

BELARUS

Main developments in tax legislation for 2010 have been announced

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1) Amendments to tax law

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2) Main taxes in Belarus

Recently the Belarusian Government announced a range of amendments to its tax legislation which it plans to implement in 2010. The draft legislation has not been published yet. Below we outline the main amendments according to information publically available.

Corporate Income Tax

Belarusian tax legislation currently provides for a limited number of sales expenses that can be deducted for corporate income tax purposes. In addition, promotional, advertising and marketing expenses, as well as expenses for information services, may be deducted within certain limits.

Starting from 1 January 2010, however, it may be possible to deduct all business-driven expenses. Deductibility limits for promotional, advertising and marketing expenses, as well as expenses for information services, may be abolished as well.

Withholding tax

Starting from 1 January 2010 the withholding tax rate on dividend income may fall from 15% to 12%. This new rate should apply to dividends paid (i) to Belarusian companies and individuals and (ii) to foreign companies that do not have taxable presences in Belarus.

Withholding tax rate may be further reduced by the respective double tax treaty.

VAT

Starting from 1 January 2010, the VAT rate will increase from 18% to 20%.

It is possible that the corporate income tax rate could consequently fall from 24% to 20%. The Government has already announced that rate cut as an obligation it has undertaken to the International Monetary Fund. We are not, however, aware of any legislative initiatives in this regard.

In general, it takes 3-4 months to obtain refund of input VAT on zero-rated export sales. Starting on 1 January 2010, it will be possible to recover input VAT on export within 5 days.

Contribution to the Republican Fund for support of food, agricultural production and agrarian science (the Agricultural tax)

Companies in Belarus currently pay a 1% Agricultural tax on total proceeds from sale of goods (work, services). Banks and financial organizations pay the tax on the revenue net of interest payable, fees, commissions and other expenses. Insurance companies pay it on book profit.

In 2010 the tax may be abolished.

Sales tax

There is a 5% tax on retail sales of commodities.

In 2010 the tax may be abolished.

Tax on acquisition of transport vehicles

There is a 3% tax on the acquisition prices of transport vehicles (net of VAT).

In 2010 the tax may be abolished.

Further monitoring of the situation

As of now we possess no draft laws that introduce the announced changes and details about their implementation are unavailable. We will update this information as the amendments are adopted.

Specific (Second) Part of the Belarusian Tax Code

It should be also noted that starting from 2010, the second part of the Belarusian Tax Code which deals with particular taxes may be implemented with an aim to replace the huge number of separated tax laws currently in place.

According to the draft law available to us, the Belarusian tax system should not change dramatically. However, a number of important amendments shall be introduced.

We will comment on the most important issues in the upcoming tax and law alerts.

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ACTUAL TAXES IN BELARUS

Corporate Income Tax

The taxable profit of Belarusian companies is determined as gross income received less tax-deductible expenses. The standard tax rate is 24%. In practice, local transport duty is included in the effective tax rate, which on the whole is 26.28%.

Profits tax is to be paid on the 22nd of the month following the reporting period.

VAT

The sale of goods, work, services and property rights on Belarusian territory qualify as VATable supplies. The standard VAT rate is 18%. Export activities are subject to 0% tax and certain activities are subject to different tax rates, e.g. 10%.

Output VAT may be reduced by the amount of input VAT that suppliers charge. The excess of input VAT is not refunded (except in certain specific cases).

Real Estate Tax

The objects of taxation are buildings and constructions, including certain types of construction in progress. The 1% tax is calculated on the basis of an annual book.

Social Fund Contribution

This contribution is calculated on the basis of the employee's payroll, but the base cannot be higher than the statistical average salary of Belarusian employees for the preceding month multiplied by four.

The rate is 35%. Of it (i) 34% is to be paid by the employer as a taxpayer and (ii) 1% is to be withheld from the employee.

Insurance Contributions for Emergency Cases

This tax is paid just as the Social Fund Contribution is paid, except for the above limitation to four statistical average salaries.

The contribution is determined on the basis of tariffs that the Belarusian President approves annually. Rates currently vary from 0.1% to 2.4%

Other Taxes and Levies

In addition to the above, other taxes are effective on the territory of the Republic of Belarus (such as a land tax, an ecological tax and an offshore levy) that demands careful consideration from any activity standpoint.

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- ▶ Analysis and recommendations for enhancing efficiency, including recommendations for improving tax accounting policy and assistance in implementing tax policy
- ▶ Cross border tax structuring, planning, reporting and risk management
- ▶ International tax services and customs support
- ▶ IFRS, statutory and tax compliance, assistance in implementing new accounting standards under IFRS and/or local GAAP
- ▶ Identification of profits tax reduction opportunities to minimize the company's tax burden
- ▶ Assistance in verifying the right to offset VAT on acquired goods (work, services, property rights), including analysis of documents supporting VAT offsets
- ▶ Personal tax services
- ▶ Analysis and development of mechanisms for eliminating/minimizing tax and legal risks in connection with various agreements frequently used in various industries
- ▶ Tax and legal due diligence
- ▶ Tax and legal planning and support for upcoming transactions to acquire various assets and companies
- ▶ Legal advice on a range of corporate issues, including mergers and acquisitions, new business structuring, holding company incorporation, large business/holding restructuring, drafting and reviewing legal transactions and organizing and holding shareholders' meetings
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- ▶ Ongoing legal support to our clients from the outset of disputes to their successful resolution. This process may involve assessing potential court risks, prejudicial discussion or out-of-court settlement, representing client interests in courts and tribunals in Russia and helping enforce court decisions, including those made by foreign courts.
- ▶ Assistance with antimonopoly issues
- ▶ Consulting on current tax and legal issues faced by retail, industrial real estate, oil and gas, telecommunications and financial companies

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