

Doing Business Guide Kyrgyz Republic

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PARTNER LETTER	5
1 COUNTRY PROFILE AND INVESTMENT CLIMATE.....	6
1.1 Introduction.....	6
Geography & Climate	6
History	6
1.2 Government structure	7
Government structure.....	7
The President.....	7
The Jogorku Kenesh	7
The Government.....	8
Courts and Justice	8
1.3 Legal system	8
Legislative Framework	8
1.4 People.....	8
Population.....	8
Age structure	8
Language	8
Religion	8
Education	8
Living standards	8
1.5 Economy.....	9
General description.....	9
Transportation	9
Telecommunications	9
Foreign Trade	9
2 BUSINESS ENVIRONMENT.....	10
2.1 Business Climate.....	10
Economic Development Plan.....	10
2.2 Free Trade Zones	10
2.3 International Agreements	10
2.4 Regulations for business.....	10
Competition law	10
Consumer protection.....	10
Patents, Trademarks and Copyrights.....	10
3 FOREIGN INVESTMENTS	11
Investment Climate	11
Regulatory Legislation	11
Investment Incentives.....	11
Currency Control.....	11
Guarantees.....	11
4 BANKING, FINANCE AND INSURANCE	12
4.1 Banking System.....	12
4.2 Special Financial Institutions and Capital Markets	12
5 IMPORTING AND EXPORTING	13
5.1 Legislation	13

5.2 Import restrictions.....	13
5.3 Temporary import relief.....	13
5.3 Customs duties incentives.....	13
5.6 Documentation and Procedures	14
5.7 Warehousing and storage	14
5.8 Re-exports	14
6 BUSINESS ENTITIES	15
6.1 Legal Framework.....	15
6.2 Choice of entity.....	15
6.3 Forms of business entities	15
6.4 Joint Stock Company.....	15
6.5 Partnerships and limited companies.....	15
7 LABOR RELATIONS AND SOCIAL SECURITY	16
7.1 Labor market.....	16
7.2 Labor relations	16
7.3 Working conditions	16
7.4 Social security system.....	16
7.5 Foreign personnel	16
8 ACCOUNTING AND AUDIT REQUIREMENTS	17
8.1 Accounting.....	17
8.2 Chart of accounts	17
8.3 Audit requirements	17
9 TAX SYSTEM AND ADMINISTRATION	18
9.1 Tax System	18
9.2 Direct and indirect tax burden	18
9.3 Principal taxes	18
9.4 Income tax.....	18
Concepts of income tax.....	18
Classes of taxpayer	18
Taxable income	18
9.5 Tax Treaties	19
9.6 Tax Returns and Payments.....	19
9.7 Withholding taxes	20
9.8 Tax Audits.....	20
9.9 Penalties.....	21
9.10 Advance tax clarifications.....	21
10 TAXATION OF CORPORATIONS	22
10.1 Corporate Tax System	22
10.2 Incentives.....	22
Special Economic Zones	23
10.3 Taxable Income.....	23
10.4 Deductibility of expenses.....	24
10.5 Related Party Transactions.....	25
10.6 Foreign Exchange.....	25
10.7 Tax Computations.....	25

10.8 Other Taxes	26
Excise Tax.....	26
Sales tax	26
Property tax.....	26
10.9 Branch versus Subsidiary	26
10.10 Holding Companies.....	27
10.11 Subsurface Use Taxes	27
11 TAXATION OF INDIVIDUALS	28
11.1 Territoriality and residence.....	28
11.2 Taxable income.....	28
11.3 Non-taxable income	28
11.4 Deductions.....	28
11.5 Taxation of non-residents	29
11.6 Tax Compliance	29
12 VALUE ADDED TAX (VAT).....	30
12.1 Introduction	30
12.2 Scope of VAT	30
Place of supply of goods	30
Imports of goods.....	30
12.3 Zero-rate VAT	30
12.4 Exempt supplies	30
12.5 Taxable amount	31
VATable supplies.....	31
VAT offset.....	31
VAT liability calculation and VAT offset carry-forward.....	31
12.6 Non-deductible input VAT.....	31
12.7 VAT incentives	31
12.8 Simplification measures.....	31
12.9 VAT compliance.....	31
Reverse-charge VAT.....	31
PRICEWATERHOUSECOOPERS IN KYRGYZSTAN.....	32
APPENDIX A – GENERAL TAX RATES.....	33

PARTNER LETTER

1 January 2010

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1 COUNTRY PROFILE AND INVESTMENT CLIMATE

1.1 Introduction

Geography & Climate

Located in the heart of Central Asia, Kyrgyzstan is a land-locked country with an area of approximately 200,000 sq km (the world's 85th), bordered by Kazakhstan, Uzbekistan, Tajikistan and China. The country lies at the juncture of two great mountain systems (the Tien Shan and Pamirs), thus only one-eighth of the country is below 1,500 meters (4,920 feet). Hence, the country's nickname is "The Switzerland of Central Asia". The scenic mountains, Lake Issy-Kul (the world's second largest mountain lake after Lake Titicaca) and the presence of many rare animal species (such as the snow leopard, Tien Shan bear, Marco Polo sheep and red wolf), all contribute to the country's natural beauty, and tourism potential.

Total Area:	199,900 sq.km.
Estimated Population:	5.5 million (1 June 2011)
Capital:	Bishkek: 864,800 (1 June 2011)
Other Principal Cities:	Osh: 255,000 (1 June 2011)
Languages:	Kyrgyz - State Language Russian - Official Language
Neighbouring states:	Kazakhstan, China, Tajikistan, Uzbekistan
Currency:	Kyrgyz Som (KYRS)
Exchange rate:	KYRS 44.59 = USD 1 (31 July 2011)

History

Recent archeological findings in modern Kyrgyzstan are said to date back to the second century B.C. The first Kyrgyz state, the Kyrgyz Khanate, existed for many centuries and spread throughout the region including the current Siberia and Mongolia. The Kyrgyz people, spread over this vast region, began migrating south in the 13th century and, by the 16th century, had settled into the territory currently known as Kyrgyzstan.

In 1876, Kyrgyzstan was formally incorporated into the Russian Empire. In 1924, following a brief period of independence after the 1917 Bolshevik Revolution, the country was designated the Kara-Kyrgyz Autonomous

Region and a constituent part of the Union of Soviet Socialist Republics (USSR). In 1936, the Kyrgyz Soviet Socialist Republic was established as a republic of the USSR.

The startling events of August 1991 in Moscow naturally triggered great changes in the republics of the USSR. In Kyrgyzstan, the republic's Supreme Soviet declared the nation independent of the Soviet Union on 31 August 1991 and, at the same time, scheduled direct presidential elections for October 1991. The president who was suddenly brought to power in 1990, Askar Akayev, became the first elected president of Kyrgyzstan with 95% of the popular vote. By 24 March 2005, President Akayev was removed from the office and replaced by President Bakiyev in what has been termed the "Tulip Revolution".

Kurmanbek Bakiyev was overthrown by the wave of opposition protest in April 2010, five years after himself coming to power on the back of popular revolt. A leading member of the opposition Roza Otunbayeva was chosen to be leader of interim government formed after Kurmanbek Bakiyev was ousted. National referendum on new constitution was held on 27 June 2010, parliament election was held in October 2010 and president election will be held in October 2011.

1.2 Government structure

Government structure

The state power is represented and carried out by:

- the President - the head of state and the highest official of the Kyrgyz Republic;
- the Jogorku Kenesh – the Parliament of the Kyrgyz Republic, the representative body which has legislative power;
- the Government of the Kyrgyz Republic and subordinate bodies of executive power;
- the Constitutional Court of the Kyrgyz Republic, the Supreme Court of the Kyrgyz Republic, local courts and judges of the Kyrgyz Republic.

The President

According to the Constitution, the President is elected for six - year terms. The President assigns the elections for Jogorku Kenesh and local keneshs. The President proposes candidates for judges of Supreme Court, appoints and relieves General Prosecutor from the post by the approval of Jogorku Kenesh, appoints and relieves from the post members of the Government in charge of defense and national security.

The President also signs the laws, may return laws to the Jogorku Kenesh with his objections for reconsideration. Additionally, the President directs the foreign policy, conducts negotiations and signs international treaties.

The Jogorku Kenesh

The Jogorku Kenesh consists of 120 deputies, which are elected for five-year terms.

The Jogorku Kenesh is responsible for approving the structure and members of the Government, adopting laws, approving the national budget, giving official interpretation of laws, and ratifying and abrogating international treaties. Jogorku Kenesh assigns the election of the President.

The Government

The Government is responsible for directing and coordinating work of the ministries and other executive authorities. The Government reports and is accountable to the President and the Jogorku Kenesh. Prime Minister is nominated by the deputies of Jogorku Kenesh within 15 days from the first session of the Jogorku Kenesh. Candidate for the Prime Minister introduces plan, structure and composition of the Government.

Courts and Justice

Judicial power in Kyrgyzstan is exercised by means of the constitutional, civil, criminal, administrative and other forms of legal proceeding. Juridical system consists of the Constitutional Court, the Supreme Court, and local courts.

1.3 Legal system

Legislative Framework

The Constitution shall have supreme legal force and direct application in the Kyrgyz Republic. Laws and other normative acts are adopted on the basis of the Constitution.

1.4 People

Population

Kyrgyzstan population is 554 million people. The Kyrgyz people, who comprise 71% of the country's population, are traditionally Sunni Muslim and speak Kyrgyz. Today more than 90 ethnic groups reside in the country.

Age structure

The age structure is as follows:

0-19 years: 41.1%

20-69 years: 55.5%

70 years and over: 3.14%

Language

In September 1991, Kyrgyz was announced as the state language, although in December 1991, the Russian language was given official status. Russian remains the de facto language of business and government in the country.

Religion

There are two main religions in Kyrgyzstan (Islam (75%) and Orthodoxy (20%)).

Education

Basic education (1-9 grades) is mandatory and free of charge. Every citizen has the right to a free general secondary education in state and municipal educational institutions.

Paid education of citizens in state and other educational institutions is allowed.

Living standards

Despite some growth of investments and general improvement of basic living standards, most of the population is still considered poor, with an average salary of approximately USD 175.42 / month.

1.5 Economy

General description

According to the Kyrgyz National Statistic Committee, Kyrgyzstan's GDP for the first two quarters in 2011 is KGS 103,492 mln (approximately, USD 2,321mln), which is 5.5% greater than the GDP for the same period of 2010. This growth is mainly connected with the increase in gold production and construction activities.

However, Kyrgyzstan is witnessing an increase in inflation, which was at 7.2% compared to the December of the previous year.

Agriculture constitutes around one-third of the GDP and more than one-third of employment. The mountainous terrain accommodates raising livestock - the largest agricultural activity. The primary crops include cotton, wheat, vegetables, fruit, and berries.

While petroleum and gas reserves are negligible, Kyrgyzstan is rich in mineral resources such as gold and other precious metals. The country also produces large quantities of hydropower generated from its water resources and mountainous terrain.

Transportation

There are no private roads in the Kyrgyz Republic. The total length of roads is 34,000 kms. According to the World Bank, 91% of roads in the country are paved.

The Kyrgyz Republic is connected by road to Europe via Kazakhstan, Uzbekistan, and Russia. The country also has roads connecting it with China.

The total length of the railroad system in the Kyrgyz Republic is 424.6 kms, consisting of two unconnected lines: a "Southern" line - 323.4 km and a "Northern" line - 101.2 km, which are both branches of the Trans-Asian corridor.

The Kyrgyz Republic has two airports meeting international standards: Manas International Airport in Bishkek and Osh International Airport. Regular international flights to the following countries are offered from Manas

International Airport: UK, Germany, China, Turkey, India, Pakistan, Korea, UAE, and Russia. There are also nine local airports that handle internal flights.

Telecommunications

Telecommunications infrastructure is a fast growing area of the economy. Currently there are 4 mobile service providers.

Foreign Trade

In 2011, foreign trade was experiencing a growth (exports increased by 18.2% and imports by 24.9% for the first two quarters of 2011 in comparison with the same period of 2010). Main consumers are the UAE, the US, Russia, Switzerland, Kazakhstan, and Uzbekistan. Principal exports are comprised of mineral resources and precious metals.

2 BUSINESS ENVIRONMENT

2.1 Business Climate

The main business concern is whether the Government is capable of implementing its ambitious economic reforms and eliminating corruption.

Economic Development Plan

In 2009, the Kyrgyz Government published an updated Comprehensive Development Framework (CDF) for 2009-2011. The governments' targets under the CDF are rather ambitious, including a thirty six percent increase of GDP and reduction in poverty by 2011. The CDF contains the goals for strengthening the economic stability of the country; including modernization of the telecommunications and transport infrastructures, implementation of sound fiscal, taxation and monetary policies, etc.

2.2 Free Trade Zones

There are several free trade zones. Generally, goods entering and goods traded within these zones are exempted from duty. If these goods are sold within Kyrgyzstan, duties should be paid in full.

2.3 International Agreements

Kyrgyzstan is a party to various international agreements / organizations (more than 70), including the UN, WTO, EBRD and OSCE. Kyrgyzstan is also active in bilateral treaties with neighboring countries, e.g., Kazakhstan.

2.4 Regulations for business

Competition law

The main law covering unfair competition and monopoly issues is the Law on Competition of 22 July 2011 (effective from 26 October 2011). The Law is aimed at supporting entrepreneurship through prevention, restriction, suppression, and regulation of monopoly activities.

Consumer protection

The Law for the Protection of Consumer Rights of 10 December 1997 regulates the relationship between a consumer and a seller/provider of work and services. A consumer has a number of rights, including the right to freely purchase commodities, to consume works and services, and to enjoy the high quality and safety of goods and services.

Patents, Trademarks and Copyrights

The Law on Property Rights Trademarks provides for the protection of intellectual property. The Government is continuously taking steps to fight counterfeit goods that are imported to Kyrgyzstan.

3 FOREIGN INVESTMENTS

Investment Climate

The first President of the Kyrgyz Republic, Askar Akayev made the attraction of foreign investments a priority and supported the foundation of an administrative structure aimed specifically at improvement of the investment climate. Thus, the "Secretariat for Attraction of Foreign Investment" (the "Secretariat") was founded to identify and remove barriers to foreign investment.

At this point, it appears that the current government continues the policy towards attracting foreign investment. Thus, numerous companies from the financial, telecom, and mining sectors are continuing to express interest in the commercial opportunities in Kyrgyzstan, albeit on a relatively low scale.

Regulatory Legislation

The Law of the Kyrgyz Republic on Investments, which came into force on 27 March 2003, regulates the core principles of the state investment policy. The stated objective of the investment policy is "developing a favorable investment climate and attracting and stimulating domestic and foreign investments by providing a fair legal regime to investors and guarantees for protection of investments in the economy of the Kyrgyz Republic".

Investment Incentives

The Law on Investments potentially provides investment incentives for investors in priority sectors of the economy and social sphere, as well as in certain regions of Kyrgyzstan. Benefits under investment contracts can theoretically be obtained by concluding an agreement with the authorized government body. In practice, Kyrgyzstan has awarded very few investment incentive agreements.

Currency Control

The Kyrgyz currency control legislation is very liberal. In particular, neither import/export of foreign currency nor current payments, current receipts, and transfers of capital in and from Kyrgyzstan are restricted.

Guarantees

The Law on Investments guarantees the ability of investors to freely repatriate investments, property, information, and profits (in foreign currency) in the form of dividends, interest, and other income, including income resulting from the termination or alienation of an investment.

Other guarantees provided by the Law on Investments include a guarantee of protection against expropriation and nationalization, freedom of monetary operations, and free access to open information.

4 BANKING, FINANCE AND INSURANCE

4.1 Banking System

Having about 22 commercial banks, the Kyrgyz banking system is considered under-developed with a potential for significant growth.

The European Bank for Reconstruction and Development, the Asian Development Bank and the World Bank/IFC are active in project financing.

Although, the Kyrgyzstan banking sector's reliance on foreign debt is significantly lower than in neighbor countries (e.g. Kazakhstan), the global liquidity crisis has negatively impacted Kyrgyzstan's economic growth rate.

4.2 Special Financial Institutions and Capital Markets

Non-bank financial institutions continue to be an integral part of the financial sector. The government develops a legal basis for these institutions. Thus, in 2002, a new Law on Microfinance Organizations was adopted. Generally, the capital market is not developed yet.

5 IMPORTING AND EXPORTING

5.1 Legislation

The Customs Code entered into force from 1 January 2005. According to the Customs Code, the customs value of goods imported to the customs territory of the Kyrgyz Republic is determined by way of 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.

5.2 Import restrictions

Generally all entities/persons have equal rights to import into Kyrgyzstan and export from the Kyrgyzstan territory of goods and means of transport, as well as when carrying out foreign trade activity, except for special cases stipulated by the legislation and international treaties.

Import of certain goods is subject to licensing (e.g., weapons, nuclear materials, etc).

5.3 Temporary import relief

There is a temporary import regime under which foreign goods are used in the Kyrgyz customs territory 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.

5.3 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 also provides preferential rates or exemptions on goods, including goods originating from the states which form free trade zone or customs union with Kyrgyzstan and goods originating from developing countries, included into special list of the government.

5.6 Documentation and Procedures

Kyrgyzstan pays much attention to formalities / documentation and, thus, it is necessary to furnish the customs authorities with a set of required documents. Normally, for import, such documents include: cargo customs declaration, invoices, contracts, etc.

5.7 Warehousing and storage

There is a bonded warehouse customs regime in Kyrgyzstan – a customs regime under which into the customs territory of the Republic of Kyrgyzstan goods are stored in special facilities or special areas that have the status of the customs warehouse under the customs legislation of the Kyrgyzstan.

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.

5.8 Re-exports

The concept of the re-export regime is similar to the one used in international practice and is defined as a customs regime under which goods earlier imported into the customs territory of Kyrgyzstan are exported from this territory without payment or with refund of the paid amounts of import customs duties and taxes and without application of non-tariff regulatory measures with respect to the goods in compliance with Kyrgyz legislation on the state regulation of foreign trade activity.

There are certain conditions under which goods can be re-exported. Customs duties and taxes are not charged on goods declared as the 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 which 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.

6 BUSINESS ENTITIES

6.1 Legal Framework

There is a comprehensive legislative framework governing all aspects of business entities, including the Civil Code of 8 May 1996, the Law on Investments of 27 March 2003, the Law on Joint-Stock Companies, the Law on Business Partnerships and Companies, and other laws and normative acts of the Kyrgyz Republic.

6.2 Choice of entity

Foreign investors making investments in the Kyrgyz Republic enjoy guarantees under the national regime for economic activity applicable to Kyrgyz legal entities and individuals. Foreign investors may structure their business in Kyrgyzstan through a branch, representative office, joint stock company and partnership.

6.3 Forms of business entities

Under Kyrgyz company law, commercial organizations can be established in one of the following forms:

- general partnerships;
- limited partnerships;
- limited liability companies;
- additional liability companies;
- open joint-stock companies; and
- closed joint-stock companies.

6.4 Joint Stock Company

Joint-stock companies are established based on the Law of Joint-stock companies of 27 March 2003. The general definition of a joint-stock company is an entity engaged in activity with purpose to earn profit and involving funds generated through the issuance and placement of shares. The concept of joint stock companies is relatively similar to the one used in international practice, whereby shareholders are not responsible for obligations of the joint stock company and incur the risk of losses within the limits of their investments. The minimum capital should not be less than 1,000 calculated indices (approximately USD 2,243).

The Ministry of Justice of Kyrgyz Republic is responsible for joint stock companies' registration. It is worth noting that joint stock companies are obliged to distribute no less than 25 percent of the net profit as dividends unless shareholders unanimously decide otherwise in the general meeting.

6.5 Partnerships and limited companies

Partnerships and limited liability companies are formed in accordance with the Law on Business Partnerships and Companies of 5 June 1996. The state registration procedures are the same as for joint stock companies. The Law provides for four forms of an entity, which are general partnerships, limited partnerships, limited liability companies and additional liability companies.

7 LABOR RELATIONS AND SOCIAL SECURITY

7.1 Labor market

According to official statistical data for first two quarters 2011, the level of unemployment decreased by 2.3% or approximately 65,100 people. In reality, the figures are likely to be much higher than those reflected in these official figures.

7.2 Labor relations

Labor relations in Kyrgyzstan are regulated by a relatively new Labor Code that became effective on 4 August 2004 and a recent Law «On Labor Protection», which came into effect on 5 August 2003.

The Law «On Labor Protection» covers all organizations, enterprises, institutions located in the territory of the Kyrgyz Republic irrespective of their ownership form and organization.

7.3 Working conditions

The Labor Code stipulates that the terms of employment should be determined in employment contracts. The standard working hours are 40 hours per week, although specific provisions apply to shift work. The minimum monthly wage for 2011 is approximately USD20.

7.4 Social security system

Social insurance contributions are the employers' responsibility. Generally, the base for calculation includes the gross remuneration of local and foreign personnel. In accordance with the Instruction "On Statutory Social Insurance Contributions", the current rates are as follows:

- Employer
 - Social contributions – 2,25%
 - Pension contributions – 15% (3% in respect of foreigners temporary residing in Kyrgyzstan)
- Employee
 - State cumulative pension fund – 2%
 - Pension contributions – 8%

7.5 Foreign personnel

To hire foreign employees, current Kyrgyzstan legislation obliges the employer to obtain a work permit from the authorized state body. Work permits are obtained through submission of a special application to the State Committee of Migration and Employment accompanied with other documents. Under the Kyrgyz regulations, work permits are valid for a period up to one year.

In addition to the work permit to be obtained by an employer, there is an obligation established for foreign employees to obtain a special "confirmation" to perform labour activity in Kyrgyzstan from the State Committee on Migration and Employment. In other words, to hire foreign employees, a foreign investor should obtain a work permit plus the confirmation allowing its foreign employees to work in Kyrgyzstan.

8 ACCOUNTING AND AUDIT REQUIREMENTS

8.1 Accounting

Accounting issues are regulated by the Kyrgyz Law on Accounting. According to the Law, IFRS are currently the statutory requirement in Kyrgyzstan for all entities (except for budget organizations and individual entrepreneurs). The accounting method for financial purposes is the accrual method.

8.2 Chart of accounts

Kyrgyzstan uses an IFRS-based Chart of Accounts.

8.3 Audit requirements

Certain companies must undergo an annual statutory audit. Such companies include, among others, banks and insurance companies. The choice of the audit company is at the discretion of the company being audited.

9 TAX SYSTEM AND ADMINISTRATION

9.1 Tax System

Kyrgyzstan's tax system is regulated by the Tax Code No. 230 which became effective starting 1 January, 2009 (hereafter "the Tax Code"). The Kyrgyzstan tax system consists of both national and local taxes. National taxes set out in the Tax Code include a profits tax on legal entities, personal income tax, value added tax (VAT), sales tax, excise tax and subsurface use taxes; local taxes include property tax and land tax.

Only the highest legislative body of Kyrgyzstan ("Zhogorku Kenesh") has the right to introduce or abolish taxes in Kyrgyzstan or to grant tax incentives.

9.2 Direct and indirect tax burden

All taxes are subdivided into direct and indirect ones. VAT and excise tax are recognized as indirect taxes.

9.3 Principal taxes

Principal taxes include:

- Income tax on Legal Entities ("Profits tax"), including capital gains tax and withholding taxes;
- Individual income tax;
- Value-Added Tax (VAT);
- Excise tax;
- Subsurface use taxes;
- Sales tax;
- Land tax;
- Property tax.

9.4 Income tax

Concepts of income tax

Corporate income tax (Profits tax) is calculated at a rate of 10% of aggregate annual income less allowed deductions. Corporate income tax is payable via monthly installments (advance payments).

Classes of taxpayer

Resident legal entities of Kyrgyzstan, foreign legal entities that carry out activities in Kyrgyzstan through a permanent establishment are recognized as corporate income taxpayers. Foreign entities that receive income from Kyrgyzstan sources without creating a permanent establishment are generally subject to withholding taxes.

Taxable income

Taxable income is defined as aggregate annual income less allowed deductions.

9.5 Tax Treaties

According to the Tax Code, the provisions of international tax agreements and other acts to which Kyrgyzstan is a party and ratified by the President or the Parliament (as appropriate), take precedence over the provisions of the Tax Code.

As of July 2011, Kyrgyzstan has concluded double tax treaties with the following countries:

Austria	Germany	Malaysia	Russia	Uzbekistan
Belorus	India	Moldova	Switzerland	
Canada	Iran	Mongolia	Tajikistan	
China	Kazakhstan	Pakistan	Turkey	
Finland	Latvia	Poland	Ukraine	

9.6 Tax Returns and Payments

The Kyrgyzstan Tax Code stipulates the following key tax reports to be filed with the tax authorities within prescribed deadlines:

- Aggregate Annual Income Tax Declaration (Corporate and Individual) - annually, by 1 March of the year following the reporting year;
- VAT reporting - on a monthly basis, by the end of the month following the reporting month;
- Other tax reports - as required according to relevant legislation.

An extension for filing a tax return may be granted by the tax authorities for up to one month upon application by the taxpayer. Such extension does not relieve or prolong the taxpayer's obligation to timely pay the tax.

9.7 Withholding taxes

Passive income from sources in Kyrgyzstan by a non-resident that is not connected with a permanent establishment in Kyrgyzstan is taxable at the source of payment, without deductions, at the following rates:

- Dividends and interest - 10%;
- Insurance premiums received under risk insurance or re-insurance agreements - 5%;
- Insurance premiums received under obligatory risk insurance or re-insurance agreements – 10%;
- Authorship fee, royalty - 10%.

Income from work performed and services rendered by a non-resident in Kyrgyzstan, not connected with a permanent establishment in Kyrgyzstan, is taxable at the source of payment without deductions (with the exception of VAT) via a withholding tax mechanism:

- Income from telecommunication or freight services in international communication and transportation between Kyrgyzstan and other states - 5%;
- Income from management and consulting services, and other services and works - 10%;
- Other services and work - 10%.

Withholding tax applies to Kyrgyzstan source income regardless of whether the payment is made within or outside of Kyrgyzstan.

The application of double tax treaties often effectively provides a reduction of withholding tax rates or, in the case of non-passive income, 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.

9.8 Tax Audits

The State Tax Inspectorate 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 services consist of the relevant subdivisions of the Revenue Committee of the Ministry of Finance of Kyrgyzstan and its local authorities.

A tax audit is performed on the basis of 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 (or 50 days for large taxpayers). If necessary, however, a tax audit may be extended for ten additional days with written approval from the State Tax Inspectorate.

9.9 Penalties

There are two sources of legislation dealing with fines for non-compliance with the tax legislation: the Kyrgyz Code on Administrative Violations and the Tax Code. While the administrative fines stipulated by the Code on Administrative Violations are immaterial, the Tax Code provides for more substantial penalties, including:

- understatement of tax liability from 2% to 5% of the aggregate annual income of the current tax period – 50% of the understated tax liability;
- understatement of tax liability for more than 5% of the aggregate annual income of the current tax period – 100% of the understated tax liability.

Penalty interest is applied to late tax payments at 0.09% rate of the unpaid tax for each day of delay, and cannot exceed 100% of unpaid tax.

9.10 Advance tax clarifications

While it is generally possible to apply to the tax authorities for a clarification, the explanatory letters issued by the tax authorities are not considered binding and, thus, there is no ruling system as such.

10 TAXATION OF CORPORATIONS

10.1 Corporate Tax System

According to the Tax Code, foreign legal entities carrying out business activities through a permanent establishment and earning Kyrgyzstan source income are subject to profits tax as are resident legal entities, and individual entrepreneurs conducting commercial operations and earning income from sources both inside and outside Kyrgyzstan.

10.2 Incentives

The tax legislation currently envisages the following tax incentives:

- investment incentives;
- tax holidays for special economic zones;
- park of innovative technologies.

Special Economic Zones

There are 4 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).

Park of Innovative Technologies

Residents of the Park of Innovative Technologies are exempt from profits tax, sales tax, and value added tax providing their business activities meet requirements of the Tax Code of Kyrgyz Republic.

Tax rate for employees of the residents of the Park of Innovative Technologies and individual entrepreneurs is 5%.

10.3 Taxable Income

Aggregate annual revenue is comprised of all types of income, both monetary and in-kind, as well as work and services, including gross income from the sale of goods (work, services), income from realization of assets, which are not subject to depreciation, and other income, including:

- interest income (except for income already subject to withholding tax);
- dividends;
- assets received free of charge;
- rental income;
- income from the reduction of liabilities;
- foreign exchange gain;
- write off liability.

The Tax Code envisages certain income exempt from profits tax, which currently, includes *inter alia* the following:

- the amount of property received as a charter capital contribution, and income from sale of a participation interest in a company;
- the amount of property and assets transferred free-of-charge to specialized organizations (the list is established by the Kyrgyz Government);
- income received by non-commercial entities;
- dividends received from participation in Kyrgyz legal entities;
- capital gains from realization of treasury shares;
- Interest income and capital gain from realization of shares listed in the official lists of the stock exchange in the highest and the next to highest category of listing.

10.4 Deductibility of expenses

Generally, expenses supported by proper documents and related to the earning of aggregate annual income are considered deductible for income tax purposes, including:

- Remuneration (payroll) expenses for labor;
- Material and social benefits provided to employees;
- Insurance of assets related to the business activity;
- 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);
- Amounts directed to educational, science, cultural, sport, and health organizations to recover capital expenditures with an approved budget of expenditures;
- Losses from exchange rate differences for operations with foreign currency;
- Any other costs related to earning income, which can be supported by appropriate documentation in terms of their nature and amount (invoices, payment orders, receipts, etc.)

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.

The Tax Code establishes a deduction for depreciation which is based on the declining balance method. Depreciable fixed assets are divided into several groups, for which maximum depreciation rates range from 10% to 50%.

Certain expenses are deductible within specified limits, including expenses on repairs, expenses on procuring and producing capital production assets, and certain other expenses.

The principal categories of expenses which are not deductible include:

- Fines and interest penalties paid to the state budget
- Taxes paid in accordance with the Tax Code, except for land tax, road tax, real estate tax, and tax for the prevention and termination of emergency situations
- Any expenses incurred on behalf of a spouse or other family member(s), business partner or any other person, except when documentation proves that these expenses were incurred to pay for services rendered for and arising from production requirements
- Expenses related to the procurement, management, and maintenance of property, the income from which is not taxable in accordance with the Tax Code
- Any losses, directly or indirectly connected with sales or exchange of property by a taxpayer with family members or business partners
- Expenses not supported by appropriate documentation in terms of their nature and amount (invoices, payment orders, receipts, etc.)
- Expenses related to earning income not included in aggregate annual income

10.5 Related Party Transactions

There is no special law on transfer pricing in Kyrgyzstan. However the new Tax Code contains general provisions on transfer pricing rules, whereby the tax authorities have the right to monitor and adjust prices applied in cross-border transactions when prices are perceived to deviate from market prices.

The transfer pricing provisions does not follow OECD guidelines (thus, no APA mechanism is envisaged). According to the Kyrgyz transfer pricing regulations the tax authorities are empowered to control the following transactions:

- between related parties
- barter transactions
- cross-border transactions
- transactions with dormant entities

If the authorities adjust prices, the re-assessed liability will include taxes, duties, penalty interest and fines.

Information about market prices of goods and services are available from the price bulletin of National Statistic Committee of Kyrgyz Republic, which is published quarterly. There are three major methods for the calculation of market prices of goods and services:

- On the basis of transaction value of identical and/ or similar goods and services method;
- Resale method;
- Cost plus method.

10.6 Foreign Exchange

The Tax Code does not contain any provisions on the special tax treatment of foreign exchange differences. Therefore, any foreign exchange gain resulting from revaluation and reflected in the accounting should be included in taxable income, and vice versa, any foreign exchange loss should be deductible.

10.7 Tax Computations

The taxable base for the profits tax is determined as aggregate annual income decreased by the deductions allowed by the Tax Code. A net loss incurred during a tax year may be carried forward as a deduction against aggregate annual income for up to five future tax years.

The profits tax rate is 10% for residents and non-residents. The Tax Code does not establish an additional net profits tax for permanent establishments of foreign legal entities.

Advance payments of profit tax are due by the 20th of the month following the second month of the reporting quarter.

10.8 Other Taxes

Excise Tax

Certain goods manufactured in Kyrgyzstan or imported to Kyrgyzstan are subject to excise tax. These include, among others, certain alcohol and alcoholic drinks, fortified drinks, tobacco goods, jewelry made of gold, silver, or platinum, oil products, etc.

The rates of excise tax are adopted annually by the Kyrgyzstan government.

The tax period for the excise tax is a calendar month.

Sales tax

Sales tax is assessed on Kyrgyz legal entities, foreign entities operating through a permanent establishment in Kyrgyzstan, and individual entrepreneurs for any sales of goods, rendering services.

Sales tax rates are as follows:

- 1) in case of the sale of goods, works or services by VAT payers:
 - trading activities and activities related to industrial processing of agricultural products– 1.0%;
 - for other activities – 2.0%;
- 2) in case of the sale of goods, works or services by non-VAT payers:
 - trading activities – 2.0%;
 - for the activities other than mentioned in above para – 3.0%.

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 20th of the month following the reporting month.

Property tax

Property tax is a local tax payable by individuals and 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 estimated value of taxable objects, except for apartment houses and apartments designated solely for residence, for which the rate may not exceed 0.35% of the estimated value. The estimation can be performed by the state competent body and independent appraisers. For transport vehicles, the tax is computed in KGS depending on engine volume.

10.9 Branch versus Subsidiary

Both branches and subsidiaries are considered appropriate business vehicles for foreign investors and the choice between them would be determined by various factors and the business the investor is engaged in.

10.10 Holding Companies

Kyrgyzstan has very few Double Tax Treaties in force and its utilization as a holding jurisdiction has not been tested yet.

10.11 Subsurface Use Taxes

From 1 January 2009, the Kyrgyz Tax Code introduced new taxes on subsurface users, both Kyrgyzstan legal entities and branches of foreign legal entities. These taxes include bonuses and royalty.

The rate and computation of bonuses are established by the Kyrgyz Government depending on type of mineral resources based on a special table.

The royalty rates are estimated either as a percentage of sales turnover (1-12 %) or in absolute terms in KYRS depending on the type of mineral resources.

11 TAXATION OF INDIVIDUALS

11.1 Territoriality and residence

Kyrgyzstan residents, including foreign citizens who are resident for tax purposes, should be taxed on their worldwide income. Foreign citizens and Kyrgyzstan citizens who are not resident for tax purposes are taxed on their Kyrgyzstan source income.

For tax purposes, individuals, who reside in Kyrgyzstan for 183 days or more in any twelve-month period, are treated as residents.

Foreign individuals from a Double Tax Treaty country may be eligible for protection in respect of their residency status.

11.2 Taxable income

According to the Kyrgyzstan Tax Code, income of both resident and non-resident individuals is subject to personal income tax.

The current tax rate is a flat 10%.

11.3 Non-taxable income

The Kyrgyz Tax Code stipulates a list of non-taxable income, which includes, among others, pension contributions, income in the form of property received as inheritance or a gift, income from realization or barter of movable and immovable property owned by a taxpayer, and other income.

Additionally, please note that there is a certain threshold of taxable income established by the State Committee of Taxes for 2011, ranging from KGS 900 to KGS 4,300 (approximately, USD 20 – USD 97), depending on the region, below which no tax is levied.

11.4 Deductions

There are some deductions available when calculating the tax due. Standard deductions available for employees are as follows:

- 6.5 CI (Calculated Index = KGS 100, approximately USD 2.2);
- 1 CI for each dependant.

In addition, Kyrgyzstan legislation stipulates additional deductions for certain social categories (e.g., war veterans, individuals with state honorary titles).

There are certain personal allowances envisaged by the Kyrgyz Tax Code:

for education of a taxpayer and dependents – not more than 10% of the aggregate taxable income;
for interest payments under mortgage loans – not more KGS 230,000 (approx. USD 5,160) annually.

These allowances are available only upon submission of the tax return to the tax authorities along with the special application form and provided that all supporting documentation is available.

11.5 Taxation of non-residents

Currently expatriates working in Kyrgyzstan are liable to Kyrgyzstan individual income tax at a flat rate of 10% (to be withheld from gross income).

11.6 Tax Compliance

The annual tax declaration is due not later than 1 March of the year following the reporting year. A tax agent is obliged to submit the returns on individual tax withheld not later than the 20th of the month following the month of income payment.

Tax agents withhold income tax not later the date of income payment. Tax is due prior to the 15th day of the month following the month of income payment.

For income not taxed at source, income tax payment generally should be made not later than 1 March of the year following the reporting year.

12 VALUE ADDED TAX (VAT)

12.1 Introduction

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% except for certain zero-rated supplies (such as international transportation and exports) and certain exempt turnover.

All taxpayers registered for VAT purposes are required to charge VAT on their taxable supply, and calculate and report their VAT obligations.

Taxpayers are required to register for Kyrgyzstan VAT purposes if their taxable supply in the preceding 12 calendar months exceeds KGS 4,000,000. 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.

12.2 Scope of VAT

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 in all other cases, at the place where the goods are transferred to the customer. In respect of services, the rules are more complicated. Thus, for those services that are not specifically mentioned, they are deemed to be supplied at the place where the service provider has established his place of business. Certain services are deemed to be supplied at the place of the purchaser (e.g. consulting services).

Imports of goods

Generally, imports of goods are subject to import VAT.

12.3 Zero-rate VAT

There are turnovers subject to zero-rate VAT. These include exports (except for certain limited types of export), international transportation and supply of goods (works, services) for official use of diplomatic and consular representations.

12.4 Exempt supplies

Certain supplies are VAT exempt, including, among others, supplies and exports of gold and silver alloy and refined gold and silver, supplies of pharmaceuticals, financial services, and others. When a taxpayer generates both taxable and exempt supplies, input VAT proportional to the ratio of the exempt supply to the total supply should be disallowed for offset.

12.5 Taxable amount

VATable supplies

Taxable supply includes any sale of goods, works and services, and taxable import in Kyrgyzstan, unless the supply is specifically exempted or if the place of supply is deemed to be outside Kyrgyzstan.

VAT offset

VAT paid on services and goods purchased by a VAT payer (i.e., input VAT) including reverse-charge VAT and VAT paid at customs should generally be available for offset (credit) when determining a taxpayer's VAT liability. However, offset is not available for certain VAT (e.g., VAT incurred for the purpose of supplies which are deemed to be supplied outside of Kyrgyzstan).

VAT liability calculation and VAT offset carry-forward

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.

12.6 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 (work, services) not related to entrepreneurial activity, or if it relates to inputs for VAT exempt supplies.

12.7 VAT incentives

Certain imports are VAT exempt, including imports of technological equipment, if it is used for own production purposes. Recently, a preferential offset method of VAT settlement in respect of certain fixed assets imported to Kyrgyzstan has been introduced, whereby the import VAT does not need to be paid to customs but is reflected simultaneously as input and output VAT in the VAT accounts.

12.8 Simplification measures

None.

12.9 VAT compliance

The tax period for VAT is a calendar month. The submission of the VAT Declaration is due by the end of the month following the reporting period. Payment of the VAT liability is due by the 25th of the month following the reporting period.

Reverse-charge VAT

The current Tax Code does not have any provisions on reverse-charge VAT.

PricewaterhouseCoopers in Kyrgyzstan

Bishkek office:

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Appendix A – General Tax rates

Profits tax	10%
Tax depreciation	10%-50%
Withholding tax	dividends and interest – 10%, insurance – 5%, communication and transport services – 5%, other works and services – 10%
Individual income tax	10%
VAT	12%
Sales tax	1.0 – 3.0%
Property tax	0.8% of estimated value, or 0.35% - for residential real estate