. If a Turkish company has a shareholding in a foreign company, this dividend income is exempt from CIT, under certain conditions.

Exemption for income from foreign construction and repair activities

The profit from construction and repair activities carried out by Turkish corporations in foreign countries may be exempt from CIT in Turkey under the Turkish CTL. It should be noted that if loss occurs from these activities, it is not possible to deduct this loss amount from the income generated through domestic activities since deduction of a loss relating to foreign activities that are exempt from CIT in Turkey is not allowed for deduction.

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Capital gains exemption

For capital gains generated from the sale of shares in a company, a 75% CIT exemption is applicable under certain conditions. This partial exemption may also be applicable for the capital gains derived from the alienation of real estate investments, under certain conditions.

In the event a foreign subsidiary is sold by a Turkish company, a CIT exemption at the rate of 100% is applicable under certain conditions.

Investment incentives

The investment incentive system comprises the following elements.

Priority Investment Projects

Based on the investment incentive system, certain investment projects (e.g. testing centres; R&D projects; pharmaceutical, tourism, cultural, education, and railway investments) are deemed as 'Priority Investment Projects'.

General incentive practices

Excluding the subjects of investments that do not meet the requirements, all investments above the minimum fixed investment amount will benefit from incentive elements, regardless of regional location.

Regional incentive practices

The industries categorised by region in the relevant Decree will benefit from incentive elements under the conditions determined for each relevant region.

Large-scale investments

Incentives are granted to all large-scale investments, although incentive size will vary depending on the investment's regional location.

Strategic investments

The related legislation defines strategic investments as well as different incentive ratios and periods for strategic investments. A new committee to be established will decide which investments are strategic within the scope of the defined criteria.

Based on the related legislation, investments in production of products that are highly dependent on imports and meet all the following criteria will be regarded as strategic investments:

- Minimum fixed investment amount should be more than TRY 50 million.
- Total domestic production capacity for a given product that is the matter of investment should be below the import amount.
- Added value to be generated with the investment should be at least 40%.
- The total import amount realised related to the invested product within the prior year should be more than 50 million United States dollars (USD).

There are six main components of the investment regulation:

- Reduced CIT rate.
- VAT exemption.
- Exemption for social security premiums (employer's portion).

- Customs duty exemption.
- Interest support.
- Allocation of land for investments.

A new investment incentive model supports investments on a project basis. The supportable investments and incentive items will be decided by the Council of Ministers.

Minimum investment amount should be USD 100 million.

The incentive items are as follows:

- Reduction of CIT rate up to 100%.
- Investment contribution rates up to 200%.
- Employee income tax withholding incentive.
- Customs tax exemption.
- Social security premium employer share support for ten years.
- Provision of free treasury land for 49 years.
- During the operating period, 50% of the energy consumption expenditure for the investment should be met up to ten years.
- Up to ten years interest support for investment loans.
- For qualified personnel of special importance, minimum wage support up to 20 times wage support for five years.
- Capital support up to 49%.
- Guarantee of purchase for the goods produced through the investment supported.

Free trade zones

Free trade zones are special sites that lie geographically within the country but are deemed to be outside the customs territory. In these regions, the normal regulations related to foreign trade and other financial and economic areas are either inapplicable, partly applicable, or superseded by new regulations.

In general, activities such as manufacturing, storage, packing, general trading, banking, insurance, and trade may be performed in Turkish free trade zones. Goods moving between Turkey and the zones are treated, for all purposes, as exports or imports. However, operations within the zones are subject to the supervision of the zone management (and customs authorities), to whom regular activity reports must be submitted. Consequently, there is a requirement for zone users to maintain full accounting records (in Turkish) with respect to their activities. These accounting requirements extend to inventory records. Customs duty is levied on any unexplained inventory losses as though the goods had been imported into the country.

The right to operate in a free trade zone is conferred by an operating licence obtained from the Ministry of Economy, which reviews the application for conformity with the objectives and types of activity specified by the Economic Affairs Coordination Council.

Portfolio investment income

Under the WHT regime introduced on 1 January 2006, certain portfolio investment income (e.g. capital gains derived from listed equities acquired after 1 January 2006 or capital gains or interest from Turkish local government bonds issued after 1 January 2006) derived by eligible entities are subject to 0% WHT. However, the WHT rate is 10% for other resident and non-resident entities. In the case of repo income, 15% WHT

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should be applied for all non-resident investors (the provisions of double tax treaties [DTTs] are reserved).

Furthermore, 0% WHT is applicable for all type of investors with respect to capital gains derived from listed equities on the Istanbul Stock Exchange (ISE) purchased after 1 January 2006 (excluding securities investment trust shares), income derived from transactions on equity index futures carried out under Turkdex, warrants with underlying of equities traded on ISE, and participation shares of investment funds that intensively invest in listed shares (equity intensive funds).

Under the *Communiqué* No: 277 of Income Tax Law, the following qualify for the eligibility criteria for 0% WHT:

- Turkish resident capital corporations (limited liability companies, joint stock companies, and commandite companies whose capital is divided into shares).
- Non-resident corporations that have the same characteristics as Turkish capital corporations.
- Turkish investment funds (regulated in accordance with the Capital Markets Board).
- Non-resident investment funds similar to Turkish investment funds.
- Those non-residents similar to Turkish investment funds and trusts that engage in investment in securities and other capital markets instruments as their only business in Turkey to derive income and capital gains from these instruments and to exert the rights attached to these instruments.

Under the aforementioned *Communiqué*, the investor should be an institutional portfolio investor. However, what is meant by ‘institutional’ is not crystal clear. It seems to us that the intention of the MoF is to treat all non-resident portfolio investors (other than the individuals) as institutional portfolio investors. The *Communiqué* does not have a principle based approach; rather, it enlists a number of ‘institutional investor’ examples, such as limited liability partnerships (LLPs), sovereign funds, investment funds, investment institutions, and investment companies.

In terms of interest income from deposits, the WHT rates on interest income from bank deposits (excluding interbank deposits and money market operations of intermediaries) differ depending on the currency (Turkish lira or the foreign exchange) and maturity, which are as follows:

- Interest income derived from foreign exchange deposit:
 - In current call accounts and deposit accounts with maturity of less than six months (including six months): 18%.
 - In deposit accounts with maturity of less than one year (including one year): 15%.
 - In accounts with maturity of more than one year: 13%.
- Interest income derived from a Turkish lira deposit:
 - In current call accounts and deposit accounts with maturity of less than six months (including six months): 15%.
 - In deposit accounts with maturity of less than one year (including one year): 12%.
 - In accounts with maturity of more than one year: 10%.

The withholding will be applied by local intermediary banks, brokerage houses, or local custodian banks, instead of the conventional self-declaration mechanism, and

this withholding will be the final taxation in Turkey for both non-residents and Turkish individuals.

On the other hand, certain portfolio investment income (e.g. capital gains from unlisted shares) is taxed under permanent tax rules. In some cases, a non-resident fund may need to file a tax return within 15 days following the sale of securities and subject to a 32% effective tax rate. However, DTTs may provide relief except in special cases. Certain income, such as interest and dividends, are usually taxed via the WHT regime, so no filing is required for a non-resident investor.

Moreover, Turkish corporate bonds that are issued after 1 January 2006 and sold outside of Turkey are not taxed under the WHT regime, and rather taxed as per permanent tax rules. The WHT rates on interest income from such corporate bonds issued by all type of resident corporations (including Turkish banks and corporations) vary depending on the maturities of the bonds and are regressive. The WHT rates are as follows (please note that DTT provisions are reserved):

- 10% if the maturity is under one year.
- 7% if the maturity is between one and three years (including one year).
- 3% if the maturity is between three and five years (including three years).
- 0% if the maturity is five or more than five years (including five years).

The interest income derived from bonds that are issued by the Turkish Treasury outside of Turkey (i.e. Eurobonds) is subject to a 0% WHT. Capital gains derived by non-residents from Turkish Eurobonds issued by the Treasury are exempt from capital gains taxation.

The responsibility to apply this WHT belongs only to the issuer of the corporate bond, regardless of the fact that a payment agent exists or not, and the WHT liability of the issuer is not disregarded even if the payment agents make any withholding.

Research and development (R&D) activities

In the last decade, the Turkish Parliament has enacted several regulations to provide incentives for R&D activities in Turkey. Tax incentives and support mechanisms that are provided to companies carrying out R&D and innovation activities in Turkey are as follows:

- R&D legislation:
 - Law No. 5746 on Support of R&D Activities.
 - Law No. 4691 on Technology Development Zones.
- Institutions providing cash supports on project basis:
 - Scientific and Technological Research Council of Turkey (TÜBİTAK).
 - Turkish Technology Development Foundation (TTGV).
 - Ministry of Science, Industry, and Technology.
 - Small and Medium Industry Development Organization (KOSGEB).
 - Development Agency.
 - European Commission.

Law No. 5746 on Support of R&D and Design Activities

R&D deduction (100%)

All eligible innovation and R&D or design expenditures made in technology centres, R&D centres (which must employ at least 15* full-time equivalent R&D personnel),

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design centres (which must employ at least 10 full-time equivalent design personnel), R&D and innovation or design projects supported by governmental institutions, foundations established by law, or international funds can be deducted from the CIT base at a rate of 100%.

In addition, in the event of providing an increase of at least 20% in any of the following indicators in R&D or design centres compared to the previous year, then 50% of the increase in the amount of R&D, innovation, or design expenses compared to the previous year will also be taken into consideration as an extra deduction in the calculation of the CIT base:

- R&D or design expenditures share in total turnover.
- The registered number of national or international patents.
- The number of internationally funded projects.
- The ratio of researchers holding graduate degrees to total R&D personnel.
- The ratio of the number of total researchers to total R&D personnel.
- The ratio of new products (output of successful R&D projects) turnover to total turnover.

* With the Council of Ministers' decision, the minimum number of full-time equivalent R&D personnel that should be employed in R&D centres is reduced to 15 according to Law No. 5746 on Supporting Research, Development and Design Activities. However, the aforementioned number will continue to be considered as 30 for sectors (29.10.01, 29.10.02, 29.10.03, 29.10.04, and 29.10.07 classes and 30.30, 30.40, and 30.99 classes under the C - Manufacturing section) according to the Statistical Classification on Economic Activities for European Community (NACE Rev. 2).

Income tax exemption (95%, 90%, or 80%)

The salaries of R&D, design, and support personnel, at a rate of 95% for the personnel with a PhD degree or master's degree on basic sciences, 90% for the personnel with a master's degree or undergraduate degree on basic sciences, and 80% for others, is exempt from income tax.

Social security premium support (50%)

Half of the employer portion of social security premiums for R&D, design, and support personnel (maximum of 10% of the number of full-time R&D and design personnel) will be funded by the MoF for each R&D and support personnel.

Stamp tax exemption

The documents prepared for the R&D and design activities, including the payrolls of R&D, design, and support personnel, are exempt from stamp tax.

Customs duty exemption

Goods imported for the usage of studies in R&D, innovation, and design projects are exempt from customs duties. Additionally, any funds, held papers, and applied transactions are exempt from stamp tax and fees.

Additional support for personnel graduated from basic sciences

The minimum gross wage portion of monthly salaries of each R&D personnel that have at least a bachelor's degree in basic sciences (mathematics, physics, chemistry, or biology) employed in R&D centres will be financed from the budget of the Ministry

of Science, Industry, and Technology for two years, under the specific circumstances stated in the R&D legislation.

Law No. 4691 on Technology Development Zones

CIT exemption

The profits derived from the software activities or products developed as a result of the R&D activities in technoparks are exempt from CIT.

Income tax exemption (100%)

The salaries of R&D and support personnel carrying out R&D and software development activities in technoparks are exempt from income tax until 31 December 2023. The salary for the activities other than software development and R&D activities cannot benefit from income tax exemption.

Social security premium support (50%)

Half of the employer portion of social security premiums for R&D and support personnel (maximum of 10% of the number of full-time R&D personnel) will be funded by the MoF for each R&D and support personnel.

Stamp tax exemption (only on payrolls)

The payrolls prepared for the R&D activities are exempt from stamp duty.

VAT exemption

Deliveries of software and services (system management, data management, business applications, Internet, mobile and sector applications, military command control applications) arising from software development activities by the companies operating in the technoparks are exempt from VAT until 12 December 2023.

Customs duty exemption

Goods imported for the usage of studies in R&D, innovation, and design projects are exempt from customs duties. Additionally, any funds, held papers, and applied transactions are exempt from stamp tax and fees.

Withholding taxes

There is no WHT on payments to resident corporations by other resident corporations, except for a 3% WHT on progress payments to contractors, both domestic and foreign, within the scope of construction work spanning more than one calendar year.

The local WHT rates are as follows:

Income derived by non-resident individuals or corporations not constituting a PE in Turkey	WHT (%)
Rental from immovable assets	20
Leasing of machinery and equipment within the scope of the investment incentive certificates document to taxpayers holding an IIC (within the scope of the conditions regulated under Turkish Financial Leasing Law No. 3226)	1
Royalties (e.g. on patents, copyrights, licence)	20
Professional services	20
Petroleum services	5

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Income derived by non-resident individuals or corporations not constituting a PE in Turkey	WHT (%)
Wages & salaries (progressive rates are applied for employees' income taxes)	15 to 35
Interest on loan arrangements:	
Interest payments made to foreign banks and corporations that are authorised in their own jurisdictions and customarily lend not only to related parties but also to third parties	0
Interest payments made in relation to securitisation loans and subordinated loans	1
Other loans	10
Interest on time deposits ***	10 to 18
Reverse-repo income derived from bonds	15
Income derived by resident eligible entities *	WHT (%)
Capital gains on Treasury bills and domestic government bonds issued after 1 January 2006	0
Interest income on Treasury bills and domestic government bonds issued after 1 January 2006	0
Capital gains from listed equities purchased after 1 January 2006	0
Income derived by other entities and individuals	WHT (%)
Capital gains on Treasury bills and domestic government bonds issued after 1 January 2006	10
Interest income on Treasury bills and domestic government bonds issued after 1 January 2006	10
Income derived by non-resident individuals or corporations not constituting a PE in Turkey	WHT (%)
Capital gains from listed equities purchased after 1 January 2006 (excluding capital gains from securities investment trust shares)	0
Capital gains from equities of securities investment trusts purchased after 1 January 2006	10
Participation shares of Turkish investment funds	WHT (%)
Eligible entities * (both residents and non-residents)	0
Other entities and individuals ** (both residents and non-residents)	10

* See *Portfolio investment income in the Tax credits and incentives section*.

** Income derived from the redemption of participation certificates that continuously invest at least 51% of their assets in equities that are registered on the ISE are not subject to WHT if they are held for at least one year.

Income derived from participation shares of investment funds that intensively invest in listed shares (equity intensive funds) are subject to 0% WHT.

*** WHT on interest income derived from time deposits depends on the currency (i.e. Turkish lira or foreign currency deposits) and the maturity (see *Portfolio investment income in the Tax credits and incentives section*).

Please refer to the following tables for local WHT on dividends, interest, and royalties, respectively.

Turkish WHT on dividends

Dividend distributions to individuals and to non-resident persons who are shareholders are subject to WHT at a local rate of 15%. This rate might be reduced for non-resident shareholders in the presence of a tax treaty. Please note that dividend distributions to resident entities and branches of non-resident entities are not subject to WHT.

Recipient	Shareholding interest	WHT rate (%)
Non-treaty		15
Treaty:		
Albania	If greater than or equal to 25%	5
	In all other cases	15
Algeria		12
Austria	If greater than or equal to 25%	5 (2)
	In all other cases	15 (2)
Australia	(11)	5/10 (11)
	In all other cases	15
Azerbaijan		12
Bahrain	If greater than or equal to 25%	10
	In all other cases	15
Bangladesh		10
Belarus	If greater than or equal to 25%	10
	In all other cases	15
Belgium	If greater than or equal to 10%	15 (2)
	In all other cases	20 (1, 2)
Bosnia Herzegovina	If greater than or equal to 25%	5
	In all other cases	15
Brazil	If greater than or equal to 25%	10
	In all other cases	15
Bulgaria	If greater than or equal to 25%	10
	In all other cases	15
Canada	If greater than or equal to 10%	15
	In all other cases	20 (1)
China (People's Republic of)		10
Croatia		10
Czech Republic		10
Denmark	If greater than or equal to 25%	15
	In all other cases	20 (1)
Egypt	If greater than or equal to 25%	5
	In all other cases	15
Estonia		10
Ethiopia		10
Finland	If greater than or equal to 25%	5
	In all other cases	15 (1)
France	If greater than or equal to 10%	15
	In all other cases	20 (1)
Georgia		10
Germany	If greater than or equal to 25%	5
	In all other cases	15
Greece		15
Hungary	If greater than or equal to 25%	10
	In all other cases	15
India		15
Indonesia	If greater than or equal to 25%	10
	In all other cases	15
Iran	If greater than or equal to 25%	15
	In all other cases	20 (1)

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Recipient	Shareholding interest	WHT rate (%)
Ireland	If greater than or equal to 25%	5/10 (2, 7)
	In all other cases	15 (2)
Israel		10
Italy		15
Japan	If greater than or equal to 25%	10 (4)
	In all other cases	15
Jordan	If greater than or equal to 25%	10
	In all other cases	15
Kazakhstan		10
Korea, Republic of	If greater than or equal to 25%	15
	In all other cases	20 (1)
Kosovo	If greater than or equal to 25%	5
	In all other cases	15
Kuwait		10
Kyrgyzstan		10
Latvia		10
Lebanon	If greater than or equal to 15%	10
	In all other cases	15
Lithuania		10
Luxembourg	If greater than or equal to 25%	10
	In all other cases	20 (1)
Macedonia	If greater than or equal to 25%	5
	In all other cases	10
Malaysia	If greater than or equal to 25%	10
	In all other cases	15
Malta	If greater than or equal to 25%	10
	In all other cases	15
Mexico	If greater than or equal to 25%	5
	In all other cases	15
Moldova	If greater than or equal to 25%	10
	In all other cases	15
Mongolia		10
Morocco	If greater than or equal to 25%	7
	In all other cases	10
Netherlands, The	If greater than or equal to 25%	15 (2)
	In all other cases	20 (1, 2)
New Zealand	If greater than or equal to 25%	5 (9)
	In all other cases	15
Northern Cyprus, Turkish Republic of	If greater than or equal to 25%	15
	In all other cases	20 (1)
Norway	If greater than or equal to 20%	5
	In all other cases	15 (8)
Oman	If greater than or equal to 15%	10
	In all other cases	15
Pakistan	If greater than or equal to 25%	10
	In all other cases	15
Philippines	If greater than or equal to 25%	10
	In all other cases	15
Poland	If greater than or equal to 25%	10
	In all other cases	15

Recipient	Shareholding interest	WHT rate (%)
Portugal	If greater than or equal to 25%	5
	In all other cases	15
Qatar	If greater than or equal to 25%	10
	In all other cases	15
Romania		15
Russia		10
Saudi Arabia	If greater than or equal to 20%	5 (6)
	In all other cases	10
Serbia-Montenegro	If greater than or equal to 25%	5
	In all other cases	15
Singapore	If greater than or equal to 25%	10
	In all other cases	15
Slovakia	If greater than or equal to 25%	5
	In all other cases	10
Slovenia		10
South Africa	If greater than or equal to 25%	10
	In all other cases	15
Spain	If greater than or equal to 25%	5 (5)
	In all other cases	15
Sudan		10
Sweden	If greater than or equal to 25%	15
	In all other cases	20 (1)
Switzerland	If greater than or equal to 20%	5
	In all other cases	15 (11)
Syria		10
Tajikistan		10
Thailand	If greater than or equal to 25%	10
	In all other cases	15
Tunisia	If greater than or equal to 25%	12
	In all other cases	15
Turkmenistan		10
Ukraine	If greater than or equal to 25%	10
	In all other cases	15
United Arab Emirates	If greater than or equal to 25%	10 (3)
	In all other cases	12
United Kingdom	If greater than or equal to 25%	15
	In all other cases	20 (1)
United States	If greater than or equal to 10%	15
	In all other cases	20 (1)
Uzbekistan		10
Vietnam	If greater than or equal to 50% (12)	5
	If between 25% and 50%	10
	In all other cases	15
Yemen		10

Notes

1. The local rate is 15% for dividends. Unless a lower rate is stated in the Agreement, the local rate is applied.
2. As per the provisions of the protocol amending the agreement, the rate may be (partially or wholly) reduced;

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- For the Netherlands: to 10%, as long as, under the provisions of the Netherlands Company Tax Act and to the future amendments thereto, a company that is a resident of the Netherlands is not charged tax with respect to dividends the company receives from a company that is a resident of Turkey.
 - For Belgium: to 10%, as long as, under the provisions of the Belgian laws and of the future amendments thereto, a company that is a resident of Belgium is not charged tax with respect to dividends the company receives from a company that is a resident of Turkey.
 - For Austria: to 5%, if the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends, provided that such dividends are exempt from tax in Austria.
 - For Ireland: to 5%, where the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the voting power of the company paying the dividends. 15% in all other cases.
3. Subject to 5% of the gross amount of the dividends if the recipient is the government, or a public institution that is wholly owned by the government or its political subdivisions, or local authorities of the United Arab Emirates.
 4. The tax rate shall be 15% where the amount of the Turkish tax imposed on the income of the company paying dividends is less than 40% of such income derived in the accounting period ending immediately before the date when such dividends become payable.
 5. The income should be subject to full corporate taxation in the hands of the Turkish tax-resident subsidiary.
 6. If the beneficial owner of the dividends is a resident of Saudi Arabia, the tax so charged shall not exceed 5% of the gross amount of the dividends provided: (i) the beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the Turkish company paying the dividends or (ii) the beneficial owner is a central bank or an entity that is wholly owned by the government.
 7. In case of Turkey, the tax rate shall not exceed 5%, to the extent that they are paid out of profits that have been subject to full rate of CIT in Turkey (i.e. without benefiting from tax exemption).
 8. The rate of the income tax shall not exceed 5% if it is derived by the Government Pension Fund (*Statens Pensjonsfond*) or by the Government Social Security Fund (*Sosyal Guvenlik Fonu*), provided that such dividends are exempt from tax in the contracting state where the beneficial owner is a resident.
 9. The treaty-reduced rate of 5% shall apply if such dividends are exempt from tax in the contracting state of which the beneficial owner is a resident.
 10. As per the provisions of the agreement, the rate may be reduced to 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) that directly holds at least 20% of the capital of the company paying the dividends, provided that a relief from Swiss tax is granted for such dividends by way of an abatement of the profits tax in proportion corresponding to the ratio between the earnings from participations and the total profits or by way of an equivalent relief.
 11. As per the provisions of the agreement, 5% of the gross amount of dividends that are subject to Turkish Corporate Income Tax at the full rate if the Australian company (other than a partnership) holds at least 25% of the capital of the Turkish company. Regardless of these, if the dividends are taxed in Australia, Turkey could tax the dividends at a rate not exceeding 15%.
 12. The WHT shall be lowered to 5% if the beneficial owner is a company (other than a partnership) that directly holds at least 50% of the capital of the company paying the dividends or has invested more than USD 10 million, or the equivalent in Turkish or Vietnamese currency, in the capital of the company paying the dividends.

Turkish WHT on interest and royalties

Recipient	WHT (%)	
	Interest	Royalties
Non-treaty	10 to 18	20
Treaty:		
Albania	10	10
Algeria	10	10
Austria	5/10/15 (1, 14)	10
Australia	10	10
Azerbaijan	10	10
Bahrain	10	10
Bangladesh	10	10
Belarus	10	10
Belgium	15 (1)	10
Bosnia Herzegovina	10	10
Brazil	15 (1)	10/15 (22)

Recipient	WHT (%)	
	Interest	Royalties
Bulgaria	10	10
Canada	15 (1, 18)	10
China (People's Republic of)	10	10
Croatia	10	10
Czech Republic	10	10
Denmark	15 (1)	10
Egypt	10	10
Estonia	10	5/10 (12)
Ethiopia	10	10
Finland	5/10/15 (23)	10
France	15 (1)	10
Georgia	10	10
Germany	10 (1)	10
Greece	12 (1)	10
Hungary	10	10
India	10/15 (1, 6)	15
Indonesia	10	10
Iran	10	10
Ireland	10/15 (1, 16)	10
Israel	10	10
Italy	15 (1)	10
Japan	10/15 (1, 5)	10
Jordan	10	12
Kazakhstan	10	10
Korea, Republic of	10/15 (1, 3)	10
Kosovo	10 (25)	10
Kuwait	10	10
Kyrgyzstan	10	10
Latvia	10	5/10 (12)
Lebanon	10	10
Lithuania	10	5/10 (12)
Luxembourg	10/15 (1, 4)	10
Macedonia	10	10
Malaysia	15 (1)	10
Malta	10	10
Mexico	15 (24)	10
Moldova	10	10
Mongolia	10	10
Morocco	10	10
Netherlands, The	10/15 (1, 4)	10
New Zealand	10/15 (1, 20)	10
Northern Cyprus, Turkish Republic of	10	10
Norway	5/10/15 (1, 19)	10
Oman	10 (17)	10
Pakistan	10	10
Philippines	10	10/15 (26)
Poland	10	10
Portugal	10/15 (1, 4)	10
Qatar	10	10

Recipient	WHT (%)	
	Interest	Royalties
Romania	10	10
Russia	10	10
Saudi Arabia	10 (15)	10
Serbia-Montenegro	10	10
Singapore	7.5/10 (8)	10
Slovakia	10	10
Slovenia	10	10
South Africa	10	10
Spain	10/15 (1, 9)	10
Sudan	10	10
Sweden	15 (1)	10
Switzerland	5/10 (21)	10
Syria	10	10/15 (13)
Tajikistan	10	10
Thailand	10/15 (1, 10)	15
Tunisia	10	10
Turkmenistan	10	10
Ukraine	10	10
United Arab Emirates	10	10
United Kingdom	15 (1)	10
United States	10/15 (1, 7)	5/10 (11)
Uzbekistan	10	10
Vietnam	10 (2)	10
Yemen	10 (17)	10

Notes

- The local rate of 10% will be applied in the event a higher rate is stipulated in the agreement.
- For the interest income derived by the government of Turkey or to the Central Bank of Turkey, no WHT will be applied.
- A rate of 10% if the loan or other debt claim is for a period exceeding two years; 15% in all other cases.
- A rate of 10% if the loan is taken for a period exceeding two years; 15% in all other cases.
- A rate of 10% if the loan/credit is taken from a financial institution; 15% in all other cases.
- A rate of 10% if the loan is taken from a bank or a financial institution; 15% in all other cases.
- A rate of 10% if the credit/loan is taken from a bank, financial or savings institution, insurance company; 15% in all other cases.
- A rate of 7.5% if the loan is taken from a financial institution; 10% in all other cases.
- A rate of 10% if the interest is the result of a loan provided/given by a bank or if the interest is paid in return for an article of merchandise, or equipment given to the contracting state on credit; 15% in all other cases.
- A rate of 10% if the loan is taken from a financial institution, including insurance companies; 15% in all other cases.
- A rate of 10% for the use of, the right to use, or the sale (contingent on the productivity, use, or disposition) of any copyright of literary, artistic, or scientific work, including royalties in respect of motion pictures and works on film, tape, or other means of reproduction for use in connection with radio or television broadcasting, any patent, trademark, design or model, plan, secret formula, or process, or for information concerning industrial, commercial, or scientific experience; 5% for the use of or the right to use industrial, commercial, or scientific equipment.
- A rate of 5% for the use of industrial, commercial, or scientific equipment; 10% in all other cases.
- A rate of 15% for patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific experience; 10% for the use of or the right to use any copyright of literary, artistic, or scientific work including cinematographic films and recordings for radio and television.
- A rate of 5% in respect of a loan or credit made, guaranteed, or insured for the purposes of promoting export by the *Oesterreichische Kontrollbank AG* or a similar Turkish public entity the objective of which is to promote the export; 10% if the interest is derived by a bank; 15% in all other cases.

15. If the beneficial owner of the 'income from debt claims' is a resident of Saudi Arabia, the tax so charged shall not exceed 10% of the gross amount of income.
16. A rate of 10% in respect of a loan or other debt claim for a period exceeding two years or if the interest is received by a financial institution; 15% in all other cases.
17. Interest arising in one of the contracting states and paid to the government of Turkey or the Central Bank of Turkey shall be exempt from income taxes in the contracting state. Similarly, interest arising in the Republic of Turkey and paid to the government or the Central Bank of the other contracting state shall be exempt from income taxes in Turkey.
18. Interest arising in Turkey and paid to the government of Canada or to the Bank of Canada shall be exempt from Turkish tax. Similarly, interest arising in Canada and paid to the government of Turkey or to the Central Bank of Turkey (*Türkiye Cumhuriyet Merkez Bankası*) shall be exempt from Canadian Tax.
19. The rate of the income tax shall not exceed (i) 10% if the interest is paid to a bank (also note that in the case of Turkey, a lower rate of 0% may apply for eligible financial institutions' and banks' loans under the domestic regulation) or (ii) 5% if the interest is paid to the Norwegian Government Pension Fund (*Statens Pensjonsfond*), the Norwegian Guarantee Institute for Export Credits (*Garantiinstituttet for Eksportkreditt*), the Turkish Social Security Fund (*Sosyal Güvenlik Fonu*) and the Eximbank of Turkey (*Türkiye İhracat Kredi Bankası*); 15% in all other cases.
20. The rate of the income tax shall not exceed 10% if the interest is paid to a bank (also note that in the case of Turkey, under the domestic regulation, a lower rate of 0% may apply for the loans provided by eligible financial institutions and banks); 15% in all other cases. The interest shall be exempt from income taxes in the contracting state where it arises, if the payment is made to the government of Turkey, to the Central Bank of Turkey (*Türkiye Cumhuriyeti Merkez Bankası*), to the government of New Zealand, or to the Reserve Bank of New Zealand.
21. A rate of 5% of the gross amount of the interest paid in respect of a loan or credit made, guaranteed, or insured for the purposes of promoting export by an Eximbank or similar institution, the objective of which is to promote the export; 10% if the interest is derived by a bank; 10% in all other cases.
22. A rate of 15% from the use of, or the right to use, trademarks; 10% in all other cases.
23. A rate of 5% in respect of loans or credits that are guaranteed, insured, and provided for the purposes of promoting export by the Finnish Export Credit or FINNVERA and the Turkish public institutions the objective of which is to promote exports; 10% if the interest is derived by a bank; 15% in all other cases.
24. A rate of 10% if the payment is made to a bank; no taxation arises if the payment is made to the Central Bank of Mexico; no taxation arises if the payment is made to Banco Nacional de Comercio Exterior, S.N.C., Nacional Financiera, S.N.C., or Banco Nacional de Obras y Servicios Públicos S.N.C where the maturity of loan is more than three years; 15% in all other cases.
25. For the interest income derived by governments or central banks of the contracting states, no WHT applies.
26. The 15% rate applies to royalties paid for the use of, or the right to use, cinematographic films and films or tapes for radio or television broadcasting.

Anti-tax haven provisions

According to the law, all sorts of payments made to corporations (including branches of resident corporations) that are established or operational in countries that are regarded by the Turkish Council of Ministers to undermine fair tax competition (through taxation or other practices) may be subject to taxation in Turkey through withholding at a rate of 30%.

In the meantime, the Turkish Council of Ministers has not yet determined which countries receiving payments are considered 'tax havens'.

Tax administration

All Turkish taxes are imposed under laws drafted by or with the involvement of the Turkish MoF and are promulgated by the Turkish Parliament. The central government, acting through the MoF, imposes most of them, although local authorities have certain rights over some minor transaction charges. Tax procedures are governed by the Turkish tax procedural law.

Taxable period

The taxable period is the calendar year. Note that a different fiscal year is also allowed.

Turkey

Tax returns

A self-assessment system is used in Turkey.

In principle, residents and non-resident entities having a PE in Turkey are obligated to be registered for all taxes in Turkey (e.g. CIT, VAT, WHT, stamp tax) and file annual CIT returns.

The last date of submission of the CIT return is the 25th day of the fourth month following the fiscal year-end. This date will be 25 April if CIT returns are filed on a calendar-year basis.

Payment of tax

Taxable income is declared on a quarterly-basis as advance tax on the 14th day of the second month following each quarter, and corresponding tax is payable on the 17th day of the same period. Advance CIT paid is offset against the final (i.e. fiscal year-end) CIT calculated in the annual CIT return.

The last date of payment of CIT is the 30th day of the fourth month following the fiscal year-end.

Tax audit process

The tax authorities in Turkey do not have a regular audit cycle for every taxpayer. Tax audits are usually performed based on selection through risk assessment software, where they can conduct either sector-specific or issue-specific audits.

Statute of limitations

The Turkish tax system is based on self-assessment, and there is no procedure to agree the filed tax returns with the tax authorities that can prevent further inspections. Tax returns filed by companies remain open to tax inspection until the end of the five-year statute of limitations according to the provisions of Turkish Tax Procedural Law.

Topics of focus for tax authority

The tax authority has recently inspected companies for the following topics:

- Transfer pricing.
- Capital decrease.
- Loss compensation fund.
- Partial spin-off.
- Thin capitalisation.

Corporate income tax certification

In Turkey, a special kind of tax control mechanism is established called 'corporate income tax certification'. Under this mechanism, the tax authority accepts accounts and tax returns of taxpayers whose accounts are audited and certified by Sworn Fiscal Advisors (SFAs) to be true and correct unless proved to be incorrect. On the other hand, the MoF has announced that those companies that do not have their tax returns certified as such will be on the priority list for tax inspection. The Ministry sets standards of work to be done for any taxpayer wanting to use an SFA. At the end of each year, SFAs have to prepare a comprehensive report to be submitted to the MoF and to certify the accuracy of the CIT return.

The work is carried out over the statutory financials that are subject to tax calculations. Note that this service is not of a 'statutory audit' nature, technically it is 'non-audit assurance' work.

The tax certification process helps to identify and take corrective measures against erroneous applications that may otherwise be detected only upon a tax investigation by the Turkish MoF.

Other issues

Intergovernmental agreements (IGAs)

Following the negotiations between Turkey and the United States, Turkey has been included on the list of jurisdictions that have reached agreement in substance as of 3 June 2014, and Turkey was regarded among the countries that will sign the Model 1 IGA. On and after 3 June 2014, Turkey and the United States had further negotiations and infrastructure tests, which were finalised by the beginning of July 2015, and the agreement was signed on 29 June 2015.

The IGA entered into force by the Council of Ministers Decision No. 9229 dated 19 September 2016, which is published in the Official Gazette dated 5 October 2016, and numbered 29848.

Tax authorities are currently working on finalising the Draft Secondary Legislation. Turkish financial institutions are waiting for the secondary legislation to be finalised and come into force and eligible to be fully Foreign Account Tax Compliance Act (FATCA) compliant. As of November 2017, Draft Secondary Legislation is still not published.

Turkey, as a member of G-20 and OECD, has officially stated that it will be in compliance with the OECD's Common Reporting Standards (CRS). As of 20 May 2017, the agreement has been published in the Official Gazette and has entered into force. Simultaneously, the tax authorities shared a draft version of the CRS Secondary Legislation with Turkish banks to request their comments, which has been published as of 30 June 2017, and became effective. Accordingly, the first reporting would be made by 30 September 2018.

For up-to-date information

For up-to-date information on the most recent and significant developments in Turkish tax regulations, please refer to the tax bulletins added to our tax portal, *Vergi Portalı*, which can be accessed at Vergiportalı.com.

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Significant developments

On 9 October 2017, Turkmenistan introduced a new Law on Free Economic Zones (FEZs). The Law provides simplified administrative procedures for establishing new ventures and provides significant tax, customs, licensing, and other regulatory benefits. Members of FEZs are provided with the following benefits:

- Exemption from land lease fees for the first three years of operation of land and 50% fee exemptions for the next seven years.
- Exemption from the business licence for the duration of FEZ membership.
- Value-added tax (VAT) exemption for the duration of FEZ membership.
- Property tax exemption for the first ten years of operation at an FEZ.
- Corporate income tax (CIT) exemption for the first ten years of operation at an FEZ.
- Customs duty exemptions for both imported and exported goods.

Members of an FEZ are also allowed to attract foreign workforce without maintaining a foreign-to-national employee ratio.

Starting from 4 November 2017, the newly merged Ministry of Finance and Economy of Turkmenistan became the main tax regulating authority in Turkmenistan. The former Main State Tax Services of Turkmenistan was restructured and became the Tax Department at the Ministry of Finance and Economy of Turkmenistan. Consequently, regional and district tax services were also restructured from tax services to become tax departments.

Legal entities (qualified as small and medium enterprises [SMEs]) operating under the simplified tax regime are required to pay 2% CIT from revenue in the form of advance payments from the date when they receive revenues to their bank accounts. Banking institutions act as a tax agents and perform the withholding of 2% CIT from the taxpayer's funds and make the respective tax payments to the State Budget of Turkmenistan.

Taxes on corporate income

Residents of Turkmenistan are subject to CIT on worldwide income; non-residents are subject to CIT only in respect of their Turkmenistan-sourced income. The CIT base is determined as gross income less allowable deductions.

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Branches of foreign legal entities are subject to a 20% CIT, whereas Turkmen legal entities are subject to an 8% CIT (or 2% CIT in cases where the company qualifies as a small or medium enterprise).

Companies involved in oil and gas operations are subject to a 20% CIT, irrespective of the legal status/ownership structure.

Entities where the government holds more than 50% of shares are subject to CIT at the rate of 20%.

Special purpose duty for improvement of urban and rural territories

A special duty aimed at improving urban and rural territories is imposed on registered entities (e.g. legal entities and branches). The duty applies at 1% of the taxable base for CIT purposes. Generally, contractors and subcontractors operating under the umbrella of the petroleum law may be exempt from this duty.

Contributions to Agriculture Development and Ashgabat City Development Funds

The contributions to the Agriculture Development Fund and Ashgabat City Development Fund are outside of the general tax legislation (Tax Code) and are provided for by specific decrees. Permanent establishments (PEs)/branches of foreign legal entities are subject to these contributions on the same terms as local legal entities.

Contribution to the Ashgabat City Development Fund only applies to entities located in Ashgabat City.

The base for the contributions is comprised of the accounting income. The contribution rate for the Agriculture Development Fund is 3%, and the contribution rate for the Ashgabat City Development Fund is 0.5%.

Generally, contractors and subcontractors operating under the umbrella of the petroleum law may be exempt from these contributions.

Corporate residence

Legal entities are treated as residents for CIT purposes if they are established in accordance with Turkmenistan law or their place of effective management is located in Turkmenistan.

Permanent establishment (PE)

The general definition of a PE under domestic legislation is similar to the one per the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention. A PE is a permanent place of the foreign legal entity in Turkmenistan through which it, fully or partially, conducts entrepreneurial (commercial) activity, including that through an authorised person.

Other taxes

Value-added tax (VAT)

VAT is generally payable at the rate of 15%. A zero-rate applies to exports of goods (except for oil and gas) and international transport services. Generally, contractors operating under the umbrella of the petroleum law may be exempt from this tax.

The tax base is sales turnover including excise tax. If a sale is made by state-fixed prices, then the tax base is the respective sales turnover including VAT and excise tax. The amount of input VAT incurred may be offset against the amount of output VAT. The amount of input VAT related to capital expenditures should be capitalised.

Customs duties

The import of goods into Turkmenistan is generally subject to 2% customs duty. The taxable base is determined as the customs value of imported goods. There is a list of certain items that are subject to specific customs duty (i.e. around 50 items), and the rates of specific customs duties may vary from 5% (e.g. products from cement) to 100% (e.g. carbonic acid) depending on the type of imported goods. In most cases, the customs duty is set on an *ad valorem* basis. There is also a customs clearance fee of 0.2% from the customs value of imported goods.

Excise taxes

Excise tax is paid on goods or products that are considered in the list of excised goods or products. Normally, excised goods consist of alcoholic beverages, tobacco products, and automobiles. Excise rates vary based on the type of goods as well as by domestic production or import.

Property tax

Property tax in Turkmenistan generally applies at the rate of 1% on the average annual net book value of fixed assets and average annual value of tangible assets used for business purposes and located in Turkmenistan. Generally, contractors and subcontractors operating under the umbrella of the petroleum law may be exempt from this tax.

Transfer taxes

There are no transfer taxes in Turkmenistan.

Stamp taxes

Although state duties of various amounts set forth by the government may apply to certain actions (e.g. branch registration), there is no unified stamp tax/duty mechanism as normally practiced in other countries.

Payroll taxes

Employers are obligated to withhold 10% personal income tax (PIT) as well as 2 manats (TMT) special purpose duty for improvement of urban and rural territories from employees' salaries and compensations and pay it to the State Budget on monthly basis.

Pension insurance payments

Pension insurance is payable by employers at 20% of the total remuneration provided to local employees. Additional 3.5% obligatory professional pension insurance is

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levied on employers with respect to employees who work under hazardous conditions. Employees may participate in a voluntary pension insurance, the minimum rate for which is established at 2% of total remuneration. Income paid to expatriate employees should not be subject to the pension insurance payments.

Subsurface-use tax

Subsurface-use taxpayers are legal entities and individual entrepreneurs extracting natural resources and using land or subsoil waters for the extraction of chemical products. This tax does not normally apply to contractors and subcontractors operating under the umbrella of the petroleum law.

Taxable operations include the sale of natural resources extracted by taxpayers and utilisation of natural resources for consumption. Tax rates vary depending on the goods being extracted. Natural or associated gas extraction is taxed at 22%, and crude oil extraction is taxed at 10%. Tax rates for other mineral resources vary depending on profitability (internal rate of return) from 0% to 50%.

Advertising levy

An advertising levy is imposed on the amount of expenses on commercial advertising and is to be paid quarterly at the rate of 3% to 5%, depending on the location of the payer within Turkmenistan. Generally, contractors operating under the umbrella of the petroleum law may be exempt from this levy.

Branch income

Branches pay CIT at the rate of 20%.

Branches are taxed on profits received from activities in Turkmenistan. The gross income is reduced for expenses incurred (both inside and outside of Turkmenistan) in relation to the activities in Turkmenistan. The procedure for determining the taxable base for branches is generally similar to the one for Turkmen legal entities.

Branches subject to the standard tax regime also pay and file returns with respect to the other taxes described in this summary.

Income determination

Inventory valuation

Inventory is valued at cost, including costs relating to its acquisition. The law permits the use of the weighted average or first in first out (FIFO) methods for tax purposes.

Capital gains

Capital gains are taxable as normal business income in Turkmenistan.

Dividend income

Generally, dividend income received by residents and non-residents from Turkmen taxpayers is subject to taxation at the source of payment at the rate of 15%.

Dividend income received by residents from non-Turkmen taxpayers is subject to CIT.

Inter-company dividends

The Tax Code provides for relief from economic double taxation of inter-company dividends.

The withholding tax (WHT) rate on dividends payable by Turkmen legal entities to their foreign shareholders may be reduced under applicable double tax treaties (DTTs).

Technically, Turkmen branches of foreign legal entities may also be subject to 15% WHT on repatriation of income to their head offices. However, if the head office collects the income from its clients directly to its bank account abroad, the mechanism of collecting the dividend tax is unclear.

Interest income

Turkmenistan-sourced interest income received by non-residents that do not have PEs in Turkmenistan is subject to WHT of 15%. The above rate may be reduced under the applicable DTTs.

Interest income received by residents is subject to CIT.

Royalty income

Turkmenistan-sourced royalty income received by non-residents that do not have PEs in Turkmenistan is subject to WHT of 15%. The above rate may be reduced under the applicable DTTs.

Royalty income received by residents is included in the taxable income and is generally subject to 10% CIT rate.

Foreign income

A resident company is subject to tax on its worldwide income (including capital gains). There are no provisions for tax deferrals in Turkmenistan tax legislation.

Deductions

In general, taxpayers may deduct expenses paid or accrued during the year in connection with their business and aimed at income generation. All expenses must be substantiated by documentary proof.

The deduction of certain expenses is subject to specific ceilings. Such expenses include representation expenses, which are deductible at up to 1% of gross income. Furthermore, deductible norms for business travel expenses are established periodically by the government.

Depreciation

Tax depreciation is based on accounting depreciation. Depreciation is accrued based on the straight-line method. Accelerated depreciation is also allowed based on specific consent of the Ministry of Finance. A Presidential Decree establishes the maximum depreciation rates, ranging from 5% to 25%, for five different groups of assets.

Generally, for the purposes of CIT, depreciation accrued is deductible. Fixed assets acquired free of charge, as well as assets of non-commercial legal entities, budget

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organisations, and public associations, should be excluded from depreciable assets for CIT purposes, even if they are used for generating income.

Fixed assets provided under operational lease shall be depreciated by the lessor. Fixed assets provided under financial lease shall be depreciated by the lessee.

Goodwill

There are no provisions for goodwill in Turkmenistan tax legislation.

Start-up expenses

Pre-incorporation costs are generally non-deductible.

Interest expenses

Interest expense occurring from debt instruments of any kind should be deductible for CIT purposes, provided that the purpose of the underlying debt relates to the entrepreneurial activity of the taxpayer.

Interest expense incurred by a foreign legal entity abroad and recharged to its branch in Turkmenistan is generally not deductible unless specifically addressed by applicable DTTs.

Bad debts

The Tax Code permits a taxpayer to include provisions for uncollectable debts as well as losses incurred as a result of expiration of the collection period for accounts receivable.

Charitable contributions

There are no specific restrictions on deductibility of charitable contributions. However, they may be disallowed under the general restriction of non-business-related deductions.

Repair and maintenance expenses

Deductible expenditures for the repair of fixed assets shall be comprised of the cost of spare parts and consumable materials used for repair, remuneration of employees carrying out the repairs, and other expenditures associated with such repairs, including payments to third parties for the purpose of such repairs.

Research and development (R&D) expenses

R&D costs (including those that produced no positive result) shall be subject to deduction from gross revenue, except for costs associated with the purchase of fixed assets, their installation, and other costs of a capital nature.

Fines and penalties

Fines, penalties, and other financial sanctions (except for tax-related ones) are deductible for CIT purposes.

Taxes

For CIT purposes, the following taxes are deductible: property tax; subsurface-use tax; levies established by the Tax Code (except the special-purpose duty for the improvement of urban and rural territories); accrued amounts of VAT in selling goods, performing work, and rendering of services; and amounts of excise tax included in the price of sold excisable goods by manufacturers of such goods.

Net operating losses

Loss is defined as excess of allowable deductions over gross revenue. Losses shall be carried forward and deducted in subsequent tax (reporting) periods, but not for more than three years. Losses cannot be carried back.

Payments to foreign affiliates

Administrative and management expenses incurred by the head office of a branch in Turkmenistan are not deductible at the branch level.

Group taxation

There is no group taxation in Turkmenistan.

Transfer pricing

The Turkmenistan Tax Code contains provisions concerning state supervision of transfer pricing. According to these rules, the tax authorities monitor and control transfer pricing of certain types of transactions, including transactions between related parties, foreign trade operations, and transactions where the tax authorities during tax audits perceive considerable deviation from the market price (i.e. more than 20%).

Thin capitalisation

There are no provisions for thin capitalisation in Turkmenistan tax legislation.

Controlled foreign companies (CFCs)

Turkmenistan tax legislation does not have provisions covering CFC rules.

Tax credits and incentives

Tax and investment incentives may be negotiated on a case-by-case basis. The President has often issued special decrees granting taxation exemptions and other privileges to specific investors. However, since adopting a new edition of the Tax Code in 2004, such practice has been significantly reduced.

Foreign tax credit

Foreign tax credits are available to tax residents of Turkmenistan based on the provisions of the respective tax treaties. The tax credited shall not exceed the tax liability computed in accordance with Turkmenistan regulations.

Withholding taxes

Turkmenistan-source income generated by a foreign legal entity that has no PE in Turkmenistan generally is subject to WHT at the source of payment at 15% (6% for income from the lease of sea vessels and aircraft).

Relief may be available for WHT if a foreign entity is a resident of a country that has a valid DTT with Turkmenistan and if the foreign entity complies with certain administrative procedures.

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Turkmenistan is a successor to a number of DTTs concluded by the USSR, while some treaties were concluded and ratified by the government of Turkmenistan. The countries listed below are considered to have valid tax treaties with Turkmenistan:

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Non-treaty	15	15	15
Treaty:			
Armenia	5/15 (1)	10	10
Austria	15	10	10
Bahrain	10	0/10 (6)	10
Belarus	15	10	15
Belgium *	15	0/15 (2)	0
China	5/10 (3)	0/10 (4)	10
Croatia	10	0/10 (6)	10
Estonia	10	10	10
Finland	5/15 (3)	10	10
France *	15	0/10 (5)	0
Georgia	10	0/10 (6)	10
Germany	5/15 (3)	10	10
Hungary	5/15 (3)	10	10
India	10	0/10 (6, 7)	10
Iran	10	0/10 (8)	5
Japan *	10	0/15 (8)	10
Kazakhstan	10	0/10 (6)	10
Latvia	5/10 (3)	10	10
Lithuania	5/10 (3)	10	10
Malaysia	10	0/10 (6)	10
Moldova	10	10	10
Pakistan	10	10	10
Romania	10	10	15
Russia	10	5	5
Slovakia	10	0/10 (6)	10
South Korea	10	10	10
Switzerland	5/15 (3)	10	10
Tajikistan	10	0/10 (6)	10
Turkey	10	0/10 (6)	10
Ukraine	10	0/10 (6)	10
United Arab Emirates	0	0	10
United Kingdom	5/15 (3)	10	10
United States *	0	15	0
Uzbekistan	10	0/10 (9)	10

* USSR treaties honoured by Turkmenistan.

Notes

- 5% where the beneficial owner holds at least 25% of the authorised capital of the company paying the dividends.
- 0% where one of the following conditions is met: (i) interest paid to the government of the other contracting state or interest paid in respect of a loan guaranteed by that other state or by an institution authorised by that state; (ii) interest from commercial debt-claims relating to instalment payments for supplying merchandise, goods, or services; (iii) interest on loans, not represented by bearer

instruments, from banks; or (iv) interest on cash deposits, not represented by bearer instruments, with banks, including public credit institutions.

3. 5% where the beneficial owner is a company (other than a partnership) that directly holds at least 25% of the capital of the company paying the dividends.
4. Interest arising in a contracting state and paid to, or on loans guaranteed or insured by, the government or a local authority thereof, the Central Bank, or any financial institution wholly owned by the government of the other contracting state, shall be exempt from tax in the first-mentioned state.
5. Interest on bank credits and loans and interest on commercial credits arising from sources located in one of the states and received by a resident of the other state shall not be taxable in the first state.
6. 0% where interest is paid by the government, Central Bank, or National Bank of the contracting states.
7. 0% where interest is paid by the government, a political sub-division, or a local authority of the other contracting state.
8. Interest paid by the government, ministries, other governmental institutions, municipalities, Central Bank, and other banks wholly owned by the government of the other contracting state shall be exempt from tax.
9. 0% where the recipients of the interest are governments of contracting states or any governmental body, as well as the Central Banks ('the bank of banks' of a contracting state), a state export or import credit underwriting organisation, or another similar organisation to which, in accordance with the law of a contracting state, the relevant rights were delegated.

Tax administration

Taxable period

The taxable period comprises a calendar year (i.e. 1 January to 31 December).

Tax returns

Reports are generally filed quarterly within the month following the reporting quarter. Annual income tax declaration and financial statements of branches of foreign legal entities are due by 20 March of the year following the reporting one.

Tax agents must file WHT reports not later than the 20th day of the month following the one when the respective tax liability occurred.

Payment of tax

Advance CIT payments under the standard tax regime are made before the 13th and 28th days of each month (unless agreed otherwise with tax authorities). Final payments upon results of the first quarter, first half-year, nine months, and tax year are made within five days from the reporting deadlines.

Under the petroleum law tax regime, CIT is reported and paid once annually based on dates indicated in the respective Product Share Agreement (PSA).

Tax audit process

Tax audits may be of two types: 'cameral' (preliminary) and 'documentary'.

Cameral tax audits are performed at the location of tax authorities within 30 days after submission of tax returns and financial statements with the aim of monitoring their accuracy and completeness. The tax authorities may request the taxpayer to amend the tax return(s) if they have revealed mistakes or inconsistencies therein.

Documentary tax audits are conducted based on a tax authorities' order aimed at verification of the tax returns submitted by the taxpayer. During such audits, the tax authorities review the accounting records, copies of tax returns, and source documents as required. The tax authorities are to notify the taxpayer about the upcoming tax audits at least five days prior to the start of the audit. However, in cases when there is

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sufficient evidence of tax evasion, the tax authorities may initiate the tax audit without prior notice.

Scheduled documentary tax audits are usually carried out once in three years. There can also be un-scheduled tax audits (e.g. in case of liquidation of the enterprise) and counter tax audits (to review transactions with the enterprise's supplier/customer, which is under the scheduled tax audit).

In cases when tax violations are revealed during tax audits, taxpayers should make necessary corrections to address those and pay respective taxes/obligatory payments and late payment interest within five days after the tax authorities' decision is released. If accomplished within the deadline, the tax authorities' decision on applying penalty may be cancelled. If not accomplished, the unpaid taxes/obligatory payments and late payment interest are to be withdrawn from the (i) taxpayer's bank accounts (by issuing a tax liability claim without acceptance), (ii) taxpayer's debtors (by issuing a tax liability claim on the debts payable to taxpayer), or (iii) taxpayer's property (by issuing a tax liability claim upon decision of the court).

Statute of limitations

The statute of limitations for tax purposes is five years.

Topics of focus for tax authorities

The tax administration environment in Turkmenistan is form-driven; consequently, the quality of documentation supporting the deductions should be of particular importance.

Cross-border transactions are normally scrutinised by tax authorities during statutory tax audits in view of WHT and reverse-charge VAT implications.

Another area of focus for tax authorities is the deductions taken by Turkmenistan branches of foreign legal entities in respect of expenses incurred by their head offices abroad.

Other issues

United States (US) Foreign Account Tax Compliance Act (FATCA)

On 28 July 2017, the government of Turkmenistan signed a Model 1 Intergovernmental agreement (IGA) with the United States to improve international tax compliance and implement the provisions of the FATCA.

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Significant developments

New tax rules

In December 2017, the Parliament of Ukraine passed laws on improvement of tax legislation. As a result, a number of changes to the corporate income tax (CIT) and value-added tax (VAT) became effective on 1 January 2018. The most important developments are listed below.

Taxes on corporate income

- The limit on the deductibility of loan loss provisions (LLPs) for banks and other financial institutions is abolished. The LLP amounts that were not deducted as of 31 December 2017 due to the limitations in the Tax Code effective in the past periods (so-called 'overlimit') are fully deductible in 2018 and 2019 (in equal parts).

Transfer pricing

- Transactions performed between a non-resident and its permanent establishment (PE) (i.e. commercial representative office) in Ukraine are now considered controlled for transfer pricing purposes if their value exceeds 10 million Ukrainian hryvnias (UAH) (net of indirect taxes) for the corresponding tax (reporting) year.
- The value criteria for recognition of transactions as controlled have changed; they should be calculated at prices that are in line with the arm's-length principle.
- The tax office may not send a request for submission of transfer pricing documentation earlier than 1 October of the year following the calendar year in which the respective controlled transaction(s) took place.

VAT and excise tax

- Registration of VAT invoice can be suspended by the tax authorities under the procedure prescribed by the Cabinet of Ministers of Ukraine.
- Temporarily, until 31 December 2018, the imports and local supplies of vehicles with electric engines are exempt from VAT and excise tax.
- In 2018, the specific excise tax rate for all types of tobacco products, cigarettes, raw tobacco, and tobacco waste, as well as the minimal excise tax on cigarettes, went up by 29.7%. The rate will also grow annually by 20% through 2025.

Other changes

- The National Bank of Ukraine continues the policy of easing certain currency control restrictions.

Professional advice is recommended before deciding on the actual impact of any of the tax provisions.

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Taxes on corporate income

CIT applies to taxable profits earned by resident entities in Ukraine and abroad and non-residents with a PE in Ukraine. Resident entities are taxed on their worldwide income. Non-resident entities are taxed on their Ukrainian-source income.

Ukraine's standard CIT rate is 18%.

Withholding tax (WHT), at a rate of 15%, applies to the majority of income payments for non-residents, unless an exemption is given under a double taxation treaty (DTT). Ukraine has 74 effective DTTs in place. *See the Withholding taxes section for more information.*

Special CIT rates for insurance and gambling activities

Insurance activities

In addition to general CIT at the 18% rate, insurance companies also pay special CIT of 0% and 3% on their income. Long-term life insurance premiums, insurance premiums under voluntary pension programmes, and voluntary medical insurance premiums are subject to the 0% rate; the 3% rate applies to all other insurance premiums (excluding reinsurance contributions, premiums, and payments) received by the company. Such amounts of CIT due at 0% or 3% paid from insurance premiums reduce taxable profit of an insurance company, which is subject to the standard 18% rate.

Gambling activities

Organisation of lotteries and operating of gambling machines are subject to a 10% rate; an 18% rate applies to bookmaker and other gambling activities (including casinos). Contrary to CIT for insurance companies, amounts of CIT of 10% or 18% paid from gambling income do not reduce taxable profit of a company engaged in gambling activities (standard 18% rate is applied to the full amount of the taxable profit).

Local income taxes

No CIT is levied at the regional or local level, except simplified (unified) tax (*see the Tax credits and incentives section for a description of simplified [unified] tax*).

Corporate residence

Corporate residence is determined by the place of incorporation.

Permanent establishment (PE)

The Ukrainian definition of a PE generally follows the PE definition from the Organisation for Economic Co-operation and Development (OECD) Model Tax Convention, but with stronger agency tests.

In particular, a non-resident's PE is defined as a fixed place of business through which the business activity of a non-resident entity is wholly or partly carried out in Ukraine. A PE includes, among other things, a place of management, affiliate, office, server, etc.

The Tax Code contains the concept of a service PE whereby the provision of services (apart from the provision of personnel), including consultancy services, by a non-resident through its employees or other personnel in Ukraine, shall constitute a

Ukrainian PE of this non-resident, provided such activities (within the framework of one project) last more than six months in any 12-month period.

A construction site in Ukraine may also give rise to a taxable presence of a non-resident in Ukraine in the form of a PE if the length of the construction activities exceeds six months.

The Tax Code also provides for the concept of a non-dependent agent, which means, specifically, a Ukrainian agent acting on behalf of more than one non-resident in the ordinary course of its business should not constitute a PE in Ukraine.

Still, there is a list of exclusions from the PE definition. In particular, according to the Tax Code, auxiliary and preparatory services of a non-resident should not result in the creation of a PE. However, in practice, the Ukrainian tax authorities usually interpret the term 'business activity' in a very broad sense, and, without the DTT protection, may consider any type of activity as giving rise to a taxable presence (i.e. a PE) of a foreign entity in Ukraine.

Starting from 1 January 2018, transactions performed between a non-resident and its PE in Ukraine are now considered controlled for transfer pricing purposes if their value exceeds UAH 10 million (net of indirect taxes) for the corresponding tax (reporting) year.

Other taxes

Value-added tax (VAT)

There are three VAT rates: 20%, 7%, and 0%.

The rate of 20% applies to almost all transactions subject to VAT except specific transactions subject to 7% and 0% VAT.

The reduced rate of 7% applies to supply and import of qualifying medicines and specific medical goods, as well as medicines, medical goods, and medical equipment allowed to be used in clinical trials.

The 0% VAT rate applies to the export of goods. The 0% rate also applies to the supply of international transport services (confirmed by a single international shipping document), toll manufacturing services (if the finished goods are then exported from Ukraine), and certain other services.

Provision of services to a non-resident is not considered to be zero-rated. Such services are subject to 20% VAT or considered to be outside the scope of VAT (effectively exempt with no input VAT recovery), depending on the place of supply as determined by the legislation.

Transactions that are subject to VAT include the following:

- The supply of goods and services when the place of supply is in Ukraine, including when the supply is made free of charge without consideration.
- Transfer of the object of a financial lease to the lessee.
- The importation of goods into Ukraine.
- Exportation of goods.

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- International transportation services.

Transactions that are not subject to VAT include the following (among others):

- The issue, sale, and exchange of securities.
- Assignment of claims, transfer of debt.
- The transfer of property from a lessor to a lessee under an operating lease and the return of property upon expiration of the operating lease (other than in the course of import operations).
- Transfer of property right of finance leasing object from one lessor to another.
- Interest/commission element of lease payments under financial lease agreements.
- Provision of financial loans and bank guarantees.
- Insurance and reinsurance services supplied by licensed insurers and services of insurance/reinsurance agents and brokers.
- Payment of royalties.
- Reorganisation of a legal entity (merge, spin-off, accession, division, and change of legal form).
- Transit of cargo and passengers through the Ukrainian territory and services related to such transit.
- Supply and import of goods and services within international technical assistance projects or import of humanitarian aid.

VAT registration

Tax registration as a VAT payer is compulsory if the volume of an entity's taxable transactions exceeds the compulsory registration threshold. The current registration threshold is UAH 1 million for the past 12 consecutive months. An entity qualifying as a taxable entity should register with the tax authorities at the place of its location and obtain a VAT registration number.

Voluntary VAT registration is available prior to achievement of the mentioned threshold. The application for VAT registration may be submitted simultaneously with the application for the state registration of the business entity.

There is no mechanism for a non-resident to register for VAT purposes without a PE in Ukraine. Accordingly, any Ukrainian VAT incurred by a non-resident is non-recoverable.

Electronic VAT administration

A special electronic administration system, which includes VAT accounts for all VAT payers in the State Treasury, is used for settlement of VAT to the budget. Both VAT output and VAT input should be reflected in this system. For these purposes, VAT accounting documents (VAT invoices) are issued electronically and are subject to mandatory registration by tax authorities.

The aim of this system is to make VAT input of the customers (i.e. VAT payers) guaranteed by payment of VAT liabilities by the suppliers. VAT input on domestic purchases can be recognised by the taxpayer only if the supplier issued a duly registered VAT invoice. In order to register a VAT invoice, the supplier should have sufficient balance in the electronic VAT administration system (e.g. sufficient amount of input VAT). Otherwise, it may be required to transfer cash to the VAT account (i.e. to prepay its VAT liabilities).

Registration of a VAT invoice can be suspended by the tax authorities under the procedure prescribed by the Cabinet of Ministers of Ukraine.

VAT recovery and refunds

Generally, VAT incurred by a registered entity on the purchase and/or importation of goods and services used for the purpose of its own business (except for VAT incurred in relation to exempt supply) may be recovered by way of a credit against output VAT. If the VAT credit exceeds VAT output, a VAT refund is available in the form of a cash payment.

VAT refunds should be performed in a chronological order based on sequence of claims reflected in a registry maintained by the tax authorities and published on their official website. Such registry contains claims submitted starting from 1 February 2016.

Older claims (i.e. submitted before 1 February 2016) are included into a separate Temporary Registry of VAT refund claims.

A VAT refund should be provided within 36 calendar days following the deadline for submission of the VAT return unless a documental tax audit has been assigned. In this case, the term for provision of VAT refund is extended for at least 30 days.

VAT returns

VAT returns must be filed by the taxpayer on a monthly basis in electronic form. Monthly tax returns are due within 20 calendar days following the end of the reporting month. The amount of tax payable is assessed on the basis of tax returns and is due within ten calendar days following the deadline for filing the relevant tax returns.

VAT liabilities are paid to the budget through a special VAT account based on the registers submitted to the State Treasury by the tax authorities.

Customs duty

Customs duty is payable by the importer upon import of the goods into Ukraine. Customs duty rates are established by the Customs Tariff. Currently, there are two duty rates: relieved and full rates. Relieved rates of duty apply to goods originating from the World Trade Organisation (WTO) countries and countries that have granted Ukraine 'most favoured nation' trade status. Full rates of duty apply to the goods originating from all other countries or where the country of origin cannot be determined (is unknown).

Ukraine has concluded free-trade agreements (FTAs) with the countries/members of the European Union (EU), Commonwealth of Independent States (CIS), European Free Trade Association (EFTA) countries, and such countries as Georgia, Macedonia, and Montenegro. These agreements allow many goods to be imported into Ukraine duty-free (or with reduced rates of duty), subject to compliance with preferential rules of origin.

Due to political issues, Russia and Ukraine currently suspended the FTA between each other and introduced an embargo on import of selected goods (mostly on agrarian products and foods).

Russia also introduced some transit restrictions on goods coming from Ukraine.

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Ukraine has no export duties except on natural gas, scrap metal, livestock, rawhide, barley, and certain oil seeds.

Excise taxes

Excise tax applies to certain goods imported to or produced in Ukraine. Excisable goods include ethyl alcohol, alcoholic beverages, beer, tobacco and tobacco products, cars, car bodies, motorbikes, electricity, liquefied gas, petrol, diesel fuel, other fuel material, and electric power.

The rates of excise tax can be *ad valorem* (a percentage of the value of the goods), specific (in monetary units per unit of goods), or combined. In 2018, the specific excise tax rate for all types of tobacco products, cigarettes, raw tobacco, and tobacco waste, as well as the minimal excise tax on cigarettes, went up by 29.7%. The rate will also grow annually by 20% through 2025. A special local 5% excise tax continues to apply to retail sales of alcoholic drinks, beer, and tobacco products.

Ukraine has a special electronic administration system for excise tax on fuel. This system is aimed to control income and outcome flows of fuel in the market. The system requires entities to issue and register within the system excise accounting documents (excise invoices) electronically on each operation of fuel sale, its usage for the company's needs, as well as for manufacturing purposes.

Tax on real estate other than land plots (real estate tax)

Owners of residential and non-residential property in Ukraine (both individuals and legal entities, including non-residents) are subject to local real estate tax (RET). The tax base is determined based on the size of the living space of a real estate asset.

Some types of property are exempt from RET, for example:

- Industrial buildings (i.e. production buildings, workshops, storehouses of industrial entities).
- Buildings and facilities of agricultural producers, which are intended for use in agricultural activity.
- Non-residential premises that are used by small and medium-sized businesses, conducting their activities at 'small architectural structures' (e.g. kiosks, stalls, pavilions) and markets.
- Property owned by government agencies and the non-profit organisations established by them, etc.

The RET rates are set by the local government but cannot exceed 1.5% of the minimal salary as of 1 January of the reporting year per square metre (for 2018, the maximum is UAH 55 per square metre).

RET paid by legal entities is not available as a credit against CIT liabilities starting with the 2017 reporting year.

Land tax

Land tax is a local tax and assessed annually for the following year, paid monthly in equal instalments by the owners or users of the land. The rate of land tax depends on the category, location, and the existence of a state valuation for each particular land plot.

Transport tax

A local transport tax is charged on owners of passenger cars with an average market value exceeding 375 minimal salaries as of 1 January of the reporting year (i.e. UAH 1.396 million) and no more than five-years old.

The Ministry of Economic Development and Trade of Ukraine is obligated to publish (on an annual basis, before 1 February of the reporting year) on its web-site a list of vehicles that are subject to the transportation tax (including brand, model, year of production, engine displacement, fuel type).

A tax of UAH 25,000 for each car per year should be paid by the car owner.

Stamp duty

Stamp duty is imposed on certain actions, including the notarisation of contracts and filing of documents with courts. In most cases, the amounts involved are nominal.

Operations carried out at commodity exchanges and real estate sales incur a stamp duty of 1%.

Payroll taxes

Employers and other business entities that pay income to individuals are defined as tax agents and are responsible for withholding personal income tax (PIT), military tax, and mandatory unified social contribution (USC) (*see below*) and remitting them to the state.

Unified social contributions (USCs)

Employers (including representative offices of foreign companies in Ukraine) are required to pay USC in respect of their employees. USC applies to all salaries paid through the payroll of a Ukrainian entity or a Ukrainian representative office of a foreign entity, as well as remuneration paid to individuals under civil agreements.

The general USC rate (payable by the employer) is 22% (except for special decreased rates for contributions regarding disabled people, etc.), which applies to gross remuneration. The USC accrued by the employer is deductible for CIT purposes.

The taxable base for contributions is capped. For 2017, the cap is set at 15 times the minimal salary; from 1 January 2018 through 31 December 2018, the cap is UAH 55,845 per month.

Employees are relieved from paying USC.

Special Pension Fund charges

The following special charges are payable to the State Pension Fund:

- 3%, 4%, or 5% charge on the value of a new car, which is first subject to registration with the government agency (state traffic inspectorate), depending on the value criteria prescribed by the legislation and the amount of the statutory subsistence minimum for able-bodied individuals (for the year 2018, the following value criteria range applies: up to UAH 290,730, 3%; above UAH 290,730, but not more than UAH 510,980, 4%; above UAH 510,980, 5%).
- 1% charge on the acquisition of real estate payable by individuals and legal entities that purchase real estate.

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- 7.5% charge on mobile communication services.
- 10% charge based on the value of precious metal contained in jewellery during its marking on the public enterprises of assay control.

Charges on environmental pollution

Environmental pollution charges (ecological taxes) are imposed on any legal entity that discharges contaminants into the environment (air or water) or disposes of waste. The actual rate depends on the type and toxicity of each contaminant.

Charges on environmental pollution are deductible for CIT purposes.

All environmental tax rates (i.e. air and water emissions, waste discharge, generation of radioactive waste and its temporary storage) went up by 11.2% in 2018.

Charge for subsoil usage (rent)

Companies engaged in extracting mineral resources in Ukraine, regardless of the form of their ownership, are liable for a charge for use of subsoil.

Rent payment for subsoil use is calculated as follows:

= Value of extracted mineral resource * Cost of respective unit of extracted mineral resource * Tax rate (%) * Adjustment coefficient

The value of extracted mineral resources is determined as the greater of the following two calculation methods:

- The actual taxpayer's selling prices.
- The taxpayer's costs increased by the established profitability coefficient.

Specific rules apply in determining the selling prices for extraction of oil, condensate, natural gas, and iron ore.

Adjustment coefficients may apply to the rent payment for subsoil use rates depending on the type of minerals and conditions of extraction. For example, coefficient 0.25 will be applied to the tax rate for iron ore extracted by underground mining methods with a depth of over 300 metres for the enrichment of magnetite iron content of less than 35%.

Starting from 1 January 2019, the rent payment rates for condensate extraction will be reduced from 45% and 21% to 29% and 14%, depending on the depth of deposits.

New temporary rent rates for the use of land and its deposits for mining purposes specifically for extraction of gas from new gas wells (12% and 6%, depending on the depth of deposits) were introduced until 1 January 2023. The Tax Code stipulates that these rates will remain unchanged for the next five years.

Charges for the use of subsoil are deductible for CIT purposes.

Other local taxes

According to the Tax Code, there are other local taxes that may be levied at the discretion of the local authorities (i.e. vehicle parking place duties, tourism duty).

Branch income

Domestic branches or other separate units are not treated as separate taxpayers for CIT purposes.

In Ukraine, it is not currently possible to register a branch of a foreign legal entity. A foreign company may set up a representative office in Ukraine, which is similar to an unincorporated branch. A non-resident company conducting business activities via a representative office is deemed to carry out business in Ukraine through a PE and may be subject to CIT at the standard rate unless protected by a DTT.

When a foreign company conducts business in Ukraine through a PE, the taxable income should be determined on the same basis as for domestic entities.

The Tax Code provides for three methods for computing taxable profits for a representative office engaged in commercial activities (i.e. a PE of a non-resident in Ukraine): the direct method, the notional margin method, and the shared-balance method.

PEs using the direct method should calculate their taxable profits in the ordinary way as net profits before tax (NPBT) as per accounting records and adjusted for 'tax differences' (*see the Income determination section*).

The notional margin method for calculation of CIT liability of the PE involves applying a notional margin of 30% to *income* derived in respect of activities in Ukraine without taking into account any expenses the PE might incur in the course of its activities. This method is applied by the tax authorities if the PE has no separate accounts from its parent company.

The shared-balance method for the calculation of CIT liability of the PE is based on data provided by the parent company about the PE's share of worldwide expenses, number of employees, and fixed assets. It is applicable to non-resident entities that operate both in Ukraine and other countries, which do not determine profits from activities carried through a PE in Ukraine. The Tax Code requires for the shared-balance to be prepared by the non-resident and agreed with the Ukrainian tax authorities.

Distributions made by a PE (from after-tax income) to its head office should not trigger any further taxation in Ukraine, provided that the head office is in a jurisdiction that has an effective DTT with Ukraine.

Starting from 1 January 2018, PEs of non-residents are subject to transfer pricing rules.

Income determination

The Tax Code determines taxable profits as net profits before tax (NPBT) as per accounting records, either Ukrainian statutory or International Financial Reporting Standards (IFRS), and adjusted for 'tax differences'.

Taxpayers with prior year annual income equal to or less than UAH 20 million (net of indirect taxes) may opt out of making the adjustments. Note that they do remain eligible for loss carryforward allowances (*see the Deductions section*).

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Inventory valuation

A taxpayer is entitled to adopt any of the methods of inventory valuation prescribed by financial accounting rules, namely: the first in first out (FIFO) method, weighted average methods, identified cost of unit of goods, normative cost, or sale price. The last in first out (LIFO) method does not apply in Ukraine.

Capital gains on the sale of property

Income from the sale of property (including buildings and land plots) should be recognised according to financial accounting rules.

Income from securities

Profit from trading in securities is taxable at the standard CIT rate. Incurred losses are non-deductible, but may be carried forward to offset future profits from trading in securities without any limitations.

Dividend income

Dividends received by a Ukrainian entity from another Ukrainian entity that is a CIT payer are exempt from CIT. Dividends received by Ukrainian companies from Ukrainian taxpayers under the simplified tax regime or foreign companies are not exempt from CIT.

Companies paying dividends are required to pay advance CIT on payment of dividends (ATD) at the standard CIT rate, unless the dividends are paid to individuals or out of received dividends (with some other exceptions). ATD applies only to the portion of dividends that exceeds profits of the respective dividend year for which CIT is already paid.

If the amount of the paid ATD exceeds the amount of the accrued CIT of the taxpayer-issuer of corporate rights, the excess amount will be applied to reduce the taxpayer's CIT obligations in the following periods. In case the taxpayer is in a loss-making position, the said amount will be applied to reduce the CIT obligations in the following periods until it is fully utilised. Collective investment vehicles and taxpayers under the simplified tax regime are released from ATD.

Interest income

Interest received by taxpayers is included in their taxable income on a general basis according to financial accounting rules.

Rent/royalties income

Income from rent/royalties received by taxpayers is included in their taxable income on a general basis according to financial accounting rules.

Foreign exchange gains/losses

Realised and non-realised foreign exchange gains/losses are generally treated as taxable income/deductible expenses, similar to financial accounting rules.

Other significant items

Ukrainian tax legislation does not provide special tax treatment for bribes, kickbacks, or illegal payments.

Income received as payment for goods (works, services) shipped (provided) while the taxpayer used the simplified tax system will increase the NPBT.

Foreign income

Foreign income is taxed under the general rules, and there are no special rules regarding anti-deferral or unremitted earnings.

Deductions

Depreciation and amortisation

Assets whose values are more than UAH 6,000 that have a useful life exceeding one year are required to be depreciated for tax purposes. Depreciation is determined on a monthly basis and computed using the following methods:

- Straight-line.
- Reducing balance.
- Method of accelerated reduction of a residual value.
- Cumulative.

The production-based method of amortisation is not allowed for tax purposes.

Fixed assets are divided into 16 groups according to their statutory minimal useful life. The useful life of fixed assets may be extended by a taxpayer.

The application of a reduced statutory minimum useful life to machines and equipment purchased during the period between 1 January 2017 and 31 December 2018 is allowed, on the condition that the taxpayer employs such assets in its business activity and applies the straight-line method of depreciation thereto.

There are no special rules prescribed for tax accounting of repair costs in respect of production fixed assets and intangible assets. Ukrainian accounting principles or IFRS rules should apply. Expenses on repairs and reconstruction of non-production fixed assets and intangible assets are not deductible.

The following intangible assets may be amortised using one of the above-mentioned methods over the period of an asset's lifetime as defined in the documents certifying the rights to the intangibles and considering the minimum period set by the law:

- Rights to use natural resources.
- Rights to use property.
- Rights on intangible assets.
- Technology, know how (not less than five years).
- Copyrights (not less than two years).
- Other intangible assets.

Taxpayers are entitled to set the amortisation period of the intangible assets on their own, but it must not be less than two years and not more than ten years of continuous operation (this only applies when the documents establishing the right to use do not specify a term for the use). NPBT is adjusted by the amount(s) of residual value of written-off non-production equipment and intangible assets as per accounting data.

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Goodwill

Amortisation of goodwill is not permitted (i.e. not deductible) for tax purposes.

Organisational and start-up expenses

There is no limitation for deduction of organisational and start-up expenses incurred prior to the entity's registration (accounting rules should apply).

Research and development (R&D) expenses

R&D expenses are deductible according to financial accounting rules.

Interest expenses

Interest paid is generally deductible for CIT purposes, but the deduction of interest expense in favour of non-resident related parties is limited according to the thin capitalisation rules (*see Thin capitalisation in the Group taxation section*).

Bad debt

NPBT can be reduced by the amount of written-off debts that qualify as bad debts under the Tax Code (including the write-off, performed within the amount of bad debts provision). The Tax Code contains the detailed list of criteria for debts to be qualified as bad ones.

Loan loss provisions (LLPs) for banks and other financial institutions

Banks and other financial institutions create LLPs according to IFRS.

Starting from 1 January 2018, the limit on the deductibility of LLPs for banks and other financial institutions is abolished. The LLP amounts that were not deducted as of 31 December 2017 due to the limitations in the Tax Code effective in the past periods (so-called 'overlimit') are fully deductible in 2018 and 2019 (in equal parts).

Banks are allowed to recognise in the tax accounting a positive (negative) difference resulted from revaluation of the amount of LLPs that may occur at the beginning of 2018 due to the transition to IFRS 9, provided that such amount is reflected in the equity accounts of banks.

Other reserves (provisions)

Provisions for vacation and salary payments are allowed. Other provisions for future costs (i.e. warranty, contingent liabilities, etc.) are disallowed. Respective expenses covered by these provisions (except vacation and salary payments) are deductible when actually incurred.

Charitable contributions

Only 70% of payments for goods or services to non-profit organisations (except budgetary ones) is tax deductible.

The deductibility of the costs of goods or services supplied for free to non-profit organisations is limited by 4% of the previous year's taxable profit (by 8% of the previous year's taxable profit in respect of payments to non-profit organisations in the sphere of sport, physical culture, and physical culture education).

Pension expenses

The obligatory Ukrainian social security insurance contributions, including state pension contributions charged on payroll expenses, are deductible for employers.

There are no limitations prescribed for the deduction of the employer's payment to non-state pension organisations (financial accounting rules should apply).

Payment for directors

Payments (including bonuses) relating to business are normally deductible payments.

Fines and penalties

Fines, penalties, and forfeits, which were accrued in accordance with civil legislation for the benefit of entities that are not CIT payers (except for private individuals) or that are taxed at a 0% CIT rate, are not tax deductible.

Taxes

CIT, PIT, WHT/remittance taxes, and VAT incurred on purchases are not deductible. VAT is deductible if it cannot be recovered. Other taxes are generally deductible in full.

Other significant items

There is no requirement to prove the connection of costs to the company's 'business activities'. The exception is the need to differentiate between business and non-business fixed assets.

General requirements for the documentation of the transactions for accounting needs (i.e. contracts, acts of acceptance, etc.) will also apply for the substantiation of expenses for tax purposes.

Non-repayable financial aid (goods, services), which was provided free of charge for the benefit of its recipients (other than duly registered non-profit organisations) that are not CIT payers or that are taxed at a 0% CIT rate, are not be deductible.

Net operating losses

Losses can be carried forward without limitations. Ukrainian tax legislation does not provide for refunds for losses carried back.

Payments to foreign affiliates

The following rules need to be followed with regard to payments to foreign affiliates:

- Only 70% of payments for goods or services to residents of low-tax jurisdictions and non-resident entities established under certain legal forms are tax deductible. The lists of low-tax jurisdictions and legal forms (e.g. a partnership) are approved by the Cabinet of Ministers of Ukraine and are being amended from time to time.
- Deduction of royalties paid to a non-resident is limited to royalty income plus 4% of net income of the previous year.
- Royalties paid to (i) non-beneficial owners (unless a beneficial owner grants the right to receive the royalties to other parties), (ii) non-residents that are exempt from tax on royalties in the country of their residence, and (iii) non-residents for trademarks originated from Ukraine are not tax deductible.

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The first and the second of the above limitations can be waived if a taxpayer confirms the arm's-length level of payments in accordance with the transfer pricing rules (even if the transactions are not controlled for transfer pricing purposes).

The latter one should apply at any case (even if the payments are at 'arm's-length' level).

Group taxation

In Ukraine, each legal entity is taxed individually.

Transfer pricing

The transfer pricing rules apply for CIT purposes only. The list of controlled transactions for transfer pricing purposes includes business transactions that have an impact on taxable profits and that are:

- Business transactions with related parties that are non-residents of Ukraine.
- Cross-border business transactions on sale and/or purchase of goods and/or services through non-resident commissionaires.
- Business transactions with non-residents that are registered in or are residents of jurisdictions determined by the Cabinet of Ministers of Ukraine that meet the following criteria:
 - States (territories) where the CIT rate is less than Ukraine's CIT rate by 5% or some tax benefits on CIT are available.
 - Countries with no DTT with Ukraine containing provisions on exchange of information.
 - States the competent authorities of which do not accomplish timely and full exchange of tax and financial information upon request of the Ukrainian tax authorities.
- Transactions with non-residents that do not pay CIT, including on revenues received outside of the state of registration of such non-residents, and/or that are not tax residents of the country where they are registered as legal entities. The list of organisational and legal forms of such non-residents in terms of states (territories) is established by the Cabinet of Ministers of Ukraine.
- If within a chain of business transactions between related parties (tax resident of Ukraine with non-residents), the ownership of the subject matter of the transaction (or its result) before being transferred from one of the counterparties to another was transferred to one or more intermediaries, these cross-border transactions between the taxpayer and such non-resident are considered to be controlled if the intermediary performs no significant functions, employs no significant assets, and/or bears no significant risks in respect of the transactions.

Transactions with the same counterparty are considered to be controlled if the total annual amount of the transactions with any counterparty (calculated according to accounting rules) exceeds UAH 10 million (net of indirect taxes), provided the total annual income (calculated according to the accounting rules) of the taxpayer received as a result of any type of activity exceeds UAH 150 million (net of indirect taxes).

Starting from 1 January 2018, transactions performed between a non-resident and its PE in Ukraine are considered controlled for transfer pricing purposes if their value, determined in accordance with the accounting rules, exceeds UAH 10 million (net of indirect taxes) for the corresponding tax (reporting) year.

For all cases listed above, the value criteria for recognition of transactions as controlled should be calculated at prices that are in line with the arm's-length principle.

Some transactions are considered to be at arm's length (i.e. transactions in which prices are subject to state regulation, transactions subject to mandatory valuation, transactions in which prices are determined by mandatory auction, transactions on forced sale of collateral) if the conditions of transactions meet the respective legislation requirements.

The Tax Code of Ukraine provides five methods for determining the arm's-length nature of the controlled transactions:

- Comparable uncontrolled price (CUP) method.
- Resale price method.
- Cost plus method.
- Net profit method.
- Profit split method.

According to the Tax Code, the selected transfer pricing method should be the one that the taxpayer reasonably considers as being most appropriate according to the facts and circumstances of the case.

The main criteria for the most appropriate transfer pricing method selection are:

- The nature of the controlled transaction, which is determined, in particular, based on the functional analysis of the controlled transaction (including the functions performed, assets employed, and risks assumed).
- The availability of complete and accurate information, which is necessary for the application of the selected transfer pricing method(s).
- The level of comparability between the controlled and non-controlled transactions, including the reliability of comparability adjustments, if any, that can be used to eliminate differences between such transactions.

The CUP method is the primary transfer pricing method to be used over all other methods. If this method is not feasible to apply, the taxpayer can use other methods, specified by the Tax Code. However, if there is an equal reliability of the resale price method or the cost plus method as well as the net profit method or profit split method, the first two methods are given priority. In addition, the Tax Code also provides the possibility for the use of several transfer pricing methods (combination thereof) to substantiate the arm's-length nature of controlled transactions. The application of other methods that are not prescribed by the Tax Code (*see above*) is prohibited.

The CUP method should be applied for cross-border transactions (with the residents of the jurisdictions included on the list established by the Cabinet of Ministers of Ukraine) with commodities quoted on the commodity exchange; otherwise, the profitability of all counterparties involved in the chain of business transactions should be disclosed.

For the purposes of application of the transfer pricing methods, the following information may be used:

- Information on comparable transactions of the taxpayer as well as its counterparty with non-related parties.

Ukraine

- Any publicly available sources of information that provide data on comparable transactions and parties.
- Other sources from which information was received by the taxpayer in compliance with the law, if such information was provided to the tax authorities.
- Information received by the tax authorities under the effective international agreements concluded by the Parliament of Ukraine.

All taxpayers performing controlled transaction should file a report on controlled transactions by 1 October of the year following the reporting year.

All taxpayers performing controlled transactions should prepare and maintain transfer pricing documentation for each reporting period. Transfer pricing documentation, substantiating the arm's-length nature of prices/profitability, should be submitted only upon request of the tax authorities within 30 calendar days upon its receipt. The request on the provision of transfer pricing documentation can be sent to the taxpayer not earlier than on 1 October of the year following the calendar year in which the controlled transaction was performed.

Transfer pricing documentation should be prepared in Ukrainian only in any format (either a single document or a set of documents); however, the precise rules regarding the content of the documentation should be followed.

The Tax Code of Ukraine contains a detailed list of information to be included in transfer pricing documentation.

If the prices/profitability of the controlled transaction do not correspond with the arm's-length principle, the taxpayer should perform the respective transfer pricing adjustment and pay additional tax. The other party to the controlled transaction is entitled to perform a proportional transfer pricing adjustment. The proportional adjustment is also allowed in case of transfer pricing assessments by the tax authorities. The proportional adjustment should be made in accordance with the provisions of the effective DTTs.

The Tax Code also provides for a specialised transfer pricing audit as the tax authorities are not allowed to examine pricing in controlled transactions during normal full-scope tax audits. The audit duration cannot exceed 18 months, although extension is possible for another 12 months.

The tax authorities cannot conduct more than one transfer pricing audit within one calendar year, although other (non-transfer pricing) tax audits can be conducted during this period. The statutory limitation period for transfer pricing assessments is seven years.

For the purpose of comparing conditions between controlled and uncontrolled transactions, the tax authorities have the right to use the information obtained in the course of an audit of compliance with the arm's-length principle by the taxpayer from the counterparties who were parties to the tested controlled transactions.

The Tax Code defines the following penalties for non-compliance with the transfer pricing rules for non-submission of the report on controlled transaction and/or transfer pricing documentation, or omission of certain controlled transactions in the report on controlled transaction:

- 3% of the controlled transaction value for failure to file transfer pricing documentation (limited to 200 times the statutory subsistence minimum for able-bodied individuals [UAH 352,400 as of 1 January 2018] for all controlled transactions).
- 1% of the controlled transaction value for failure to declare the controlled transaction in the report on controlled transactions (limited to 300 times the statutory subsistence minimum for able-bodied individuals [UAH 528,600 as of 1 January 2018] for all unreported controlled transactions).
- 300 times the statutory subsistence minimum for able-bodied individuals (UAH 528,600) for failure to file the report on controlled transactions.

In addition, there are the following penalties for late submission of the report on controlled transaction and/or transfer pricing documentation, according to the Tax Code:

- In case of non-submission of the report on controlled transaction (specifying report) and/or transfer pricing documentation within 30 calendar days following the last day of the fine (for non-submission of the report on controlled transaction/transfer pricing documentation), five times the statutory subsistence minimum for able-bodied individuals for each calendar day (UAH 8,810).
- Two times the subsistence minimum for able-bodied individuals (UAH 3,524) for each calendar day, but no more than 200 times the subsistence minimum for able-bodied individuals (UAH 352,400), in the case of late submission of transfer pricing documentation.
- One statutory subsistence minimum for able-bodied individuals (UAH 1,762) for each calendar day, but no more than 300 times the subsistence minimum for able-bodied individuals (UAH 528,600), in case of late submission of the report on controlled operations or late declaration of the controlled transaction in such report when submitting an adjusting report.

Payment of such penalties does not exempt the taxpayer from the obligation to file the report on controlled transaction and/or transfer pricing documentation.

Large taxpayers have the right to enter into Advance Pricing Agreements (APAs) with the State Fiscal Services of Ukraine in order to agree on certain terms of controlled transactions in advance. For a large taxpayer, it is also possible to pre-align pricing in controlled transactions that are or will be carried out by those large taxpayers.

Thin capitalisation

The following rules apply to legal entities whose debts to non-resident related parties exceed equity by 3.5 times (10 times for financial institutions/leasing companies):

- The deduction of interest expense under transactions with non-resident related parties for these taxpayers is limited by the amount of 50% of earnings before interest, taxes, depreciation, and amortisation (EBITDA).
- The non-deductible portion of interest can be carried forward indefinitely. However, each following year the residual amount of such interest should be reduced by 5%.
- For the purposes of thin capitalisation rules, debt includes any loan, deposit, repo transactions, financial leasing, and any other debenture, regardless of its legal form.

Ukraine

Controlled foreign companies (CFCs)

There are no specific CFC rules in Ukraine, but significant development of local legislation in this area is expected in the coming years in implementing some initiatives from the Base Erosion and Profit Shifting (BEPS) Action Plan.

Treatment of inter-company items

Ukrainian tax legislation provides the following treatment for inter-company items:

- Dividends received by a Ukrainian entity from another Ukrainian entity that is a CIT payer are exempt from CIT. At the same time, recipients of dividends from individuals or entities operating under the simplified tax regime cannot reduce the tax base to the amount of such dividends. Dividends received by Ukrainian companies from foreign companies are not exempt from CIT either.
- There is no limitation on the deduction of expenses in relation to the financing of management bodies, including holding companies.
- The deduction of cost-sharing and similar intra-group payments, other than remuneration for services actually rendered, is not specifically limited for CIT purposes (accounting rules should apply).
- Starting from 1 January 2018, fees for purchase of copies of software programs for further resale should not be treated as royalties for tax purposes.

In addition to the above:

- Certain limitations apply to deduction of royalties paid to non-residents (*see Payments to foreign affiliates in the Deductions section for more information*).
- Royalties paid to (i) non-beneficial owners, (ii) low-tax jurisdictions, (iii) non-residents that are exempt from tax on royalties in the country of their residence, and (iv) non-residents for trademarks originated from Ukraine are not tax deductible (even if the payments satisfy the 'arm's length' criteria). This limitation does not apply when a beneficial owner grants the right to receive the royalties to other parties.
- Transactions for the receipt (provision) of financial aid between a taxpayer and its branches and other separate units without legal entity status located in Ukraine shall not affect their taxable income or deductible expenses (except for non-repayable financial aid that was provided free of charge for the benefit of its recipients that are not CIT payers or that are taxed at a 0% CIT rate).
- Interest on loans is limited (*see Thin capitalisation above*).

Tax credits and incentives

Starting from 2017, 'tax holidays' until 2021 were introduced for taxpayers with annual income less than UAH 3 million, provided they meet the requirements on (i) payroll amount (not less than two times the statutory minimum wage monthly per each employee), (ii) defined average number of employees in the preceding periods (for the entities established before 1 January 2017), and (iii) are compliant with limitations on types of activities (according to the specific list).

Simplified (unified) tax regime

Entities and individuals (i.e. private entrepreneurs) are entitled to use a simplified (unified) tax regime (with exemption from CIT) if certain requirements are met.

Groups 1 and 2 of the simplified (unified) tax regime are available for private entrepreneurs only, and group 3 for both private entrepreneurs and legal entities (depending on the types of activities, the level of income [only up to UAH 5 million, except agricultural producers], and the number of employees' criteria).

These regimes foresee low effective tax rates (up to 10% of the amount of statutory subsistence minimum for able-bodied individuals as of 1 January of the reporting year for group 1 per month; up to 20% of the minimal salary set as of 1 January of the reporting year for group 2 per month, or up to 5% of turnover for a private entrepreneur/an entity of the third group) and easier reporting for small businesses. However, specific types of business activities are prohibited under this tax regime (*inter alia*, transactions with certain excisable products, exploration/production/sale of precious metals and stones, company management and communication services).

Taxpayers of group 1 may not use cash recorders in their activity. Taxpayers of group 2 and 3 are obligated to start using cash recorders from the quarter following the one when their turnover exceeds UAH 1 million.

The group 4 classification of the simplified (unified) tax regime is available for qualified agricultural producers.

Agricultural producers are entitled to use a very favourable tax regime (with exemption from CIT), provided certain requirements are met. The main criterion requires that income from the sale of their own agricultural products constitutes not less than 75% of their total gross revenue of the previous tax (reporting) year.

Under this regime, the amount of tax due depends on the size of the agricultural land plot owned or rented by the agricultural producers. The tax rates vary from 0.19% to 6.33%, apply to the normative monetary value of one hectare of agricultural land, and depend on the type of such land.

Foreign tax credit

Tax residents are allowed a credit for foreign taxes paid on income received abroad, provided there is a DTT between Ukraine and the relevant foreign state. The amount of foreign tax credit is limited to the amount of Ukrainian tax that would arise from the equivalent income in Ukraine. To claim a tax credit, the taxpayer requires an official confirmation of payment issued by the relevant foreign tax authority.

Withholding taxes

WHT must be remitted to the authorities no later than the date when the payment is made to the income recipient.

Passive income (dividends, interest, royalties) from Ukrainian sources that is paid to non-resident entities is generally subject to 15% WHT. Other payments, including payments for engineering services, lease payments, and agency and brokerage fees, are also subject to 15% WHT, but payments for most other services are not subject to withholding. WHT rates may be reduced under a relevant tax treaty.

The 15% WHT rate applies to income (rather than capital gain) on the sale of real estate and on profits from the sale of securities.

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Capital gains from disposal of interest-free (discounted) bonds and treasury bills are taxed at an 18% rate.

Payments for freight services (including sea freight) are subject to 6% WHT.

A special 5% WHT rate on qualifying Eurobond yield applies (including payment of interest to residents of low-tax jurisdictions).

Interest payable under a syndicated loan through the organising bank can be subject to reduced WHT rates under the DTTs between Ukraine and the country of residence of each participating bank.

The non-resident recipient of income sourced in Ukraine must also be considered the beneficial owner of such income in order to benefit from the reduced tax rates under relevant tax treaties. According to the Tax Code, agents, nominee holders, and other intermediaries in respect of received income cannot be beneficial owners of income sourced in Ukraine, and, therefore, are not entitled to favourable treaty provisions.

Payments to non-resident persons for advertising services are not subject to withholding. However, the resident payer is required to pay, from its own funds, a 20% remittance tax based on the value of such services.

A resident payer is similarly required to pay, from its own funds, a 12% remittance tax if a payment is made to a foreign insurer or reinsurer whose rating of financial reliability does not meet the requirements set by the authorised state agency. Otherwise, 0% or 4% rates apply.

As taxes on advertising and insurance are levied on a resident party, they cannot be relieved using a tax treaty.

A taxpayer under the simplified tax regime that distributes passive income to a non-resident or its designated entity (except to the non-resident's PE in Ukraine) is obligated to withhold WHT at the moment of such payments.

Recipient	WHT (%)			
	Dividends		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio		
Domestic rates:				
Non-resident individuals	5/18 (4)	5/18 (4)	18	18
Non-resident corporations	15	15	15	15
Treaty rates:				
Algeria	5	15	10	10
Armenia	5	15	10	0
Austria	5	10	2/5 (5)	0/5
Azerbaijan	10	10	10	10
Belarus	15	15	10	15
Belgium	5	15	2/10 (5)	0/10
Brazil	10	15	15	15
Bulgaria	5	15	10	10
Canada	5	15	10	0/10
China, People's Republic of	5	10	10	10

Recipient	WHT (%)			
	Dividends		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio		
Croatia	5	10	10	10
Cyprus (19)	5	15	2	5/10
Czech Republic	5	15	5	10
Denmark	5	15	0/10 (7)	0/10
Egypt	12	12	12	12
Estonia	5 (21)	15	10	10
Finland	0/5 (8)	15	5/10 (7)	0/5/10
France	0/5 (9)	15	2/10 (5)	0/5/10
Georgia	5	10	10	10
Germany	5	10	2/5 (5)	0/5
Greece	5	10	10	10
Hungary	5	15	10	5
Iceland	5	15	10	10
India	10	15	10	10
Indonesia	10	15	10	10
Iran	10	10	10	10
Ireland	5	15	5/10 (20)	5/10
Israel	5/10	15	5/10 (10)	10
Italy	5	15	10	7
Japan (6)	15	15	10	0/10
Jordan	10	15	10	10
Kazakhstan	5	15	10	10
Korea, Republic of	5	15	5	5
Kuwait	5	5	0	10
Kyrgyzstan	5	15	10	10
Latvia	5	15	10	10
Lebanon	5	15	10	10
Libya	5	15	10	10
Lithuania	5	15	10	10
Luxembourg	5 (22)	15	5/10 (5)	5/10 (22)
Macedonia	5	15	10	10
Malaysia (6)	15	15	15	10/15
Malta	5 (23)	15	10	10
Mexico	5 (17)	15	10	10
Moldova	5	15	10	10
Mongolia	10	10	10	10
Montenegro	5	10	10	10
Morocco	10	10	10	10
Netherlands	0/5 (11)	15	2/10 (5)	0/10
Norway	5	15	10	5/10
Pakistan	10 (16)	15	10	10
Poland	5	15	10	10
Portugal	10/15 (12)	15	10	10
Romania	10	15	10	10/15
Russian Federation	5 (13)	15	10	10
Saudi Arabia	5 (18)	15	10	10
Serbia	5	10	10	10
Singapore	5	15	10	7.5

Ukraine

Recipient	WHT (%)			
	Dividends		Interest (2)	Royalties (3)
	Non-portfolio (1)	Portfolio		
Slovakia	10	10	10	10
Slovenia	5	15	5	5/10
South Africa	5	15	10	10
Spain (6)	15	15	0	0/5
Sweden	0/5 (14)	10	0/10 (5)	0/10
Switzerland	5	15	0/10 (5)	0/10
Syria	10	10	10	15
Tajikistan	10	10	10	10
Thailand	10	15	10/15 (10)	15
Turkey	10	15	10	10
Turkmenistan	10	10	10	10
United Arab Emirates	5	15	3	0/10
United Kingdom	5	10	0	0 (15)
United States	5	15	0	10
Uzbekistan	10	10	10	10
Vietnam	10	10	10	10

Notes

1. The ownership threshold for the non-portfolio rate is 10%, 20%, 25%, or 50%, depending on the specific provisions in the treaty.
2. Several treaties contain a rate of 0% on interest paid to or guaranteed by a government or one of its agencies.
3. If more than one rate is shown, this means that the rate will depend on the type of royalties paid.
4. The 18% rate applies to dividends from privileged shares or other fixed payments on shares, as well as to disguised employment income. Dividends received from a Ukrainian legal entity CIT payer (other than collective investment arrangement) are subject to the 5% rate.
5. The lower rate applies to interest paid on certain credit sales and on loans granted by a financial institution.
6. The treaties with Japan, Malaysia, and Spain were entered into by the USSR before it dissolved. Ukraine will continue to honour these treaties, unless they are superseded.
7. The lower rate applies to interest paid in connection with the sale on credit of any industrial, commercial, or scientific equipment, unless the debenture is between associated enterprises.
8. The 0% rate applies if the investor holds at least 50% of the capital of the company paying the dividends and the capital invested is at least 1 million United States dollars (USD); the payer of dividends should not operate in the field of gambling, show business or an intermediation business, or in auctions.
9. The 0% rate will apply if a French company or companies hold, directly or indirectly, at least 50% of the capital of the Ukrainian company, and the aggregate investments exceed 5 million French francs.
10. The lower rate applies to interest paid on any loan granted by a bank.
11. The 0% rate applies if the investor directly holds at least 50% of the capital of the company paying the dividends, and the capital invested is at least USD 300,000.
12. The 10% rate applies if the company receiving the dividend has, for an uninterrupted period of two years before the dividend is paid, owned at least 25% of the capital stock of the company paying the dividends.
13. The 5% rate applies if the capital invested is at least USD 50,000.
14. The 0% rate applies if the Swedish company directly holds at least 25% of the voting power of the company paying the dividends and at least 50% of the Swedish company is held by Swedish residents.
15. The 0% rate applies only if the royalties are taxable in the United Kingdom.
16. The 10% rate applies if the company receiving the dividend directly owns at least 25% of the capital stock of the company paying the dividends.
17. The 5% rate applies if the investor (other than partnership) being a beneficial owner holds at least 25% of the capital of the company paying the dividends.
18. The 5% rate applies if the investor, being a beneficial owner, holds at least 20% of the capital of the company paying the dividends.
19. The 5% rate on dividends applies if the investor holds at least 20% of the capital of the company paying the dividends or the capital invested is at least 100,000 euros (EUR). The 5% rate on royalties applies in relation to royalties on trademarks, patents, or know-how.

20. The 5% rate applies in the case of interest paid in connection with the sale on credit of industrial, commercial, or scientific equipment or on any loan granted by a bank.
21. The 5% rate applies if the investor (other than partnership) being a beneficial owner directly holds at least 25% of the capital of the company paying the dividends.
22. The 5% rate applies if the investor (other than partnership) being a beneficial owner directly holds at least 20% of the capital of the company paying the dividends. The 5% rate on royalties applies in relation to royalties on trademarks, patents, or know-how.
23. The 5% rate applies if the investor (other than partnership) being a beneficial owner directly holds at least 20% of the capital of the company paying the dividends.

Tax administration

Taxable period

The reporting year for companies generally follows the calendar year. The exception is for qualified agricultural manufacturers (other than on simplified [unified] tax), whose reporting period starts from 1 July of the current reporting year and ends on 30 June of the next reporting year.

Tax returns

Tax returns for CIT should generally be submitted on a quarterly basis, but some taxpayers will have to submit them annually (newly established, agricultural producers, and taxpayers with prior year annual income equal to or less than UAH 20 million [net of indirect taxes]).

Monthly returns (e.g. VAT) must be filed within 20 calendar days following the end of the respective reporting month.

Quarterly returns are due within 40 calendar days following the last day of the reporting quarter. However, the deadline for submitting a fourth quarter CIT return (on a quarterly reporting period basis) is 60 calendar days after the reporting year-end; this term also applies for other annual returns (including CIT returns on a yearly reporting period basis).

Taxpayers also have to submit financial statements to the tax authorities.

Resident companies and non-resident entities with a PE in Ukraine must keep records that comply with the tax rules.

Payment of tax

Taxes payable assessed on the basis of tax returns are due within ten calendar days following the deadline for filing the relevant tax returns.

Penalties

The tax authorities will charge significant penalties for late filing, late payment, or understating tax liabilities.

Late payment of tax may result in a penalty in the amount of 10% of the underpaid amount for delays of up to 30 calendar days (20% if the delay exceeds this).

If the tax liabilities are understated, the amount of penalty depends on the frequency of violations (i.e. understatement of CIT and VAT liabilities, overstatement of VAT refunds) during a period of 1,095 consecutive calendar days. In particular: 25% for the first violation, 50% for the second violation and each subsequent violation related to the same taxes.

Ukraine

In addition to these penalties, late payment interest (LPI) is calculated by the application of a rate of 120% *per annum* of the prime rate of the National Bank of Ukraine, effective from the actual date of underpayment on the amount of additionally assessed tax liabilities for the whole period of underpayment.

If a taxpayer fails to withhold tax when required, a penalty of up to 75% of the deficient tax is imposed.

Potential criminal responsibility could be claimed against the taxpayer's management if the total amount of additional tax liabilities assessed by the tax authorities during the tax audit exceeds 1,000 times the amount that is equal to 50% of the statutory subsistence minimum for able-bodied individuals (i.e. UAH 881,000 of additional tax liabilities for 2018). There are several options to close such criminal proceedings (the procedure should be properly managed from the legal perspective).

Tax audit process

The tax authorities may carry out scheduled audits once a year. Taxpayers must be notified of the audit in writing at least ten days in advance. The State Fiscal Services is required to release a schedule of planned audits for the following year on its official website by 25 December of the year preceding the year when such audits are to be conducted. In addition, the tax authorities may perform out-of-schedule audits in certain circumstances (e.g. if a taxpayer does not file tax returns on a timely basis, it is reorganised or liquidated, during the counter-check it fails to provide the tax office with all documents specified in the request).

A desk audit of a tax return or adjusted tax return may be conducted within 30 calendar days following the deadline for its submission; if such documents have been filed after such deadline, the 30-day term will be calculated starting from the date of submission.

The tax authorities have the right to audit a taxpayer's accounting, correctness, and completeness of the calculation of NPBT according to the Ukrainian statutory or IFRS rules.

Transfer pricing audits are conducted on a separate basis.

Statute of limitations

Under Ukrainian tax legislation, a three year statute of limitations applies (1,095 days) on any outstanding Ukrainian tax liability, starting from the date a tax return is due to be filed and/or the date the tax is due to be paid, if assessed by the tax authorities. There is no limit on the statute of limitations in which an assessment may be made if a taxpayer has deliberately evaded taxation (if proven in court) or when a taxpayer fails to file a return.

The statute of limitations for transfer pricing controlled operations is seven years (2,555 days).

Tax advice

The Ministry of Finance of Ukraine is authorised to issue summarising tax consultations in cases of inconsistency among various tax law provisions. Additionally, tax advice may be sought from the tax authorities, who are required to issue such clarifications.

Tax advice is not legally binding and may be challenged in court. A taxpayer may use the tax advice as guidance on the methodology to be applied by the taxpayer. In practise, the tax advice often does not provide solid protection against future assessment of tax, but does protect from penalties.

A unified database of individual tax consultations was established in 2017 and administered by the State Fiscal Service of Ukraine with free unobstructed access to its records. All individual tax consultations issued by the tax authorities from 1 April 2017 and further on are to be entered into the database.

Topics of focus for tax authorities

Currently tax authorities are focusing on the following areas:

- Proper calculation of taxable profits as per accounting records (including timely documenting of expenses and their proper allocation between the periods), and correct application of tax differences, prescribed by the Tax Code.
- Compliance with beneficial ownership requirements for the purposes of CIT and WHT.
- Compliance with transfer pricing rules and reporting requirements.
- Analysis of taxpayer's rights for recognition of input VAT.

Electronic taxpayer's cabinet

An electronic taxpayer's cabinet features the following functions:

- Access to the taxpayers' information, which was collected and accumulated by tax authorities.
- Ability to reconcile tax payments made to the state and local treasuries by obtaining the reconciliation statements.
- Ability to manage overpaid or mistakenly paid monetary obligations and penalties.
- Electronic submission of tax returns and other reporting, registration of VAT, and excise invoices.
- Access to the electronic system of VAT administration.
- Informs taxpayers on scheduled audits, ability to file administrative appeals against decisions taken by the tax authorities.
- Informs on status of counterparties using information supplied by publicly available information sources maintained by the Ministry of Finance of Ukraine, other registries and databases that are maintained according to the Tax Code of Ukraine, etc.

Other issues

Exchange controls

The key issues regarding Ukraine's current exchange control regulations are as follows:

- Trade-related settlements between residents and non-residents can be made in foreign currency and Ukrainian hryvnia. Offsets under foreign trade/service agreements are generally banned.
- Payments in foreign currencies in the territory of Ukraine are subject to a National Bank of Ukraine (NBU) licence, except for payments for goods, works, services, and payment of salaries in the temporarily occupied territory of Ukraine.

Ukraine

- Salaries to Ukrainian staff must be paid in Ukrainian currency (but expatriate employees can be paid in hard currency). Expatriates are unable to receive hard currency (local) salaries to Ukrainian bank accounts.
- Foreign loans must be registered with the NBU before funds are remitted to Ukraine.
- The maximum allowable interest rates for foreign fixed rate loans in hard currency (inclusive of any fees and charges due under the loan agreement) are 9.8% *per annum* for loans up to one year; 10% *per annum* for loans for one to three years; and 11% *per annum* for loans over three years. For loans with floating interest rates, the maximum allowable interest rate is three months of the USD London Interbank Offered Rate (LIBOR) plus 7.5%.
- Proceeds from exports must be credited to the exporter's Ukrainian bank account in general within 180 days from the date of customs clearance (for goods) or the date of signing the act of acceptance (for certain services). Starting from 3 January 2017, the mentioned rule does not apply to export of services (except for transport and insurance services) and intellectual property (IP) rights. Similarly, prepaid goods must be imported and cleared through customs in general within 180 days of payment. Failure to do so will result in a fine of 0.3% of the amount due or paid for each day of delay, but not more than the debt itself.
- Ukrainian companies are generally obligated to exchange at the local market 50% of their foreign currency proceeds received from abroad (this restriction does not apply to making foreign investments into Ukraine and certain other proceeds). In order to enforce this limitation, the NBU introduced a ban on offsetting receivables/payables in (i) hard currencies (e.g. US dollars, euros, Russian rubles [RUB]) regardless of the amount and (ii) other foreign currencies in the amount exceeding USD 500,000 under one agreement.

Ukrainian companies are required to obtain a licence from the NBU for a number of transactions, including the following:

- Cash investments abroad for the acquisition of fixed assets, intangible assets, corporate rights, securities, and derivatives under USD 2 million in one calendar year.
- Purchase of Ukrainian securities from non-residents (however, a licence is not required if the payments are made through a Ukrainian securities trader holding a general NBU licence [a bank, for example]).
- Transfer of funds to bank accounts opened abroad.
- Other transactions, which require an individual licence in case the amount of the planned transfer is under USD 50,000 per month.

Ukrainian individuals are required to obtain a licence for the following purposes:

- Investments.
- Depositing funds from Ukraine in personal accounts held in foreign banks.
- Fulfilment of obligations before non-residents under life insurance contracts.

Individuals may obtain electronic individual licences from the NBU under the simplified procedure in case of currency operations in the amount not exceeding USD 50,000 per year in total. Issuance of other individual licences is currently banned.

Some limitations continue to apply until adoption of a new resolution by the NBU. Still, the NBU introduced some liberalisation of exchange control:

- The NBU has allowed remittance of funds to foreign investors under the following transactions:
 - the sale of corporate rights, decrease of the charter capital, or withdrawal from legal entities, up to USD 5 million per month.
 - the sale of state bonds and other bonds via a stock exchange (without limits), and
 - the payment of dividends for the period until 2017 (inclusive), up to USD 7 million per month.
- The NBU prohibited remittance of foreign currency by resident guarantors (except based on the NBU individual licence).
- Starting from 3 March 2018, the NBU allowed early repayment of loans in foreign currency within certain limits. From now on, Ukrainian borrowers can make early repayments of any foreign loan within the monthly limit of USD 2 million (or its equivalent in other foreign currency) under the loan agreements that are served within one servicing bank. In certain cases, residents may perform early loan repayment in full (e.g. early redemption of loans in case of liquidation or in case of conversion of their principal amount into the [authorised] share capital of the debtor, if a loan was provided by a top-rated bank [rated not lower than 'A3/A-']).
- The purchase of cash foreign currency is allowed in an amount not exceeding the equivalent to UAH 150,000 per day in one bank (with certain exceptions).
- In March 2018, a draft law 'On Currency' was registered in the Ukrainian Parliament (defined as high priority by the President of Ukraine). The draft law is aimed at liberalisation of the currency regime in Ukraine and most limitations and requirements mentioned above will be cancelled/changed in case of its adoption.

Choice of business entity

Generally, a limited liability company is the most widely used corporate vehicle in Ukraine for both residents and non-residents. A limited liability company has a simple registration procedure, is inexpensive, and is easy to maintain. It also provides more flexibility in terms of repatriating dividends from Ukraine.

There is no statutory fee for the state registration of newly established legal entities and individual entrepreneurs.

It is worth mentioning that a new Law on 'limited and additional liability companies' will enter into force on 17 June 2018, introducing a new legal framework for operation of limited liability companies in Ukraine.

Business and tax treatment of intellectual property (IP)

Ukrainian laws concerning IP rights provide for a rather developed background for IP usage. Economic rights of authors and neighbouring rights owners may be assigned or licensed. Moral rights are not transferable. Tax treatment for IP transactions is subject to separate analysis on a case-by-case basis since the Ukrainian tax legislation provides different approaches depending on the nature of the concluded agreement. For instance, the transfer of IP may be treated as a sale of non-tangible assets, the provision of services, or a royalty agreement.

For tax purposes, the term 'royalty' does not include payments for the use of computer programs by the end user or for purchasing electronic copies of IP for final consumption.

Ukraine

Mergers and acquisitions (M&A) from a business and tax perspective

There are no specific laws regulating public takeovers or mergers in Ukraine.

The Ukrainian Tax Code provides some guidance on the tax regime for corporate mergers and acquisitions. CIT consequences of such transactions will depend on their accounting in accordance with the financial accounting rules.

Legal regime of the Occupied Territory

Starting from 12 August 2014, temporarily (for ten years), there is an established free customs zone on the territory of Crimea, which means that all goods delivered to/from Crimea will be subject to customs clearance by the Ukrainian customs authorities.

The general rules are as follows:

- Goods delivered from the mainland of Ukraine to Crimea are subject to customs clearance with payment of export duty (if any) and 0% VAT. For tax purposes, such supplies will be considered as an export.
- Goods delivered from Crimea to the mainland of Ukraine are subject to general import procedures with payment of import duty and VAT.
- Delivery of goods in both directions is subject to veterinary, phytosanitary, ecological, and other state control measures.

Legal regime of the anti-terrorism operation

Temporarily, for the period of the anti-terrorism operation, there are certain specific regulations in respect of legal entities and individuals residing and/or doing business in the territory of the anti-terrorism operation (certain areas of Donetsk and Luhansk regions). These rules include, in particular:

- Moratorium on penalties under loan obligations (for agreements concluded or amended before 1 January 2018).
- Moratorium on audits by the state authorities.
- Release from payments for state and/or municipal property.
- Release from penalties for non-obtainment of foreign currency under export transactions within 180 days (*see Exchange controls above*).

United States (US) Foreign Account Tax Compliance Act (FATCA) rules compliance

The United States and Ukraine have reached an agreement in substance with regard to implementing the US FATCA under a Model 1 Intergovernmental Agreement (IGA), and Ukraine has consented to disclose this status. Ukraine is included into the US Internal Revenue Services (IRS) list of the countries with the IGA being treated 'as effective' until it is officially signed by the parties. In accordance with this status, the text of such IGA has not been released, and financial institutions in Ukraine are allowed to register on the FATCA registration website consistent with the treatment of having an IGA in effect, provided that the jurisdiction continues to demonstrate firm resolve to sign the IGA as soon as possible.

These developments further follow the Resolution of the Cabinet of Ministers of Ukraine dated 9 November 2016 approving the text of the IGA and authorising the Ministry of Finance to sign it.

Under the IGA between Ukraine and the United States, Ukrainian financial institutions are obligated to annually report to the local competent authorities information about financial accounts held in Ukraine by US taxpayers or foreign entities in which US taxpayers hold a substantial ownership interest. This information will be further transferred to the US IRS.

In March 2018, the Cabinet of Ministers of Ukraine submitted respective draft laws on ratification of the IGA to the Parliament and another one, which aimed to define some aspects of collecting/transferring information under the IGA. However, as of May 2018, these drafts were not yet considered, and the IGA is not yet ratified and not enforced in Ukraine as such.

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Significant developments

The following notable changes were introduced to Uzbek legislation during 2017 and the beginning of 2018:

- New customs duties and excise tax rates were introduced. Import duties and excise tax for some goods (e.g. oil and oil products, certain types of fish, potatoes, wheat) are abolished.
- By virtue of the Presidential Decree #YPI-5308 of 22 January 2018, a moratorium is declared for inspections of the economic activities of entrepreneurs by the regulatory authorities for two years. Inspections can be carried out only with respect to criminal cases and liquidation of legal entities.
- As of 5 September 2017, the Central Bank of the Republic of Uzbekistan sharply devalued the official exchange rate of Uzbekistani som (UZS) against other foreign currencies. For example, the exchange rate of the United States dollar (USD) increased by approximately 92% from UZS 4,210.35 to UZS 8,100 per US dollar.
- Further to devaluation, legal entities and individuals can purchase foreign currency in commercial banks without restrictions.
- As of 1 January 2018, corporate income tax (CIT) is unified with the infrastructure development tax (IDT).
- Mandatory contributions to designated funds (i.e. pension fund, road fund, and educational/medical institutions fund) are unified into a single contribution, the mandatory contribution to the state funds.
- A number of tax incentives are abolished effective 1 April 2018, including:
 - tax incentives provided to entities involved in localisation programs, including currently implemented localisation projects, and
 - rate reduction for CIT, property tax, and unified tax payment (UTP) for exporters.
- Taxable object for property tax was amended to replace 'fixed assets' with 'immovable property'. Hence, fixed assets, except for immovable property, are excluded from the taxable base for property tax.
- The Tax Code was supplemented by a concept of 'tax holidays'. Tax holidays are provided by changing deadlines for settlement of tax liabilities, allowing to defer tax payments.

Revised rates of certain taxes were introduced to the tax legislation effective as of 1 January 2018:

- CIT is increased significantly due to unification with the IDT. The standard CIT rate is fixed at 14% (previously, CIT 7.5% and IDT 8%).
- Land tax rates for legal entities and individuals and water-use tax rates for individuals are raised by approximately 15%.

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- The monthly fee payable by mobile operators for each customer number is increased from 2,000 Uzbekistani som (UZS) in 2017 to UZS 4,000.
- Excise tax rates for production of alcoholic drinks and cigarettes (and certain other goods) are increased. At the same time, the excise tax rate for production of vegetable oil is decreased. Petrol and diesel consumption tax decreased twice.
- Rates of compensation payments for pollution of the environment are increased by approximately two times.

Effective 1 December 2017, minimum monthly wage (MMW) is set at UZS 172,240 (previously UZS 149,775).

Taxes on corporate income

Resident corporations pay CIT on their worldwide income, whereas non-residents (i.e. foreign legal entities that have a permanent establishment [PE] in Uzbekistan or have income from sources in Uzbekistan not associated with a PE) pay CIT on income resulting from activities/sources in Uzbekistan.

Non-resident corporations are taxed directly at the level of their Uzbek PE, if there is one, or via withholding tax (WHT) at the source of payment of the Uzbek-source income.

CIT is charged on taxable profit calculated as a difference between gross income and deductible expenses reduced by applicable incentives granted by the Tax Code, other laws, or presidential decrees.

The CIT rate is set annually by presidential decree. In 2018, enterprises (i.e. legal entities), due to unification with the IDT, are generally subject to CIT at the rate of 14%. Commercial banks are subject to CIT at the rate of 22%.

Companies providing mobile services are taxable on excess profits through differentiated CIT rates as follows:

- If profitability is lower than 20%, the CIT rate is 14%.
- If profitability is higher than 20%, 50% of the CIT rate is charged on profits exceeding the 20% level of profitability.

See the Withholding taxes section for WHT rates applicable in Uzbekistan.

Simplified tax regime

An optional simplified tax regime is available for micro-firms and small businesses, which prescribes payment of one of the following taxes: unified tax payment (UTP), unified land tax (ULT), or fixed tax for certain types of entrepreneurs. For these taxpayers, the UTP, ULT, or fixed tax replaces the CIT, value-added tax (VAT), water-use tax, property tax, and other local taxes and duties.

Excise and customs duties remain applicable for this group of taxpayers (unless a specific exemption applies). However, micro-firms and small businesses producing excise-liable goods or engaged in subsurface extraction may not opt for the UTP regime.

UTP payers that have land plots with total area exceeding 1 hectare as of 1 January 2018 are subject to land tax.

UTP is obligatory for companies engaged in catering, retail, and wholesale, irrespective of headcount.

The general UTP rate is 5%.

ULT is payable by agriculture companies, and the rate is 0.95% of normative value of agricultural land.

Corporate residence

For Uzbek tax purposes, corporations are classified as resident or non-resident. A resident corporation is a legal entity that passed state registration in Uzbekistan (i.e. Uzbek legal entity). Other legal entities are regarded as non-resident corporations for tax purposes.

Permanent establishment (PE)

PE is defined by the Tax Code as “any place through which a non-resident carries out entrepreneurial activity in the Republic of Uzbekistan, including activity carried out through an authorised person. PE is also existent where a non-resident carries on entrepreneurial activity for 183 days (or more) in any consequent 12-month period”.

Other taxes

Value-added tax (VAT)

Legal entities are subject to VAT, which is applied to taxable turnover and taxable imports. The rate for taxable turnover is 20%. This rate also applies to taxable imports, for which the tax base is determined as the customs value plus import duties and excise tax (on excise-liable goods). Export of goods for hard currency is generally zero-rated. Insurance and most types of financial services are exempt from VAT.

VAT is reported quarterly by micro-firms and small enterprises and monthly by other categories of taxpayers.

Customs duties

Import of certain goods to Uzbekistan is subject to customs duties. The taxable base is determined as the customs value of imported goods. Rates of customs duties vary from 5% to 70%, depending on the type of imported goods. There is also a customs clearance fee of 0.2% from the customs value of imported goods, but not less than USD 25 and not exceeding USD 3,000.

Excise taxes

Legal entities producing or importing excise-able goods (e.g. cigarettes, jewellery, petrol, alcohol drinks) are subject to excise tax. Rates vary from 5% to 70%, depending on the type of goods produced/imported. The taxable base is determined as the value of produced/imported goods, excluding VAT. Excise tax is reported monthly.

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Property taxes

The property tax rate is 5% for legal entities. The tax is computed annually, based on the net book value of the immovable property, adjusted for the effect of revaluation, which should be performed annually on 1 January, and the value of overdue construction/installation-in-progress. The rate is doubled for equipment not installed in due time, and may be tripled in relation to overdue construction-in-progress and land plots allocated for construction.

A charge of 0.25% of the historic value of outdated equipment is collected from legal entities (except for micro-firms and small enterprises) for exploitation of fully depreciated equipment.

Newly opened enterprises are exempt from property tax for a period of two years from their date of registration, unless such enterprises have been created on the basis of production facilities or assets of existing enterprises.

Property tax is reported annually.

Obligatory revaluation of immovable property as part of fixed assets is to be performed by micro-firms and small enterprises once every three years (other categories of enterprises that are subject to this requirement should perform revaluation every year).

The Tax Code provides for the list of certain non-taxable property, mostly including public service facilities (e.g. waterwork facilities), gas and heat distribution lines, railways, and highways.

Land tax

Enterprises, including foreign legal entities operating in Uzbekistan via a PE, owning land plots or rights of their use are subject to land tax or land lease payment annually. Land tax is charged at fixed fees that vary depending on the quality, location, and level of water supply of each land plot. Land lease payment is charged at negotiable rates; however, the minimum amount cannot be less than the land tax rate for the respective land plot. Land tax and land lease payment are computed based on the area of the land in use.

Transfer taxes

There are no transfer taxes in Uzbekistan.

Stamp duties

According to Uzbek legislation, stamp duty (state due) is an obligatory payment charged for performance of legal actions and/or issuance of legal documents. The following actions, among others, are subject to stamp duties: filing claims, performing notary actions, civil registration, state registration of a legal entity, obtaining licences/permits to carry out certain activities, etc.

The rates of stamp duties generally vary from 0.5 to 20 times MMW, depending on the type of action executed. For instance, duty for filing a claim depends on the amount and nature of the claim. If the amount of civil claim is less than 20 MMW, the duty comprises 5% of this amount; for business claims, the duty is 1% of the claim amount. Duty for notarisation of copies of documents for legal entities is 2% of the MMW per each page of the document. Duty for registration of legal entities with foreign

investment comprises 32 times the MMW if submitted in person and 50% of this if submitted through the automated online registration system.

Turnover tax

As of 1 January 2018, mandatory contributions to designated funds (i.e. pension fund, road fund, and educational/medical institutions fund) are unified into a single contribution, the mandatory contribution to the state funds, which is charged on the enterprise's gross annual turnover (less VAT and excise tax). The mandatory contribution to the state funds is charged on turnover at a rate of 3.2% (previously, the combined rate for the three contributions was 3.5%).

The taxable base for the mandatory contribution to the state funds may differ depending on the type of activity of a company. Turnover tax is reported quarterly.

Micro-firms and small enterprises paying taxes under the standard tax regime (except enterprises producing excisable goods and extracting mineral products subject to subsurface use tax) are not subject to the mandatory contribution to the state funds.

Unified social payment (USP)

Employers are subject to USP assessed on total payroll cost related to local and expatriate staff. This payment is collected by the tax authorities. The rate of USP is 25% (15% for micro-firms, small enterprises, and farms).

Income of foreign personnel paid to non-resident legal entities as part of secondment fees under personnel provision agreements is subject to USP. The taxable base for calculation of USP on such income shall be the income of foreign personnel provided, but not less than 90% of the secondment fee payable under the personnel provision agreement. USP is reported monthly.

Payroll taxes

In addition to USP, employers are responsible for withholding personal income tax (PIT) and pension fund contributions from salaries and remitting them to the state budget.

Water-use tax

Enterprises (including PEs) using water in their production are subject to water-use tax. The tax rate is set by Presidential Resolution and depends on the source of water consumption (i.e. surface or underground). Water-use tax is calculated based on the volume of the water consumed. Water-use tax is reported annually.

Taxes of subsurface users

In addition to standard taxes, subsurface users (i.e. legal entities and individuals exploring and extracting natural resource) are subject to subsurface users' specific taxes, as listed below:

Subsurface use tax (royalty)

Subsurface use tax is charged on volume of produced (extracted) natural resources that are ready for sale or transfer (including free of charge) and consumption for internal purposes. The taxable base is determined as the average weighted sales price.

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Business activity	Tax rate examples
Extraction of natural resources	natural gas 30%, precious stones 24%, oil 20%, gold 5%, silver 8%
Utilisation of by-products received during the extraction of natural resources	30% of tax rate applicable to main natural resources extracted

Subsurface use tax is reported quarterly.

Excess profits tax

Excess profits tax is assessed on the difference between the selling price of the extracted natural resources (as per the list) and the statutory price set by the legislation. Excess profits tax is not payable by entities operating under production sharing agreements.

The list of natural resources and goods subject to excess profits tax includes copper, cement, natural gas, polyethylene granules, and clinker. Excess profits tax is paid at 50% of the taxable base.

Signing and commercial discovery bonuses

Signing and commercial discovery bonuses are one-off payments to the state budget. The signing bonus is payable for the right to engage in exploration and extraction of natural resources and range from 100 to 10,000 times the MMW, depending on the type of minerals. The commercial discovery bonus is paid for each field where a subsurface user discovers the natural resources and comprises 0.1% from the cost of the proved reserve volume.

Branch income

The Civil Code of the Republic of Uzbekistan provides that enterprises can establish and operate branches. However, the by-laws governing procedures for establishing entities with foreign investments do not provide sufficient guidance on establishing branches of foreign legal entities, creating a practical problem with registering of branches of foreign legal entities. Instead, such entities use a PE registration to perform business activities without establishing an Uzbek company.

Income determination

Inventory valuation

Uzbek legislation permits the application of the weighted average cost method (AVECO) and the first in first out (FIFO) method for the valuation of inventory for tax purposes.

Capital gains

Capital gains arising from the disposal of tangible and intangible assets are calculated as the difference between the selling price and the net book value of an asset. The capital gain is included in taxable profits (unless specifically exempt), and the capital losses are deductible (only if the disposed asset had been used for business purposes for three or more years). This is applicable to Uzbek legal entities and PEs of foreign legal entities.

Capital gains of non-resident companies are subject to WHT at 20% as 'other' income. The obligation to withhold and pay the tax on income of a non-resident of the Republic of Uzbekistan is levied on the buyer of the property, a tax agent.

In the absence of the documents supporting the acquisition price, WHT on capital gains from the sale of property shall be assessed based on the sales price.

Dividend income

Dividends paid by a domestic subsidiary are subject to 10% WHT at the source. The net dividends received by its domestic parent company are then excluded from the parent's CIT base. Such net dividends received by a foreign parent company are taxed in accordance with the respective country's internal legislation or double tax treaty (DTT) provisions (if Uzbekistan has a DTT with this country).

Income of non-residents subject to WHT (including income in the form of dividends, interest, and royalties) is to be paid without withholding of WHT at source or with application of a reduced WHT rate as provided by a tax treaty, provided that there is a tax certificate confirming that non-residents are registered for tax purposes in the state with which Uzbekistan has the effective tax treaty (with certain exemptions).

See the Withholding taxes section for a list of countries with which Uzbekistan has an applicable tax treaty.

Interest income

Interest income is subject to 10% WHT at the source. The net interest income received by companies is then excluded from its CIT base. Such net interest income received by foreign companies is taxed in accordance with the respective country's internal legislation or DTT provisions (if Uzbekistan has a DTT with this country). Similar to other types of income of non-residents subject to WHT (including income in the form of dividends and royalties), interest income is to be paid without withholding of WHT at source or with application of a reduced WHT rate by automatic application of a DTT, provided that there is a relevant residence certificate.

See the Withholding taxes section for a list of countries with which Uzbekistan has an applicable tax treaty.

Royalty income

Royalty income includes payments for:

- usage and granting of the right to use works of science, literature, and art, including software programs, audio-visual production, and objects of related rights, including performances and soundtracks, and
- usage of a patent (certificate) confirming the right to an industrial property object, a brand (service mark), a trademark, design or model, plan, secret formula or process, or information (know-how) concerning industrial, commercial, or scientific expertise.

Royalty income of Uzbek legal entities and PEs of foreign legal entities is included in taxable profits.

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Royalties paid to non-resident companies with no PE are subject to WHT at 20% as 'other' income. The obligation to withhold and pay the tax on income of a non-resident of the Republic of Uzbekistan is levied on the payer of the royalty, a tax agent.

Foreign income

Gross foreign income of a resident corporation (e.g. income from its foreign branch) should be included in its aggregate income on an accrual basis, regardless of remittance date. Expenses incurred abroad in relation to such foreign income can be deducted, subject to provisions of the Uzbek Tax Code. Foreign income tax paid on such income should be credited against the Uzbek CIT only if this branch is registered in a country with which Uzbekistan has a DTT. There are no deferrals for foreign income to be recognised for Uzbek tax purposes.

Deductions

The tax base for CIT purposes varies significantly from the computation of taxable profits in most Western jurisdictions. Expenditures such as benefits in-kind and business trip allowances exceeding the statutory norms (that are generally low) are non-deductible.

There are additional costs that cannot be deducted by PEs of foreign legal entities, such as interest on head office loans; commission fees charged by the head office; and royalty, administrative, and management expenses of the head office incurred outside Uzbekistan. However, PEs are eligible to deduct expenses incurred outside of Uzbekistan if they directly relate to their business in Uzbekistan.

Depreciation and amortisation

For tax purposes, depreciation/amortisation is calculated with application of rates defined by the Tax Code. If depreciation for accounting purposes is charged at higher rates (compared with the Tax Code rates), the difference is treated as a temporary difference for CIT purposes (i.e. deducted in future periods).

Depreciation is calculated from a month following the month when the asset was put into use until it is fully depreciated, disposed of, or written off. The maximum annual depreciation rates applicable to different types of fixed assets are outlined in the table below.

Depreciable item	Rate (%)
Buildings and other structures	5
Cars, tractors, special equipment, computers and related hardware	20
Lorries, buses, special cars and trucks, industrial machinery and equipment, agricultural machinery and equipment, oil extraction and mining equipment, office furniture	15
Railway, river and air transport vehicles, thermo-technical equipment, turbines, electric and diesel drives, power supply and communication lines, pipelines	8
Depreciable assets not mentioned above	15

For statutory accounting purposes, fixed assets can be depreciated using one of the following methods:

- Straight-line method.
- Production method.

- Double-declining-balance method.
- Sum-of-the-years' (cumulative) method.

Intangible assets, including leases and other property rights, are amortised over the shorter of an asset's useful life or the period of activity of the enterprise. Where an asset's useful life cannot be determined, the asset can be amortised over five years.

Expenses related to geological exploration and developmental works necessary for the extraction of natural resources are deductible for CIT purposes through depreciation at the rate of 15% *per annum*.

Goodwill

For tax purposes, expenses incurred for acquisition of goodwill should be deductible through monthly amortisation charges at norms calculated by the taxpayers based on historical cost of goodwill and its useful life.

Start-up expenses

Current legislation does not provide specific guidance on tax treatment of start-up expenses. However, as per Uzbek accounting legislation, certain types of start-up expenses (e.g. expenses for acquisition of right for production, right for rendering services and carrying out works, right to use economic or other privileges) can be considered as expenses for procurement of intangible assets and, respectively, can be deducted through monthly depreciation charges.

Interest on short-term loans

Interest is deductible, except for interest on overdue/delayed loans (i.e. 'penalty interest') and interest capitalised in the value of fixed assets (i.e. in cases where a loan was obtained to purchase fixed assets).

Bad debt

Bad debts are deductible for tax purposes in cases where they are recognised in accordance with Uzbek accounting legislation. Otherwise, such expenses should be considered as non-deductible. According to the current Uzbek legislation, arrears are recognised as bad debts upon expiration of three-years from their due date.

Charitable contributions

Charitable contributions are generally treated as non-deductible expenses and added-back to the taxable base.

However, taxable income can be reduced for the amount of charitable contributions to ecological and charitable foundations and cultural, medical, educational, and municipal institutions, not exceeding 2% of the taxable income.

Fines and penalties

Fines and penalties are considered as non-deductible expenses.

Taxes

Generally, taxes are deductible for CIT purposes.

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Other tax losses

In cases where goods or services are sold below cost (or given for free), the revenue should be adjusted for tax purposes to the cost or purchase price of the goods or services. However, in cases of export below cost, the CITable income shall be determined based on the actual export price upon approval by a special authorised body

Production wastes and defects within statutory norms, and losses resulting in *force-majeure* circumstances, are generally deductible.

Losses from the disposal of fixed assets also may be deducted if the fixed asset has been used for three or more years.

Net operating losses

Tax losses may be carried forward for a period of five years, allowing a reduction of taxable income of the respective year by up to 50%. Loss carrybacks are not permitted.

Payments to foreign affiliates

There are no special tax provisions regarding deductibility of payments to foreign affiliates for services provided. They may be deducted in full if the general deductibility criteria are met (*see Transfer pricing in the Group taxation section*).

Group taxation

There is no provision for consolidation of income or losses by related companies for tax purposes in Uzbekistan. A foreign legal entity that has several PEs in Uzbekistan may not consolidate those for tax purposes.

Transfer pricing

The transfer pricing concept in the Uzbek Tax Code is limited to a couple of paragraphs stating that tax authorities may adjust prices used by interrelated parties if these prices differ from the prices that would have been used in transactions with independent parties. There is no further guidance for application of this rule, which gives rise to different interpretation by tax authorities and taxpayers.

Thin capitalisation

Effective legislation does not provide for thin capitalisation rules, except for debt-to-equity ratios set up by the Central Bank of Uzbekistan (CBU) for commercial banks.

Controlled foreign companies (CFCs)

Uzbek tax legislation currently does not provide for any CFC rules or regulations.

Tax credits and incentives

The current tax legislation offers tax incentives for enterprises in oil and gas exploration/development projects and companies rendering certain services.

Before 2017, three economic zones have been operating in Uzbekistan. Namely, the Free Industrial Economic Zone in the Navoi region (established in 2009), Special

Industrial Zone in Angren (established in 2012), and Special Industrial Zone in Djizzak (established in 2013).

In 2017, four new free economic zones, namely 'Urgut' in Samarkand region, 'Gijduvan' in Bukhara region, 'Kokand' in Ferghana region, and 'Khazarasp' in Khorezm region of Uzbekistan, as well as seven pharmaceutical free economic zones (Nukus-pharm, Zaamin-pharm, Kosonsoy-pharm, Sirdaryo-pharm, Boysun-pharm, Bustanlik-pharm, and Parkent-pharm), were established. Free economic zones will operate up to 30 years, with possibility of prolongation.

In accordance with the unified tax and customs regime for free economic zones operating in Uzbekistan, participants of free economic zones are exempt from:

- land tax, CIT, property tax (for legal entities), UTP for micro-firms and small enterprises, as well as mandatory contributions to the road fund and educational and medical institutions fund (for reconstruction, capital repair, and equipment), and
- customs payments (except for fees for customs clearance) for equipment, raw materials, and components imported for own production needs, as well as construction materials not produced in Uzbekistan and imported for implementation of projects as per the list approved by the Cabinet of Ministers of Uzbekistan.

The duration of the above incentives differs depending on the size of investment, as described below.

- From USD 300,000 to USD 3 million: Exemption is valid for three years.
- From USD 3 million to 5 million: Exemption is valid for five years.
- From USD 5 million to USD 10 million: Exemption is valid for seven years.
- More than USD 10 million: Exemption is valid for ten years; in the following five years, the income tax and unified tax rates are set at 50% of then effective tax rates.

The following incentives are provided to participants of operating free economic zones:

- Exemption from customs payments (except customs clearance fees) on imported raw material and components for products required for production of exported goods for the whole period of free economic zones functioning.
- Payments in foreign currency within the free economic zones.
- Payments in foreign currency to Uzbek suppliers for goods, works (services), as well as use of preferable conditions and means of payment for exported and imported goods.

Furthermore, five small industrial zones in Tashkent were established. Participants shall be exempt from payment of property tax and CIT, as well as unified tax payment for a two-year period starting from registration of a participant. To apply the above exemptions, the following conditions should be met:

- The amount of investment by the participant is at least 3,000 times the MMW.
- Annual revenue of the participant is above 2,000 times MMW; otherwise, the above exemptions are forfeited and the participant should be responsible for payment of tax liabilities for the respective reporting year in accordance with effective legislation.
- Validity of the above exemptions shall be extended for an additional two years if at least 30% of produced goods are exported.

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One more small industrial zone was established in Yangier town in Syrdarya region. It will also operate for 30 years with possible prolongation. Micro-firms and small enterprises operating in the small industrial zone shall be exempt from unified tax payment and customs payments (except for customs clearance fees) for imported equipment, raw materials, spare parts, and components for their own production needs in the framework of projects being implemented in the industrial zone, as well as metalware and construction materials as per the lists approved by the Cabinet of Ministers.

These exemptions are valid for the period of three years, provided that the investment amount is not less than 2,000 MMW and annual revenue is not less than 1,000 MMW. Moreover, if equipment, raw materials, spare parts, and components, as well as metalware and construction materials imported with exemption from customs payments, are sold or transferred within three years after importation, customs payments shall be paid in full.

Incentives for oil and gas exploration and extraction companies

Foreign companies carrying out oil and gas exploration works, as well as their foreign contractors/subcontractors engaged in such works, are exempt from payment of all forms of taxes and contributions to non-budget funds during the exploration period. Additionally, import by these companies of equipment, material, and technical resources and services necessary for the exploration and related works is exempt from customs duties.

Resident corporations supplying materials and rendering services to foreign companies carrying out oil and gas exploration are exempt from VAT.

Furthermore, if foreign companies carrying out oil and gas exploration form joint venture companies for extraction of oil and gas at respective fields, such companies are granted a seven-year CIT holiday starting from the date of commencement of extraction.

Incentives for carrying out export activities

Enterprises exporting goods (works, services) of their own production for freely convertible currency may defer payment of their import VAT in respect of material and technical resources used for production of goods to be exported. The deferral is granted for up to 90 days without application of any interest.

Incentives for service companies

Micro-firms and small enterprises engaged in certain types of activity are exempt from CIT and UTP until 1 January 2020. The exemption is no longer applicable to entities providing financial and banking services, including but not limited to leasing, audit, tax consulting, accounting services, and other services, like realtor services or veterinary services.

Exemptions from customs duties

There are certain exemptions from payment of customs duties offered by the legislation for the following, without limitation:

- Vehicles used for the international transportation of goods, luggage, and passengers.
- National currency of the Republic of Uzbekistan, foreign currency (excluding those for numismatic purposes), as well as securities.

- Goods imported as humanitarian aid.
- Goods imported for charitable purposes, including technical assistance.
- Goods under transit regime.
- Goods imported by legal entities at the expense of loans granted by international and foreign governmental financial organisations under international agreements, and at the expense of grants.
- Property imported for production needs by foreign investors and enterprises with foreign investment with foreign participation of not less than 33% within two years after state registration.
- Property imported for personal needs of foreign investors, citizens, or stateless persons residing in Uzbekistan in accordance with labour contracts concluded with foreign investors.
- Goods imported into the customs territory by foreign legal entities that made direct investments in the economy of the Republic of Uzbekistan for a total amount equivalent to or more than USD 50 million, provided that the imported goods are products of their own production.
- Goods intended for works under the production sharing agreement and imported under the project documentation by a foreign investor or other persons engaged in the performance of the production sharing agreement, as well as goods exported by the investor under the production sharing agreement.
- Technological equipment imported according to the list approved in accordance with legislation, as well as components and spare parts, provided that their supply is stipulated by the terms of the contract (agreement). In case of sale or gratuitous transfer of imported technological equipment for export within three years from importation, this exemption is revoked along with restoration of obligations to pay customs duties for the entire exemption period.

Foreign tax credit

In accordance with international tax treaties of the Republic of Uzbekistan, legal entities/residents of Uzbekistan can obtain tax relief in respect of CIT paid outside of Uzbekistan. Depending on the provisions of a particular DTT, a credit or exemption may be claimed. In order to claim tax relief, legal entities should provide a copy of the tax payment order, confirmation from a competent tax authority, or any other document confirming payment of the tax outside of Uzbekistan.

Withholding taxes

WHT is to be withheld and remitted to the state budget by entities paying income to non-residents if these entities qualify under a tax agent definition (i.e. by [i] Uzbek legal entities and [ii] non-residents operating in Uzbekistan via PE).

Income of non-residents subject to WHT (including income in the form of dividends, interest, and royalties) is to be paid without withholding of WHT at source or with application of a reduced WHT rate as provided by the tax treaty (with certain exemptions), provided that there is a duly formalised tax certificate issued by a competent authority confirming that non-residents are registered for tax purposes in the state with which Uzbekistan has the effective tax treaty.

The domestic WHT rates are as follows:

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Payment	WHT (%)
Dividends and interest	10
Insurance and reinsurance payments	10
Freight	6
Royalties, services (including management, consulting services), rents, other income	20

Double taxation treaty (DTT) relief

Foreign legal entities that do not carry on activities in Uzbekistan through a PE are subject to WHT on income from sources in Uzbekistan, subject to the terms of a relevant DTT. Uzbekistan has enforced DTTs with 52 countries.

DTTs in force establish WHT rates as follows:

Recipient	WHT (%)		
	Dividends	Interest	Royalties
Austria	5 (2)/15	10	5
Azerbaijan	10	10	10
Bahrain	8	8	8
Belarus	15	10	15
Belgium	5 (2)/15	10	5
Bulgaria	10	10	10
Canada	5 (1)/15	10	5 (3, 4, 6)/10
China	10	10	10
Czech Republic	5 (8)/10	0 (9)/5	10
Estonia	5 (8)/10	5	10
Finland	5 (1)/15	5	0 (6)/5 (5)/10 (4)
France	5 (2)/10	0 (7)/5	0
Georgia	5 (8)/15	0 (9)/10	10
Germany	5 (8)/15	0 (9)/5	3 (3, 5, 10)/5 (4)
Greece	8	0 (9)/10	8
Hungary	10	0 (9)/10	10
India	10	0 (7a, 7b)/10	10
Indonesia	10	10	10
Iran	8	10	5
Ireland	5 (2)/10	5	5
Israel	10	10	5 (4)/10
Italy	10	0 (9)/5	5
Japan	15	0 (7)/10	0 (4)/10 (3, 5, 6, 10)
Jordan	7 (8)/10	10	20
Kazakhstan	10	0 (7)/10	10
Kuwait	5 (8)/10	0 (9)/8	20
Kyrgyzstan	5	5	15
Latvia	10	0 (7a, 7b)/10	10
Lithuania	10	0 (7a, 7b)/10	10
Luxembourg	5 (8)/15	0 (7d)/10	5
Malaysia	10	0 (9)/10	10
Moldova	5 (1)/15	0 (9)/10	15
(The) Netherlands	0 (13)/5 (8)/15	0 (14)/10	0 (14)/10
Oman	0 (9)/7	0 (9)/7	10
Pakistan	10	0 (9)/10	15

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Recipient	WHT (%)		
	Dividends	Interest	Royalties
Poland	5 (11)/15	0 (7a)/10	10
Romania	10	0 (7a, 7b)/10	10
Russia	10	0 (7a, 7b, 7c)/10	0
Saudi Arabia	7	7	10
Singapore	5	5	8
Slovak Republic	10	10	10
Slovenia	8	8	10
South Korea	5 (8)/15	5	2 (10)/5
Spain	5 (8)/10	0 (7a, 7b)/5	5
Switzerland	5 (11)/15	0 (7)/5	5
Thailand	10	0 (7a, 7b)/10 (12)/15	15
Turkey	10	0 (7a)/10	10
Turkmenistan	10	0 (9)/10	10
Ukraine	10	10	10
United Arab Emirates	0 (7a)/5 (8)/15	0 (7a)/10	10
United Kingdom	5 (1)/10	5	5
Vietnam	15	0 (7a, 7b)/10	15

Notes

- Where the beneficial shareholder owns not less than 10% of the voting shares.
- Where the beneficial owner holds at least 10% of the capital of the paying entity.
- Where royalties are paid for patents, trademarks, know-how, etc.
- Where royalties are paid for copyrights on literature, cinema, musical works, etc.
- Where royalties are paid for secret formulas, processes, or know-how.
- Where royalties are paid for computer software, patents, designs, models, or plans.
- Where one of the following conditions is met:
 - recipient is a local authority or corporate body constituted under public law, including the central bank of the state, or interest is paid by the local authorities or corporate bodies
 - interest is paid in respect to debt claims or loans, guaranteed, insured, or aided by the state or on behalf of the state
 - interest is paid in respect to credit sales of industrial, commercial, or scientific equipment, goods and merchandise, or provision of services by an enterprise to another enterprise, or
 - interest is paid in respect to a loan of any kind granted by a bank.
- Where the beneficial shareholder owns no less than 25% of the capital of the paying entity.
- Where the recipients of the interest are governments of contracting states or any governmental body (such interest is exempt from WHT).
- Where royalties are paid in respect to use or the right to use industrial, commercial, or scientific equipment.
- Where the beneficial shareholder owns no less than 20% of the voting shares.
- Where the interest is received by any financial institution (including insurance companies).
- Under the provisions of the Netherlands' Company Tax Act and the future amendments thereto, a company that is a resident of the Netherlands is not charged to Netherlands company tax with respect to dividends the company receives from a company that is a resident of Uzbekistan.
- If and as long as the Netherlands, under its national legislation, levies no WHT on interest or royalties paid to a resident of Uzbekistan, the WHT rate for interest and royalty income paid at source in Uzbekistan shall be reduced to 0%.

Tax administration

Taxable period

The taxable period for CIT is a calendar year.

Tax returns

CIT is reported quarterly before the 25th day of the month following the reporting quarter, with an annual return due by 25 March following the reporting year for

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enterprises with foreign investment and 15 February following the reporting year for other categories of CIT payers. PEs report on CIT once a year prior to 25 March following the reporting year.

Payment of tax

Uzbek enterprises, including enterprises with foreign investment, are required to make advance instalments of CIT in each quarter based on estimated profits in the quarter. The instalments are payable by the tenth day of each month. Final quarterly payments based on actual profit figures are payable no later than the filing deadline for the quarterly tax returns (which is the 25th day of the month following the period of assessment). In case the final quarterly payment is more than 10% higher than advance instalments made in this quarter, tax authorities have the right to recalculate the advance instalments based on the actual quarterly profit figures and charge late payment interest accordingly.

Final CIT payment should be made no later than the date set as the deadline for annual return submission.

Payment of CIT by a PE is made annually within a month after the filing deadline.

Tax audit process

Scheduled statutory tax audits are to be carried out once in three years (once in four years for micro-firms, small enterprises) by the tax authority of the district where the enterprise is registered (i.e. district tax inspectorates). However, in certain cases, the tax audit is undertaken by the State Tax Committee, which is the highest tax authority. Scheduled tax audits of private banks and other private financial institutions are to be carried out not more than once in five years.

The tax audits are aimed at verification of the tax returns submitted by the taxpayer. Normally, the tax authorities will review the accounting records, copies of tax returns, and source documents as required.

Effective 1 January 2017, all types of unscheduled audits of business entities were abolished, except for audits due to liquidation of legal entity or short-term audits carried out exclusively by decision of the Republican Council on coordination of regulatory authorities. Also, all types of cross audits of business entities, including those under criminal investigation, were abolished.

In case of tax breaches revealed during tax audits, taxpayers should remove tax violations and pay respective taxes/obligatory payments and late payment interest within 30 days after the tax authority's decision is released. If accomplished within the deadline, the tax authority's decision on applying penalty may be cancelled. If not accomplished, the unpaid taxes/obligatory payments and late payment interest are to be withdrawn from (i) the taxpayer's bank accounts (by issuing tax liability claim without acceptance), (ii) the taxpayer's debtors (by issuing tax liability claim on the debts payable to taxpayer), or (iii) the taxpayer's property (by issuing tax liability claim upon decision of the court).

Another form of monitoring accuracy and completeness of fulfilment of tax liabilities imposed by the tax authorities is 'cameral control', which is performed at the time of tax returns submission. The tax authorities may require the taxpayer to amend the tax

return(s) if they have revealed mistakes or inconsistencies therein. The amended tax returns should be filed within ten days.

By virtue of the Presidential Decree #YII-5308 of 22 January 2018, a moratorium is declared for inspections of the economic activities of entrepreneurs by the regulatory authorities for two years. Inspections can be carried out only with respect to criminal cases and liquidation of legal entities.

Statute of limitations

The statute of limitations for tax purposes in Uzbekistan is set to five years.

Topics of focus for tax authorities

There are no officially announced areas of focus during tax audits. In practice, the tax authorities usually focus on currency control, cash discipline, deductibility of expenses for CIT purposes, and taxes on resources (e.g. excess profits tax, subsurface use tax).

Other issues

Intergovernmental agreement (IGA) on the Foreign Account Tax Compliance Act (FATCA)

On 3 April 2015, a Model 1 IGA between the Government of the United States of America and the Government of the Republic of Uzbekistan to Improve International Tax Compliance and to Implement FATCA was signed. Uzbekistan approved the IGA as of 5 July 2017, and the Ministry of Foreign Affairs of Uzbekistan was ordered to notify on completion of domestic procedures. The IGA is in force starting 7 July 2017.

More than 110 countries around the world have concluded IGAs on FATCA with the United States, while, as per a statement by the US Embassy in Uzbekistan, Uzbekistan is the first country in Central Asia to sign an IGA on FATCA with the United States.

The IGA will ensure compliance with US tax laws for US citizens working in Uzbekistan. According to the FATCA regulations, foreign financial institutions (FFIs) (i.e. all financial institutions outside of the United States) are faced with disclosure requirements regarding their account holders who are US persons. This means that FFIs in Uzbekistan are obligated to periodically transmit information on financial accounts held by US persons to the US Internal Revenue Service (IRS) or face a 30% WHT on payments made from the United States. In order to fulfil this obligation, FFIs should implement procedures to ensure information collecting systems are in place and required information in respect to US investors is duly reported to the US IRS.

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