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**National Investment Agency**  
REPUBLIC OF BELARUS

# Doing Business in Belarus. 2008



Audit. Tax. Consulting. Financial Advisory.

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# Introduction

The Doing Business in Belarus is a booklet published by Deloitte to provide information of interest to those considering investing or doing business in Belarus. The information provided is mostly addressed to non-residents of Belarus who may be contemplating business activities or investment in the country.

The information presented in this publication is correct and reflects the situation as of 1 January 2008. The purpose of the booklet is to explain, in broad terms, the requirements of local laws affecting the taxation and also the establishment and operations of business enterprises in Belarus. The information provided in the following pages is not exhaustive, nor is it intended to be so. The reader should be aware that the general framework of the legislation and the detailed regulations underpinning it are subject to frequent changes. Therefore, before making any decisions, further advice should be sought.

The combination of increased globalization and the growing complexity of tax systems in individual countries give rise to many tax exposures. Both for companies and private individuals, the consequences of misjudging the tax and legal situation can be grave. As tax and legal advisors with extensive experience in Belarus and abroad, we see our job as more than merely identifying risks - we also find solutions. Thanks to our powerful worldwide network, we can propose tailor-made solutions which enable you to reduce the risks and take advantage of opportunities for optimizing your tax position.

Our tax consulting services cover all tax matters which affect companies and individuals, irrespective of their size or sphere of activity. These include filing tax returns, tax planning, and assistance in tax matters. These consulting services are specifically designed for each industry or form of organization.

Deloitte is a global leader among professional services firms in terms of the number of its tax partners and professionals. Deloitte has a broad service offering and is able to deploy experienced professionals with extensive knowledge and specialized skills to work for clients across a wide range of sectors.

## Consulting on Direct and Indirect Taxation

- Due Diligence;
- Optimization of direct taxation on both internal and external transactions;
- Advice on both customs and indirect taxes imposed on external economic operations as well as advice on value added tax and excises according to domestic legislation;
- Consulting on international tax matters and on the structuring of foreign investments in the Republic of Belarus;

- Consulting on labor law and drafting of necessary documents.

## Bookkeeping and Tax Accounting

- Bookkeeping for representative offices of foreign companies according to local rules;
- Preparation of reporting documents for representative offices of foreign companies according to standards applied by their head office;
- Preparation and submission of tax returns to the tax authorities;
- Servicing on preparation of tax returns for representative offices and permanent establishments of legal entities - non-residents of the Republic of Belarus;
- Payroll accounting for employees, accounting for fixed and non-material assets as well as travel expenses.

## Tax Dispute Resolution

- Advising on complex tax issues;
- Pre-trial resolution of disputes.

## Individual Taxation Services

- Tax consulting on personal income tax, including taxes levied on salary, and other taxes levied from individuals;
- Assistance in preparation of tax returns of annual income for individuals;
- Applying for tax exemptions in respect of personal income tax levied in Belarus in accordance with international double tax treaties.

International cooperation with other Deloitte Touche Tohmatsu practices ensures a direct and efficient transfer of knowledge. We have a worldwide database with tax information covering more than 185 countries. Our international network of tax professionals forms the fundamental basis for providing high quality consulting in all international tax matters.

In addition, each of our service offerings is finely tuned to focus on the particular issues and opportunities that exist in such highly regulated industries as banking, insurance, oil & gas, telecommunications, retail and wholesale trade, and construction. Each one brings to bear the wealth of experience Deloitte has garnered from its extensive service to the world's leading companies. Indeed, Deloitte tax professionals are well equipped to provide that efficiency because they understand the nuances of the industries we serve.

# Country Profile

Belarus is located in the heart of Europe, in the crossroads of west-east and north-south trade routes. It links CIS member-states with the countries of Western Europe. Belarus borders Poland, Lithuania, Latvia, Russia, and Ukraine.

The territory of the country is 207 thousand square kilometers, populated by 9.71 million people. 73% of them live in urban environments. Almost one fifth of the population lives in Minsk, the capital of Belarus. Belarus is divided into six regions. Belarusian and Russian are the official state languages. Belarus is larger than Austria, Ireland, or Greece, and slightly smaller than Kansas.

The country code of Belarus is 375. The area code of Minsk is 17 (from outside Belarus) or 017 (from inside Belarus), the phone number itself is a 7-digit code.

## History and Government

On 8 December 1991, in Viskuli (Brest Region), the leaders of the founding republics of the USSR, i.e. Belarus, Russia, and the Ukraine — made a decision to dissolve the USSR and found the Commonwealth of Independent States. Minsk was chosen as the administrative center of the CIS. The Republic of Belarus became an independent state. In 1994, a new Constitution was adopted and the first President was elected, an independent candidate who did not belong to any political party. Belarus is a presidential republic. Legislative power is vested in the Parliament, which is comprised of the House of Representatives (110 members) and the Council of the Republic (64 members) and is dominated by supporters of the President. According to the Belarusian Constitution, power is divided among the legislative, executive and judicial branches.

## Currency

The Belarusian national currency is the Belarusian ruble (Br). As of 1 January 2008, the exchange rate was 2,150 rubles for USD 1.

There are some restrictions on foreign currency exchange in Belarus. However, the Belarusian government is taking steps toward the liberalization of the currency market.

## Government Economic and Fiscal Policy

Belarusian legislation has some distinct features. Generally, Belarusian legislation is similar to Russian legislation. However, there are also substantial differences. Belarus has concluded a number of agreements with CIS countries. The most important ties have been established with Russia.

## Banking System

Banks have dominated the Belarusian financial market. As of 1 January 2008, there are 27 banks in Belarus. Most Belarusian banks have foreign investors as shareholders. Meanwhile the 4 biggest banks of Belarus still have a dominant state share in their charter capitals. In 2008, it is planned to decrease the share of the state in the above-mentioned banks and attract foreign investments to meet the requirements of the Initial public offering (IPO). To date, the Belarusian stock market has not really been developed.

# Incentives for Foreign Investors

The beneficial geographical location has made Belarus a potential country for foreign investment. For a company planning to establish a production or distribution unit in Eastern Europe, Belarus offers a skilled and cheap labor force, low price levels, and a relatively well developed infrastructure. The Belarusian government has established a special program for attracting foreign investment. Protection of foreign investment is guaranteed under the Investment Code. The Code states that foreign-owned companies have the same rights as local businesses. These companies also have the right to repatriate profits without any restrictions. Furthermore, Belarus has signed bilateral agreements on the protection and promotion of investments with many countries around the world.

## Free Economic Zones (The FEZ)

A Free Economic Zone is a part of the territory of a country with exactly defined borders and a special legal regime that provides more favorable conditions for business. Basically, the objective of these zones is to attract and ensure the effective use of foreign and national investments, for the creation and development of goods for export, and will be based on the latest technologies, as well as effectively using the available production space. There are 6 free economic zones in the Republic of Belarus. The appeal, for a potential investor, of a special legal regime like FEZ, is preferential taxation. The residents of the FEZ pay certain taxes at reduced rates: profit tax – 12%, transport duty – 1.5%, VAT – 9%. Excise duties are applied by the residents of FEZ at the halved rate. Profit received by the residents of FEZ from the realization of goods (works, services) of own production is exempt from profit tax for the period of 7 years as from receiving such profit. Besides, the residents of FEZ do not pay a turnover tax at the rate of 2%.

## High Technology Park (The HT Park)

Belarusian legal entities (including those with 100% foreign investment) and individual entrepreneurs, whose activities are concerned with the analysis, development and software support of information systems and data processing, can be members of HT Park in Belarus. The regime of HT Park provides full exemption from almost all of taxes and duties, including profit tax,

VAT and real estate tax. What is more, the technical equipment imported by the residents of HT Park into the customs territory of the Republic of Belarus is exempt from customs duties and VAT. The exhaustive list of such inventories is determined by the state authorities and includes computer, copying and facsimile devices.

The income paid to a foreign entity originating from HT Park resident's sources can be subject to withholding tax at a rate not exceeding 5%. The residents of the Park do not pay offshore duty on the dividends paid to their shareholders.

## Tax benefits from conducting business in rural areas and small town centers

Effective from 2008, a special tax regime has been provided for both foreign and Belarusian legal entities and individual entrepreneurs located (residing) in rural areas (as well as town centers populated by not more than 50,000 persons and included in the list by the Council of Ministers of the Republic of Belarus) and carrying out business activities involving manufacture of goods, performance of works, or provision of services in those or other rural areas (town centers).

They are exempt from profit tax, turnover tax, transport duty and real estate tax on the real estate located in rural areas, from customs duties and VAT payable on production equipment, its spare parts and accessories imported with the object of forming or increasing the charter capital of the legal entities; from mandatory charges payable to the state innovation funds till December 31, 2010, if they carry out construction, renovation, and special installation works in rural areas.

Foreign and Belarusian legal entities mentioned above are exempt from compulsory sale of foreign currency in the amount of 30% for 5 years from the date of their registration. In addition, they may apply free pricing to those goods they produce which are sold internationally, may independently determine the employees' salary, use services of foreign insurance companies, etc.

# Tax Administration

## The Tax Code of the Republic of Belarus

### General information

The general part of the Tax Code came into force on 1 January 2004. In effect, the first part is a compilation of the existing tax legislation, rather than a set of new tax principles and rules.

The special part of the Tax Code is still being developed by the state authorities. Individual chapters are expected to be adopted in 2008.

In the Code's current form, it deviates significantly from the Russian Tax Code and provides stricter governmental regulations over business, and fewer taxpayer rights.

The basics of the tax system, including the list of taxes, the rights, duties and responsibilities of taxpayers, general definitions and tax administration and procedures, are all governed by legislation.

### Types of taxes and duties

There are state taxes and duties and local taxes and duties in Belarus. A number of the special tax regimes are mentioned in the Tax Code: simplified system of taxation; taxation in free economic zones; gambling tax; lottery tax; unified tax for agricultural producers; unified tax for individual entrepreneurs and other individuals, and the taxation of various categories of taxpayers.

Belarusian system of taxation contains the following main taxes and duties:

- Profit Tax;
- Tax on Income from Securities;
- Value Added Tax (VAT);
- Payment to the National Reserve Fund for the Support of Agricultural Producers (Turnover Tax);
- Personal Income Tax (PIT);
- Pension Fund and Social Security Fund Contributions;
- Excise Tax;
- Real Estate Tax;
- Land Payments;
- Environmental Tax.

### Payers of Taxes and Duties

The Tax Code defines the payers of taxes and dues (duties) in the territory of Belarus. The following organizations are taxpayers:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts.

The term "individuals" include:

- Citizens of the Republic of Belarus;
- Foreign citizens;
- Stateless persons.

## Accounting and Audit

### Accounting

A new chart of accounts closely resembling the one enacted in Russia became effective on 1 January 2004.

By 31 December of each year, enterprises must formulate an annual financial statement consisting of a balance sheet, an income statement, a statement of changes in shareholders' equity, a cash flow statement. The statements must be submitted to the tax authorities no later than 1 April of the following year (31 March if it is a leap year).

According to domestic tax accounting rules, depending on a taxpayer's accounting policy, income in accounting and tax accounting is recognized on either "accrual" or "cash" basis.

"Accrual" basis implies recognition of income at the time of goods (services) delivery. "Cash" basis means recognition of taxable income when both events (delivery and payment) have taken place.

### Obligatory independent audit

The following entities are subject to an obligatory annual independent audit:

1. Open Joint Stock Companies;
2. Banks, non-bank financial intermediaries;
3. Stock exchanges;
4. Commercial organizations with foreign investments;
5. Insurance companies and insurance brokers;

6. Residents of the High Technology Park;
7. Other legal entities (excluding collective farms and regular farms) and individual entrepreneurs whose revenue for the preceding year exceeded 600,000 Euro.
8. Tax returns presented annually by permanent establishments (representative offices) of foreign companies are also subject to a mandatory independent audit.

### Tax audit

The Ministry of Taxes and Duties of the Republic of Belarus is responsible for levying of taxes and duties. The local tax authorities, which are subordinated to the Ministry of Taxes and Duties, have the right to perform tax audits.

The local tax authorities may perform scheduled and unscheduled audits of business entities. Scheduled (field) tax audits may be carried out at most once a year but at least once every five years.

Unscheduled (special) audits may be performed in the following cases:

- Liquidation of an organization;
- Cross-audit of other business entities;
- Where the tax authorities have information according to which the business entity has not been conducting business activity for six consecutive months and has not informed the tax authorities about the reasons;
- The payer has claimed VAT refund in the amount exceeding 3,000 basic amounts (approx. USD 48,840).

There are no limitations for Belarusian tax authorities in respect of the periods which may be subject to audits. What is more, the tax authorities may perform tax audits for the periods already covered by any previous tax audit, unless the entity is liquidated or reorganized, or the tax authorities of a higher instance decide to conduct a re-audit.

According to Belarusian legislation, the duration of tax audit should not exceed 30 business days. Meanwhile, in practice, tax audit usually does not exceed 10 calendar days.

## Offences, Crimes and Penalties

### Tax Penalties and Interest

The effective Code of Administrative Offenses of the Republic of Belarus (hereinafter – the “Administrative Code”) lays out sanctions which may be imposed on a taxpayer who has broken the law.

Below are listed typical violations by taxpayers.

Late registration with the tax authorities is subject to a fine of up to the equivalent of USD 81 for both individuals and legal entities.

If a legal entity or an individual entrepreneur operates without registration with the tax authorities, such legal entity is subject to a fine of 20% of income from its activity, but not less than USD 1,140. An individual entrepreneur is subject to a fine in an amount of up to USD 325.

Late notification of the tax authorities of the opening (closing) of bank accounts entails a fine in an amount of up to USD 326 for individuals and USD 1,140 for legal entities.

Late filing of a return entails a fine of 10% of the tax due on the return for individual entrepreneurs and legal entities, but not less than USD 33 and USD 163, respectively.

Non-payment or partial payment of taxes within the term determined by the legislation results in a fine of 20% of the tax which was not paid for legal entities and individuals, but not less than USD 163 and USD 33, respectively.

Failure of a tax agent to withhold taxes entails a fine of 20% of the tax due for individual entrepreneurs and legal entities, but not less than USD 33 and USD 163, respectively. The amount of the penalty can be increased up to USD 977.

Late payment of taxes is subject to a daily late payment interest of 1/360 of the National Bank's refinancing rate (as of 1 January 2008, it comes to 0.028% per day).

Fines imposed for non-payment (non-withholding) of taxes may not be applied to those taxpayers (tax agents) who have paid (withheld) full amount of taxes due at the beginning of the audit performed by the tax authorities.

### Criminal liability

In addition to the tax and administrative fines and penalties, Article 243 of the Criminal Code, “Tax Evasion,” provides for 3 years imprisonment for ordinary tax evasion and 3 to 7 years imprisonment for the tax evasion which has caused extensive damage to the state budget.

Because of the personal liability that may arise for tax violations, good tax planning and careful compliance are essential for success.

# Types of Business Presence

Belarusian legislation provides for a number of different legal forms through which businesses may operate. Set out below is a brief description of each of these legal forms.

The most common forms of conducting business in Belarus for foreign companies are:

- Representative offices;
- Legal entities.

## Representative Offices

Historically, Representative Offices (ROs) were established to perform an “eyes and ears” function for a foreign legal entity (FLE), which would not lead to a taxable presence for the FLE in Belarus. In the course of time, the activities of ROs in Belarus have expanded, as a result of which ROs may now be both taxable (i.e. RO performs the function of a permanent establishment – PE), and non-taxable.

Traditionally, according to the legal concept recognized by Belarusian legislation, the commercial activity of a foreign legal entity on the territory of Belarus should be performed through a branch. However, in practice, ROs came to perform the functions of a branch as a PE of a foreign legal entity. In practice, no branches are registered. Moreover, companies from CIS countries may not register a branch, since this is forbidden by legislation (only a company with foreign investments or an RO may be registered).

Neither branches nor ROs are legal entities in themselves, but they are considered to be separate divisions of the foreign legal entity they represent. The Belarusian Civil Code envisages the activities of an RO as representing the interests of a foreign legal entity in the Republic of Belarus and performing other functions, which do not contradict the legislation.

Under the Law “On Income and Profit Taxes”, a PE is deemed to exist when:

- A foreign entity's subdivision (office) has been carrying out economic and other activity in Belarus over a period of 90 days (for construction, assembly – 180 days) running or in the aggregate during one calendar year; or
- An authorized agent (legal or natural person of the Republic of Belarus) which, in accordance with contractual obligations, acts on behalf of a foreign entity.

Therefore, ROs become taxable only when they carry out commercial and other activity such as negotiating and signing contracts. Taxation of a commercial representative office is very similar to that of an ordinary Belarusian entity with minor distinctions. The

costs incidental to registration of an RO are less than the costs incidental to registration of a company with foreign investments which must have a statutory capital of at least USD 20,000.

An RO is not a legal entity. An RO performs any activity on behalf of the company which has set up such RO. The RO functions on the basis of regulations approved by the company, and the Head of the RO acts on the grounds of a power of attorney. While regulations on the RO are subject to registration with the Ministry of Foreign Affairs, the power of attorney must be issued and legalized (or apostilled) in accordance with the established procedure.

According to Belarusian legislation, an RO must register with the tax authorities, keep accounting records, and pay taxes in accordance with the established procedure.

The state duty for opening and extending the validity of an RO's permit comes to approximately USD 1,060. Thus, for the initial period of activities of an FLE in Belarus, in order to keep the costs down, it is practical to open an RO and set up a company with foreign investments.

## Registration Requirements

For foreign companies, the most important conditions that require registration are:

- Existence of a representative office or other separate division of a company, or certain activity in Belarus;
- A bank account with a Belarusian bank; movable or immovable property owned in Belarus, in view of ownership of which the foreign entity is subject to Belarusian taxation.

Belarusian legislation requires that a foreign legal entity register its presence with the tax authorities if it conducts or intends to conduct any activities in Belarus.

## Types of Legal Entities

The three most common types of legal entities under the Belarusian Civil Code include joint-stock companies, limited liability companies and unitary enterprises. These are regulated by the Law “On business entities” and the Civil Code, respectively. Establishment of banks and insurance companies is regulated by separate legislative acts. Only joint stock companies may issue shares, and are, therefore, subject to Belarusian securities law and the regulations imposed by the Department on Securities.

### 1. Joint Stock Companies

Joint stock companies are defined as companies whose capital is divided into a definite number of shares. A joint stock com-

pany may be either “open” or “closed.” A joint stock company is deemed open if its shares are distributed to the general public without the permission of other shareholders. A joint stock company is deemed closed if distribution of its shares requires the consent of other shareholders, and (or) shares are distributed only to certain categories of persons. Both types of joint stock companies may issue preferred shares making up to 25% of the statutory capital.

#### Open Joint-Stock Company (Otkrytoe Aktsyonernoye Obshchestvo, “OAO”)

An OAO is the “supreme” type of company, permitting an unlimited number of shareholders. Subject to elaborate disclosure requirements, an OAO is the only form of legal entity whose shares may be openly traded. The minimum charter capital is set at the amount equivalent to EUR 6,250.

#### Closed Joint Stock Company (Zakrytoe Aktsyonernoye Obshchestvo, “ZAO”)

The most common type of a joint stock company is a ZAO. Shareholders enjoy preemption rights to any shares offered for sale by a retiring member. There is no obligation to publish accounts. The shares are distributed only among its founders or another predetermined group of persons. A ZAO may not hold an open subscription of shares for an unlimited group of people. The minimum charter capital of a ZAO is set at the rate equivalent to EUR 1,500.

### 2. Limited Liability Company (Obshchestvo s Ogranichennoi Otvetstvennostyu, “OOO”)

An LLC is defined as a company founded by two or more persons, whose capital is divided into ownership interests, the amount of which is determined by statutory documents. An OOO (together with Unitary Enterprise) is the most flexible type of company, with the least onerous statutory obligations. Its capital is divided into “units,” which are not technically shares and fall outside the scope of the Belarusian securities law. A drawback of an OOO with minority participants is that any participant has the right to withdraw from the company and is entitled to require other participants to purchase/redeem his units at pro-rata value. The minimum charter fund of an OOO is set at the rate equivalent to EUR 800.

### 3. Unitary Enterprise

A Unitary enterprise is defined as a commercial organization that has no ownership rights to the assets transferred to the company by the owner of these assets, which essentially means that such

company is not the owner of its property. Instead, the founder of such company remains the owner of the assets. The owner is simultaneously the founder of the company. These assets may not be divided into shares. A unitary company may have only one founder. As a wholly-owned subsidiary, however, its simple management structure often makes it the vehicle of choice for foreign investment.

## Formation Requirements for Companies with Foreign Investments

According to the Belarusian Investment Code (adopted 22 June 2001, effective from 9 October 2001), the minimum share capital that should be invested by a foreign investor as an authorized share capital of a company with foreign investments should be not less than the amount equivalent to USD 20,000. If one wishes to establish a joint venture with a Belarusian investor, the minimum amount of the statutory share capital should be more than USD 20,000. As an example, a foreign investor contributes USD 20,000 and a Belarusian investor contributes USD 1,000 as their respective initial investments, thereby meeting the minimum requirements.

It is important to note that no minimum amount for foreign investment as share capital of a Belarusian company with foreign investment has been set. Under existing law, in-kind contributions instead of cash may also form capital.

## Registration Procedure

The registration procedure has the following stages:

1. State registration (including tax registration, registration with State Social Funds, State Statistical Board);
2. Approval of the design of the seal;
3. Opening of bank accounts.

Due to some changes made to the process of registration, currently the registration authorities render decision on registration within 5 working days. In addition, it takes 10 days to obtain necessary documents on tax registration, registration with State Social Funds etc. Thus, the whole process usually takes 2 to 3 weeks. Joint stock companies are required to register their share issue with the State Securities Commission, and this increases the time required for registration.

## Comparison between an RO and a Legal entity:

	RO	LE
<b>Legal</b>		
<b>1. Establishment</b>	Registration (accreditation) of an RO is easier in practice than registration of a LE with foreign investment. The foreign legal entity determines for which term the RO will be established. The RO's accreditation should be renewed after expiration of the term.	The period of operation of an LE is not limited.
<b>2. Licensing</b>	Certain types of activities may be prohibited or limited for an RO. For example, foreign legal entities are not entitled to carry out banking activity, activity through a customs agent. The legislation does not limit the ability of foreign legal entities to obtain special permits (licenses).	For an LE, the process of obtaining different licenses and permits is much easier.
<b>3. Liabilities</b>	An RO is not a separate legal entity but an officially recognized sub-division of an FLE. Therefore, the FLE is liable for all obligations of its RO.	An LE is recognized as a legal entity which is separate from its owners, and, generally, the LE is held solely responsible for its debts and operations, thus shielding the owners from individual liability. However, there are some exceptions where the owners may be held liable.
<b>4. Management</b>	Most of operations of an RO may be performed by any person (not only by the Head of RO) holding a power of attorney to act on behalf of the FLE.	General management and control of an LE is usually assigned to its members and/or its Board of Directors. Operational management of a LE is a General Director's responsibility.
<b>5. Presentation in court</b>	Similar to an LE, an RO has the right to defend any infringed or challenged interests of the FLE before a court, provided that the rights to litigate are included in the power of attorney granted to the Head of Branch.	An LE defends its infringed or challenged interests in a court.
<b>6. Net assets position</b>	Not applicable.	Special requirements should be met (i.e., the amount of net assets should be maintained at a certain minimum level) to avoid legal risks.
<b>7. Closure</b>	Less complicated than for an LE. An RO must settle all outstanding tax liabilities, apply for de-registration with the tax authorities, social funds and state registration authorities. A closing RO will be subject to audits by the tax authorities and social funds.	More burdensome procedure (depends on the form of the LE). An LE must settle all outstanding contractual and tax liabilities, de-register with the tax authorities, social funds and other state authorities.

	RO	LE
<b>8. Financing at the stage of establishment</b>	<p>Generally, the Company is required to provide the RO with some funds to purchase fixed assets, etc. At the same time, the minimum amount of funds and the time frame required for such financing are not established in the current Belarusian legislation.</p> <p>The accreditation fee levied by the Ministry of Foreign Affairs of Belarus comes to USD 1,060 for establishing an RO for one year.</p>	<p>Upon establishment, an obligatory financing in the form of contribution to the charter capital is required (for Closed Joint Stock Companies – EUR 1,500; for Open Joint Stock Companies – EUR 6,250; for Limited Liability Company – EUR 800).</p> <p>The charter capital of legal entities with foreign investments should be not less than USD 20,000, where the first half of the capital is to be paid within the first year after registration, and the total charter capital must be paid within two years after registration.</p> <p>Please note that registration fee amounts to EUR 60.</p>
<b>Accounting/Audit</b>		
<b>9. Belarusian statutory accounting/ financial reporting</b>	Required. Should also keep tax accounting records and prepare/keep support documentation in accordance with the Belarusian standards for tax purposes. May keep accounting records based on the home country rules.	Required. Additional systems/ personnel required. Should also keep tax accounting records. Tax accounting requirements are generally similar for both the RO and the LE. The LE may also keep accounting records according to the rules of its parent company.
<b>10. Obligatory statutory audit</b>	Required.	Required.
<b>Taxes</b>		
<b>11. Profit tax</b>	The RO that carries out activity in the Republic of Belarus enjoys all the privileges provided by the Belarusian legislation for taxpayers in Belarus, unless otherwise stipulated by international agreements.	The taxable profit is calculated on the basis of the balance sheet profit of an LE, and is composed of the sum of the profit gained from the sales of goods (works, services), as well as other assets and property rights and the income from non-sales operations.
<b>12. Funding</b>	Transfer of funds to/from the head office is direct and does not give rise to any tax liabilities.	Transfer of funds to the LE from its founder(s) is taxable unless it is the equity injection at nominal value. Share premium is taxable. Loan financing is an available alternative.
<b>13. Profit repatriation</b>	Non-taxable.	Dividends distribution is subject to income tax withholding at the rate of 15% (unless a reduced rate is applicable under a double tax treaty).
<b>14. VAT</b>	A non-commercial RO includes the VAT sums into the value of the acquired goods, fixed assets, equipment and others. For a commercial RO the same provisions as for an LE are applicable.	VAT is charged on the majority of sales of goods and services “realized” in Belarus and on most imports into Belarus. The main rate of VAT is 18%. Taxpayers’ VAT liability is calculated as the product of the tax base and the tax rate.
<b>Currency control</b>		
<b>15. Currency control</b>	Not subject to currency control (with some limitations).	LEs are currently required to convert 30% of their foreign currency export revenue into rubles by selling through authorized banks within seven working days of receipt.

# Taxation of Businesses in Belarus

## Elimination of Double Taxation

Unlike the previous legislation, the Tax Code does not provide for a unilateral ordinary tax credit as a measure to avoid double taxation. Article 5 of the Tax Code (The General part) provides the following:

- The Republic of Belarus recognizes the general principles of international law and ensures that tax legislation complies with them;
- If the norms of international treaties in effect for the Republic of Belarus establish other rules than those provided by the Code and other legislative acts of the Republic of Belarus, the rules of the international treaties are applied, if another way is not determined by international law;
- Taxation rules contained in international treaties to which the Republic of Belarus is signatory, but which have not come into force, can be applied by the Republic of Belarus temporarily and in the order established by the legislation on international treaties of the Republic of Belarus.

## National Taxes

### 1. Profit Tax

#### 1.1. General information

Profit tax is levied on gross profit, which is the total profit from the sale of products, goods, services and other assets (including fixed assets, intangibles), property rights and income from non-sales operations, including share premium, minus the deductible expenses incurred in connection with these operations.

Income received from sales (redemption) of securities is subject to tax on income from securities. Profit (loss) from the sale of products, goods, services, other assets and interests is defined as the difference between the total receipts from the sales and the costs incurred in connection with such sales including taxes and duties paid from receipts.

“Non-realization income” is offset by the “non-realization expenses” and then included in the taxable profit. Non-realization income includes:

- Income from participation in other organizations, including dividends, profit from sales of shares and profit from the liquidation of an investee;
- Positive exchange differences;
- Income of previous years recognized in the current tax year;
- Fines, penalties and interest given for breaking contractual obligations, and compensation for losses recognized by the debtor or payable by the debtor under a court ruling;

- Income from granting the right to use intellectual property if this is not the payer’s main activity;
- Interest on loans and deposits;
- Property (works, services) or property rights, received free of charge;
- Other.

According to Belarusian legislation, liquidation proceeds of legal entities with foreign investments are the subject to profit tax in case of liquidation of such legal entities.

#### Non-deductible expenses

There are some expenses which are related to business activity but deducted for profit tax purposes only within the deductibility limits determined by the legislation. Such expenses include the cost of obligatory statutory auditing, consulting, informational services, advertizing, payroll expenses, expenses on business trips, etc.

Deduction of expenses which are not related to business activity is specifically disallowed by the legislation.

#### 1.2. The payers

According to the General part of the Tax Code, the following types of organizations pay the Belarusian profit tax:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts.

Income derived by an individual entrepreneur is taxable as personal income and is not subject to corporate profit tax.

#### 1.3. Taxable base

The taxable base for profit tax is determined as income reduced on the following items:

- a) Deductible expenses;
- b) Value added tax;
- c) Turnover tax;
- d) Real Estate Tax (minus tax on objects of uncompleted construction);
- e) Tax benefits.

#### 1.4. Tax benefits

1) The taxable profit is reduced by tax benefits which are:

(a) The amount of profit expended on capital investment used for production purposes and for housing construction, including repayments of bank credits obtained and used for these purposes, on the condition that the accrued amortization allowance has been fully used up;

(b) The amount of profit expended on donations to enterprises, institutions and other organizations involved in public health, public education, social welfare, culture and sports, which are registered with and funded by the state up to a maximum of 5% of taxable profit;

2) Enterprises which employ disabled persons, if they make up more than 50% of the total number of employees, are exempt from profit tax. In the case the number of disabled persons is 30% - 50% of the total number of employees, the profit under taxation equals 50% of the total taxable profit.

#### 1.5. Tax rate

Tax rate is 24% of the taxable profit.

#### 1.6. Tax period

The tax period for profit tax is one calendar year. Tax returns are submitted to the tax authorities by the 20th and the tax is paid by 22nd day of the month following the reporting one. The amount of tax due is stated in tax returns as progressive total from the beginning of the year.

#### 1.7 Loss Carry-Forward

Net operating loss which is accumulated at the end of a year cannot be used to offset taxable income of the next year. "Loss Carry-Forward" rules are not applicable in Belarus.

### 2. Tax on Income from Securities

Transactions with securities are subject to tax on income from securities. Income from sales of securities should be calculated in accounting separately from other taxable income.

#### 2.1. Taxable income

Taxable income is determined as the difference between the sale price of securities and their purchasing price including direct costs of purchase of securities.

#### 2.2. Tax benefits

Income received from transactions with state securities (state debt obligations issued by the Council of Ministers or by the Ministry

of Finance of the Republic of Belarus), securities issued by the National Bank of the Republic of Belarus and municipal authorities' debt obligations is exempt from tax on income from securities.

#### 2.3. Tax rate

Tax rate comes to 40% of the taxable income.

#### 2.4. Tax period

Tax returns are submitted to the tax authorities by the 20th and the tax is paid by 22nd day of the month following the reporting one. The amount of tax due is stated in tax returns as progressive total from the beginning of the year.

### 3. Value Added Tax

#### 3.1. General information

Value Added Tax (VAT) is charged on the supply of the majority of goods, services and property rights in Belarus, and on most imports into Belarus.

#### 3.2. The VAT payers

The VAT payers are:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those who are not legal entities;
- Simple partnerships (contract partners in joint activity);
- Individual entrepreneurs whose turnover for the previous three months exceeds the equivalent of EUR 40,000, or who voluntarily elects to pay VAT;
- Entities and individuals regarded as taxpayers in relation to the handling of goods through Belarusian customs in compliance with Belarusian legislation.

There are no special provisions for VAT registration in Belarus. A company may be registered only as a taxpayer for all taxes.

#### 3.3. Transactions which are not objects of VAT taxation

The following are some of the transactions which are not considered as objects of taxation and are exempt of taxation:

- Supply of goods (services) in the territory of the Republic of Belarus for official and personal use by diplomatic and (or) administrative and technical personnel of foreign diplomatic representatives;
- Property contributions to the statutory fund in accordance with the restrictions stipulated in the constituent documents;

- Primary placement of securities by issuers, carried out in accordance with the legislation of the Republic of Belarus;
- Sales of securities and financial instruments of forward market (forwarding and futures contracts, options and other analogous financial instruments of the forward market);
- Construction services rendered outside the Republic of Belarus;
- Property write-off due to force majeure taking into account the expenses incurred owing to such write-off;
- Transfer of goods (services) or property rights for own use of nonproductive nature;
- Use of goods (services), property rights for own production as fixed assets and intangible assets, and objects (stages) of completed capital buildings;
- Utilization of own manufactured goods (services), property rights as fixed or intangible assets.

Major VAT-exempt activities include medical services, sales of certain pharmaceuticals and medical equipment, sales of industrial property rights, housing and communal services provided to individuals, banking, non-banking financial and insurance services, operations with securities and derivative financial instruments, interest on loans, gambling, etc.

### 3.4. Rates

Value added tax is levied at the following rates:

- Zero (0) percent on exports of goods; loading, shipment and transshipment and other similar services directly related to the sale of exported goods; transport services and services on production of goods under commission contracts. The rate of 0.5 percent is applied on importation of diamonds and other precious stones (international activity number 7102, 7103) from the Russian Federation for production purposes;
- Ten (10) percent on supply of goods produced in plant growing (excluding flowers and decorative plants), animal breeding (excluding animals used in fur production), fishery and honey bee production, and on the importation and (or) supplying in the territory of Belarus of foodstuffs and goods for children, in accordance with a list determined by the President;
- Eighteen (18) percent on other goods and services not listed above. In addition, the law establishes the rates of 9.09 and 15.25 percent, respectively, which are levied on goods and services subject to regulated prices (tariffs);
- Twenty four (24) percent on the importation and (or) supplying in the territory of Belarus of white sugar.

### 3.5. Tax base

Manufacturers and trading companies calculate their tax base as the sales price of goods, including excise, if applicable. For commissioners and agents, the tax base is based on commission or fee income. A shipping company's VAT base is determined as the amount of the shipping fee, according to a shipping contract. For importation, the tax base is determined as the customs value plus customs duty and excises, where applicable.

In addition, various other payments are subject to VAT. These include certain advance payments (with a subsequent tax credit at the moment of sale); financial aid related to sales; a discount on promissory notes, penalties for the breach of contracts, and interest on trade loans.

The transfer of goods (services) free of charge is also subject to VAT. The tax base is the market rate for these goods (services).

### 3.6. Input tax and offset rules

The invoice method of calculating the VAT is applied in Belarus. The VAT liability of the payers is calculated as the product of the tax base and the tax rate. The tax liability is the difference between the total tax liability and any tax credits calculated for a given tax period. If the latter exceeds the former, the payer is not obliged to pay VAT, and the difference is carried over without penalty and deducted from the tax liability in the next period, or refunded to the payer.

VAT payable to the authorities is determined as the difference between VAT charged to customers (output VAT) and VAT (input VAT) paid to suppliers of goods (works, services), which are related to production (sales) activities or other VAT-able transactions, including those subject to the 10% or 0% rates.

Input VAT (including VAT paid on the importation of goods) on purchased business supplies is generally recoverable when the supplies are received and paid for (with respect to fixed assets, paid input VAT is recoverable only when assets are accounted for). Nevertheless, legal entities which are on a cash basis (i.e. whose profit is accounted according to the accounting policy when both facts of delivering and payment have taken place) can offset only the paid VAT. VAT is recoverable on the basis of a VAT invoice (schet-factura), which indicates a VAT invoiced by suppliers and to be paid to them.

The payers must maintain separate accounting records for VAT-able and non-VAT-able supplies. As a result of failure to do any VAT incurred will not be allowed for offset, either as input tax or as a deduction for profit tax purposes.

### 3.7. Accounting policy and VAT liability

The date on which an output VAT liability is deemed to arise depends on whether the taxpayer is on a cash or accruals basis for

VAT, as per its tax accounting policy. If the payer is on an accruals basis (i.e. accounts his profit when the fact of goods or services delivering to customers have taken place even without payment), a VAT liability will arise each time goods are shipped, or made available to the customer. With respect to works and services, a VAT liability will arise when all of the work is completed and the results have been transferred to / accepted by the customer.

If the payer is on a cash basis (see subsection 2.5 of the guide), a VAT liability will arise each time a payment is received from the customer, which relates to goods or services, which have actually been rendered, but no later than sixty days after the goods or services were delivered. There are detailed rules for determining what constitutes payment when consideration is received in non-monetary form. If, inter alia, the barter deal takes place, a VAT liability arises on the date when the goods (services) to be bartered are supplied to the counterpart.

### 3.8. Payments and filings

The standard VAT period is a calendar month. A VAT return is due by the 20th of the next month, and the tax is calculated based on the amount of tax accumulated from the beginning of the year. If tax payable to the government does not exceed EUR 40,000 per month, the VAT is payable monthly by the 22nd of the month following the reporting month.

If VAT accrued and paid for the last reporting month exceeds EUR 40,000, VAT payers should make an advance payment of tax by the 10th, 15th, 20th and 25th of the current month as well as the 5th of the following month. Advanced payments should be determined deriving from the current sales proceeds and average portion of VAT liability in total base for calculation of VAT output.

## 4. Payment to the National Reserve Fund for the Support of Agricultural Producers (Turnover Tax)

### 4.1. The payers:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts.

### 4.2. Objects of taxation

The objects of taxation are:

a) gain from realization of produced goods, performed works and rendered services;

b) gain received from leasing services;

c) gross revenue received by companies from trade activity and the rendering of catering services;

d) income less the costs incurred in connection with interest, commission and other expenses, for banks and non-banking credit-financial organizations, except for the National Bank of the Republic of Belarus;

e) accounting profit for insurance and reinsurance organizations.

Turnover tax is paid at the rate of 2%. The tax base is the turnover from the sales of goods and services.

The standard tax period is one calendar month.

The tax return is due on a monthly basis, by the 20th of the month following the reporting one where the tax is indicated as aggregated total from the beginning of the year.

## 5. Excise Tax

### 5.1. The payers:

The following entities are excise payers:

- Llegal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts;
- Individual entrepreneurs.

### 5.2. Objects of taxation

Excise tax is imposed on both the importing and the manufacturing of a list of goods, the primary categories of which include: alcohol, spirits, beer, tobacco, oil for diesel engines and (or) carburetor engines, petrol, diesel oil, automobiles and minibuses. Fixed rates are applied to such goods.

Exports of excisable Belarusian goods are exempt from excise tax.

Excise duty is accrued on a monthly basis on the amount of sales of excisable products manufactured and (or) imported, and used for own purposes (e.g. for testing and sampling purposes).

The excise tax is payable on a monthly basis depending on the sum of excise:

- Up to EUR 17,000 – the excise tax is paid by the 22nd of the month;
- EUR 17,000 to 27,000 – the excise tax is paid by three installments;
- Over EUR 27,000 – the excise tax is paid by six installments.

Certain excisable goods may be sold in Belarus only if they bear a special excise stamp. Certain alcohol and tobacco products, both domestic and imported, require an advance payment by means of an excise stamp, which must be attached to each item of production prior to its sale. The stamps are purchased from the tax authorities on a prepayment basis at the cost of USD 0.047 per stamp.

### 6. Real Estate Tax

#### 6.1. The payers

The following entities are real estate payers:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts;

Please note that a legal entity is considered to be a tax payer if it is acting as a lessee under the lease contract and such contract is signed with foreign legal entities not acting through a permanent establishment in Belarus, or a foreign individual.

Legal entities financed from the budget of the Republic of Belarus do not pay the real estate tax.

#### 6.2. Objects of Taxation

The tax shall be imposed on the cost of fixed productive and non-productive assets that are owned or are in the possession of the payers, or are objects of construction in arrears.

#### 6.3. Tax Rate

The annual tax rate on the real estate of legal entities is established at the rate of 1 % and may be increased up to 2% by the local authorities depending on the location of the legal entity. As for the objects of construction in arrears the tax rate is set at the rate of 2%.

#### 6.4. Tax Allowances

The tax shall not be imposed on:

- Social and cultural, and living facilities, or the housing facilities of local Councils, or of the deputies, and legal entities, irrespective of the form of ownership;
- Fixed assets closed down temporarily because of their non-use in business activity for the period from 3 months up to 1 year, because of force majeure, or seasonal peculiarities,
- Installations, designed for protection of the environment and improvement of the ecological situation, according to the President;
- Fixed assets of higher, secondary special and secondary educational institutions, which have the status of education system institutions and are financed from the state budget;
- General-purpose motor roads and associated infrastructure (bridges, passages, stops and others);
- New buildings first put into service within 1 year from the date of commissioning.

#### 6.5. Payments

The tax is set for legal entities quarterly according to the availability of fixed productive and non-productive assets and based on the residual cost as for the beginning of the quarter and at a 1/4 of the approved annual rate. Tax for individuals is set according to the assessment of the buildings, which is determined by the Council of Ministers of the Republic of Belarus.

The tax should be paid quarterly based on a 1/3 of the quarterly amount by the 22nd of the month following the reporting quarter.

The amount of real estate tax paid in a foreign state may be offset against the amount of real estate tax paid to the government of the Republic of Belarus if such offset is provided for by a double tax treaty. In order to receive the said offset the payer is required to submit a certificate confirming payment of tax in the foreign state.

### 7. Environmental Tax

#### 7.1. The payers

The payers of Environmental Tax are:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts;

- Individual entrepreneurs.

## 7.2. Objects of taxation

The objects of taxation are:

- The volume of processed or transported oil and mineral oil;
- Volume of natural resources extracted/produced;
- Volume of industrial emissions and prospecting works;
- The goods which lost their consumer status under the customs regime of destruction;
- Volume of waste;
- Volume of producing and (or) importing plastic, glass, carton and paper containers, in which the goods are packed.

The environmental tax rate is determined by the President. The volume of allowable emissions is subject to restrictions. If the set limit is exceeded, the tax is paid at a higher rate.

Effective from 2008, the payers will not have to calculate and pay the tax for waste disposal at the waste dumping sites. The said payments will be made by the owners of the dumping sites and will be invoiced by them in addition to the charges for waste disposal at the dumping sites.

## 8. Land Payment

Land payment is made by all legal entities (including foreign legal entities) and individuals who own or use (rent) land in the Republic of Belarus.

The tax base is determined based on the quality and location of the used land. The object of land taxation is the ground area, which is used, owned and occupied.

Certain categories of individual taxpayers are exempt from land payments.

No land payment is due with regard to the use of certain types of land, such as natural reserves, botanical gardens, national parks, and land allocated for public use in urban areas.

The land payment rate is due regardless of the results of the business activities of the landowner or user. The land payment rate is determined in accordance with cadastral valuation of the land. It is fixed in the form of a set amount per unit of land per year.

## Local Taxes

### 1. Sales Tax

The tax is payable if it has been imposed in a certain municipal territory, where the retail trade (excluding retail trade in certain socially beneficial goods, petrol and diesel oil) takes place. The tax base is the retail sales proceeds. The standard tax rate is 5%. Meanwhile, the sales of imported (produced abroad) goods is levied at the rate of 15%. Essential goods, such as baby food, children's clothes, toys and table games, are specifically exempt from tax.

### 2. Services Tax

The following kinds of services are subject to Services Tax in a certain municipal region:

- Markets (fairs, selling exhibitions);
- Hotel (campsites, motels) services;
- Restaurant (bar, cafe) services;
- Mobile telecommunication services for telephone subscribers;
- Individuals' cars maintenance and repair services;
- The services of billiard rooms, bowling clubs, night clubs, solariums, beauticians, and some others.

The tax base is the sales proceeds from the above services. The tax rate of 10 % is applied.

### 3. Transportation Duty

Legal entities and individual entrepreneurs must pay local transportation duty. The taxable base is the net profits remaining after collection of profit tax. The transportation duty rate in Minsk comes to 3%. The tax period for transportation duty is considered to be one calendar year, and the tax is to be paid by the 22nd of the month following the reporting one. The tax return is due by the 20th of the following month. The tax is stated in the tax return as a progressive total from the beginning of the year.

## Other Taxes

### 1. Offshore Duty

#### 1.1. Offshore duty payers

According to the General section of the Tax Code, the following types of organizations pay the Belarusian offshore duty:

- Legal entities of the Republic of Belarus;
- Foreign and international organizations, including those being not legal entities;
- Simple partnerships (contract partners in joint activity);
- Branches, representative offices and other separate sub-divisions of legal entities with their own separate balance sheets and a current (settlement) or other bank accounts.

### 1.2. Objects of taxation

The following transactions are considered to be the tax base for offshore duty:

- Transfer of monetary funds by a resident to a non-resident in an offshore zone or to other company to which an offshore resident has obligations, or into a bank account opened in an offshore country;
- Non-cash settlement with such non-resident;
- Transfer of property rights and (or) obligations due to substitution

in obligations the parties of which are the resident of the Republic of Belarus and the non-resident registered in an offshore zone.

Offshore duty is not applied to the following transactions:

- Transfer of monetary funds by the state authorities in discharge of the obligations of the Republic of Belarus to the international organizations under interstate or intergovernmental agreements;
- Transfer of monetary funds by Belarusian banks in favor of non-residents – owners of international payment systems – registered in offshore zones or having bank accounts in such zones, by means of VISA and MasterCard cards;
- Transfer of monetary funds for the purpose of repaying credit, loans and interest;
- Transfer of monetary funds under the contracts for carriage of goods by sea.

### 1.3. Tax rate

The offshore duty rate comes to 15%.

# Belarusian Source Income for Foreign Companies

## Withholding tax

Withholding tax is imposed on the following types of income paid to a foreign entity, originating from sources in Belarus, which are resident in Belarus:

Dividends – 15%

Royalty (including payments for rented out property) – 15%

Licenses – 15%

Interest (excluding income from securities payment, is levied at the rate of 40%) – 10%

Freight (charges connected with international shipping transactions and forwarding services) – 6%

Other income comes to 15%.

In terms of the tax authorities' clarifications:

Royalties include payments of any kind, where there is the use or the right to use a trademark or a service mark, or equipment. The right to use a trademark or a service mark may be granted by a license agreement, which has to be registered with state authorities.

"Other types of income" include, inter alia, income derived from training services, information, management, audit services; income derived from advertisement, insurance services, and other types of income.

In order to take advantage of a lower tax rate, the foreign company must provide the Belarusian payer with confirmation of their tax residency, signed by a competent authority in a foreign country before payment is made. The Belarusian Tax Authorities may also require a Belarusian translation of the confirmation.

Should the confirmation not be provided prior to payment, and the foreign company suffers a withholding rate, greater than that provided by the agreement, it is possible to seek a refund within three years from the date payment was made. In theory, after receiving proper documentation, the Belarusian Tax Authorities should refund any excess tax no later than one month from the application date.

Special provisions allow foreign banks and airline carriers to bypass the residence confirmation requirements, provided they have a copy of extraction from the international catalogues "The bankers' Almanac", "International bank identifier code" or "Airline Coding Directory".

Although Belarus honors the Double Tax Treaties concluded by the Soviet Union, many new treaties have come into effect since then.

# Taxation of Individuals

## Personal Income Tax in Belarus

### The payers

According to the law, taxpayers are defined as any individuals being physically present in the territory of Belarus during more than 183 days in a calendar year.

Belarusian citizens and foreign nationals, who are tax residents, are taxed on their worldwide income paid in cash or in kind, and on any material benefits received during a calendar year. Individuals who are not considered to be tax residents of Belarus (the duration of their stay in Belarus comes to 183 days or less) pay tax on their Belarusian source income only.

The actual duration of stay in the Republic of Belarus is the period of time during which the individual stays in the Republic of Belarus, however, it also includes any period of time during which such individual stayed abroad, whether for the purpose of medical treatment, business trip, or studies.

### Payroll Taxes

Payroll taxes resulting from employment or civil contract include:

- Personal Income Tax (PIT);
- Payments to Social Security Fund;
- Payments to Belgosstrakh.

If there is no requirement to file an annual tax return, it is the responsibility of the employer (or other Belarusian source of income) to calculate, withhold and remit PIT to the government on behalf of the employee.

Payments to Social Security Fund are made by the employer (rates may vary) and the employee (1% of salary, including other remuneration paid by the employer). Payments to Belgosstrakh are made by the employer at the rates varying from 0.1% to 2.8% of gross payroll.

### Personal Income Tax Rates

The same tax rates are applied both to tax residents and non-residents.

The PIT rate is calculated according to a progressive rate starting from 9% and reaching up to 30%.

Tax Rate	Tax Base
9%	Up to USD 3,900 equivalent
15%	USD 3,900 to USD 9,767 equivalent
20%	USD 9,767 to USD 13,674 equivalent
25%	USD 13,674 to USD 17,581 equivalent
30%	Over USD 17,581 equivalent

However, other rates apply to specific income:

1. 15%
  - Dividends;
  - Income received otherwise than from the principal employment;
  - Income received by the non-resident from realization of goods (works, services) sold to individuals who are not individual entrepreneurs (please note in this case a tax return should be provided to the tax authorities prior to such realization).

2. 40%

Royalty payments for copyrights paid more than once to heirs of the author;

### Taxable Income

Taxable income is defined as any and all income irrespective of the source, including any property, services or other benefits in kind and any income with respect to which the taxpayer has the right of disposal, less allowable deductions and exemptions.

There are limited types of income which are tax exempt in Belarus:

- Pecuniary aid paid by the employer at the rate of 150 basic amounts (approximately USD 2,440) (including presents and gifts) during the year;
- Monetary funds received from those individuals - tax residents of the Republic of Belarus who are not considered to be individual entrepreneurs, coming to 500 basic amounts (approximately USD 8,140 USD) from any sources within the tax period as a result of

gift and immovable property under the contract of rent;

- Income received by way of inheritance;
- Income from the state securities of the Republic of Belarus;
- Income in the form of interest received on bank accounts and deposits with a bank situated in Belarus, etc.

Although it is the responsibility of an individual to declare his/her income and to pay PIT to the authorities, while the employer or other Belarusian payer is a collecting tax agent for the State, it has a legal responsibility for proper collection. In the event of improper collection and remittance of taxes, the Belarusian tax system has an extensive system of fines and penalties, for both the individual and the collecting agent. Penal sanctions may be imposed in the event of tax evasion.

### Tax Returns

Individuals must calculate their PIT liability and file an annual tax return (tax declaration) in the prescribed format unless:

- Income has been received from the principal employment (studies, service) only, even if it has been changed during a calendar year;
- Income has been received from only one source in Belarus under a non-labor contract;
- Only the income taxable at the special rates has been received (see specific income rates above);
- An individual has received any combination of any of the types of income mentioned above.

In any case, an individual must file a tax return if:

(a) income has been received from commercial activities, or Public Notary practice;

(b) income has been received from commercial activities of an individual entrepreneur;

(c) income has been received from other individuals not being the tax agents;

(d) income has been received by the tax resident from the sources abroad.

### Filing Procedures

An individual who must file an annual tax return (tax declaration) is required to do so not later than 1 March of the following tax year. The annual tax return should be submitted to the local tax authorities. In the tax return, the taxpayer must report all income received in the taxable year and specify every item, source, amount and date. Social and property deductions may be made either by the employer (during the tax period) or by the tax authorities (at the time of filing the annual tax return). The taxable income is taxed at the rates listed above. In case of any incompleteness or inaccuracy of the data provided in the declaration, it is possible to file an adjusted declaration not later than 15 April of the year that follows the taxable year.

The annual Belarusian tax liability is payable by 15 May of the year following the taxable year. Any overpaid tax may be reimbursed (which is difficult and time-consuming in practice) or credited against any future tax liability, but only with regard to the amounts overpaid during the previous three years.

### Elimination of double taxation

Belarus (by itself and as a successor to the USSR) has signed a number of bilateral double taxation treaties, which, under certain conditions, enable individuals to avoid taxation of the same income under the tax systems of two or more countries or to reduce the taxation of certain income from the sources within Belarus. Provisions made in these and other international treaties signed by Belarus generally override Belarusian domestic law. Personal income taxes paid in foreign countries are generally credited against the Belarusian personal income tax, provided that the documents confirming the amount of taxes paid are produced to the Belarusian authorities. Therefore, if the tax rate in a foreign country is higher than that in Belarus, the taxpayer may be exempt from paying PIT in Belarus provided that he/she provides confirming documents.

### Penalties for Late Submission of a Tax Return

There is no statute of limitations for a tax audit carried out by the tax authorities.

Various administrative fines and criminal liability may apply to those individuals who fail to submit tax returns or who submit incorrect tax returns.

# Customs Issues

## Import Duties

Import duties are levied based on the type and origin of the imported goods. Duties are normally expressed as a percentage of the value of the goods imported ('ad valorem' duties). However, they may also be expressed as a set amount of Euros per unit or kilogram ("specified" duties), or as a combination (the greater of the two).

Effective from 1 January 2001, a new system of tariffs was introduced. Before 1 January 2001, there were seven ad valorem rates of duty ranging from 0% to 30%. At present, there are five ad valorem rates: 5%, 10%, 15%, 20% and 25%. Certain goods may be imported duty free as before.

The rate of duty depends on the classification of the goods. Goods are classified into one of ninety-seven categories listed in the Republic of Belarus's "Trade List of Foreign Economic Activity" (which is based on the worldwide harmonized system of tariff headings). The basic rate may vary, however, depending on the country of origin of the goods as well as on certain other factors. Countries are classified into three groups for the purposes of charging import duties:

Group	Duty
Preferred nations (Nations with favorable conditions)	Basic rates of duty apply
Free trade nations	Exempt from import duties
Non-preferred trading nations	Double the basic rates

There is currently no list of non-preferred trading nations.

If the country of origin cannot be identified, the goods will be subject to the duty at a double base rate.

## Export Duties

A limited number of goods, e.g. fuels, marine products, exported outside the borders of the the Euro-Asian Economic Community, are subject to export duties.

## Special Customs Regimes

Currently, there exist 15 customs regimes in the Republic of Belarus.

There exists a number of special customs regimes granting either a full or a partial relief from customs duties. For example, a full relief may be granted for goods, which are imported into Belarus for processing and subsequent re-exporting ("Processing on the Customs Territory" regime). Under this regime, import duties are not payable unless its conditions are violated)

The similar regime may also be applied to the goods, which are exported from Belarus for processing and which are subsequently re-imported. Under this regime ("Processing outside of the Customs Territory of the Republic of Belarus"), the relief is granted for Belarusian source goods upon re-importation. Import duties are, therefore, calculated based only on the value which has been added to the goods outside Belarus (i.e. the processing element).

Goods may also be registered under the temporary import regime.

As the name suggests, this allows for either full or partial relief from import duties for goods, which are imported into Belarus on a temporary basis. Certain goods, however, may not be eligible to be listed under the temporary import regime. Once the specified time limit (normally, two years) has expired, the goods must either be exported from Belarus or entered under a different customs regime.

## Excise Duties

Excise duties are levied on a range of imported goods, including wine, beer and spirits, tobacco, petrol, diesel oil, automobiles and minibuses.

The tax applies to goods which are imported into Belarus, as well as those which have been produced or processed in Belarus. Exports of excisable Belarusian goods abroad are exempt from excise tax. Imported goods are generally subject to excise at the time of importation.

The duties are expressed as a fixed amount per unit of measurement.

## Import VAT

VAT is generally due when the goods are imported into Belarus. It is calculated based on the value for customs purposes, plus any customs or excise duties which are due.

The rate of VAT depends on the nature of the goods which are being imported. The standard rate of VAT comes to 18%. Certain goods, however, may be subject to VAT at a lower rate (currently, 10%).

In addition, certain goods may be exempt from import VAT. These include, inter alia, goods, cash registered as foreign aid, goods for official use by foreign diplomatic representatives or for personal use by their diplomatic and (or) administrative and technical personnel, who are non-residents, equipment for research activities, and certain vehicles, according to the President's List.

## Special Status

Effective from 1 January 2008, the customs clearance procedures have been simplified for those legal entities and individual entrepreneurs who comply with customs legislation and have the status of "A Conscientious Participant in Foreign Economic Activity".

The status of "A Conscientious Participant in Foreign Economic Activity" is conferred provided that the eligible entity or individual entrepreneur has been engaged in foreign economic activity for at least 3 years, has committed no such infringement of administrative customs legislation which has resulted in confiscation of property to the amount exceeding 250 basic amounts or approximately USD 4,070, has not been subject to criminal liability in connection with foreign economic activity.

The status of "A Conscientious Participant in Foreign Economic Activity" is granted for 3 years. In case of violation of law, this status may be withdrawn by the custom authorities.

# Currency Control

Residents and non-residents of the Republic of Belarus alike are permitted to hold foreign currency and ruble accounts with authorized banks.

The Currency Control Law separates transactions, involving foreign currency and securities in foreign currency, into two types:

“Current currency operations” (which are treated with fewer restrictions) and “Currency operations associated with movements of capital” (which may require a permission of the National Bank of the Republic of Belarus).

The legislation provides a closed list of “current” operations:

1. Transfers of foreign currency to and from the Republic of Belarus, for making settlements (without deferment of payment) for the export and import of goods (works, services and results of intellectual activities), if the time between the maturity date and delivery date does not exceed 180 days for export-import transactions;
2. The receipt and extension of financial credits for terms which do not exceed 180 days;
3. Transfers to and from the Republic of Belarus, of interest payments, dividends and other income on deposits, investments, credits and other transactions connected with the movement of capital;
4. Non-trading transfers to and from the Republic of Belarus such as:
  - The remunerations of wages and salaries, stipends, pensions, alimony payments, state benefits, allowances and compensation, as well as disbursements for damages incurred by employees, as a result of accident or occupational condition, resulting from work related activities;
  - Payments towards an employee’s business trip abroad;
  - Payments connected to the acceptance of an inheritance;

- Payments relating to the burial of a deceased person;
- The disbursement of monetary compensation to victims of political repression, members of their families and heirs;
- Payments for maintaining diplomatic missions and consular institutions of the Republic of Belarus abroad;
- Payments relating to notarial and investigative actions, payments relating to court and arbitration costs, reimbursements of arbitration and administrative bodies’ expenses and also the amounts of state duty paid in connection with the said actions and court trials;
- The disbursement of monies under the judgments, decisions and rulings of the court and other law-enforcement bodies;
- Transfers of membership fees to funds, or religious organizations;
- Transfers of taxes and other compulsory payments to the budget, which are established by legislation of the Republic of Belarus or foreign states;
- Other currency transactions enumerated in a list established by the government of the Republic of Belarus.

Current operations associated with movement of capital include:

- Direct investments (i.e. contributions to the authorized capital of enterprises with the purpose of receiving income and rights on participation in enterprise administration);
- Portfolio investment (the acquisition of securities);
- Transfers to pay for the title to buildings, structures, land and other immovable property, as well as other rights to real estate;
- Deferment of payment for the export or import of goods (works, services, results of intellectual activity) for periods of more than 180 days;

- The extension and receipt of financial credits for terms which exceed 180 days.

In addition to the list of current currency operations, stated by the Law, a list of currency operations, with the movement of capital that could be performed without obtaining a license from the National Bank, is provided.

Banks and customs authorities are responsible for controlling the timeliness of payments and the receipt of goods or services under export and import contracts, regardless of the currency used in the settlement.

## Obligatory Conversion of Export Revenue

Belarusian Legal Entities are currently required to convert 30% of their foreign currency export revenue into rubles by selling through authorized banks within seven working days of receipt.

### Purchase of Foreign Currency

For external economic transactions residents may purchase the foreign currency required for their current operations through an authorized bank, provided that they present the required supporting documents. Any currency purchased, but not used for the intended purposes within seven days, is subject to obligatory resale.

### Payments for Imports

Payments for the importation of goods or services, which happen after delivery, may be made without a permit from the National Bank of the Republic of Belarus, regardless of how long it has been since importation.

### Enforcement of Currency Regulations

Belarusian legislation provides for penalties for breaching currency regulations, both to the person carrying out the transaction, as well as to the Belarusian banks, which, as agents of currency con-

trol, are obliged to ensure compliance with the legislation. The range of penalties includes:

- Penalties to the amount of the transaction in question;
- Invalidation of any licenses or permits previously issued by the currency control authorities to both the participant and the bank involved.

Currency control measures include:

Transactions between residents of the Republic of Belarus (including companies with foreign investments) may only be conducted in Belarusian rubles, with a few exceptions;

Transactions between residents and non-residents of the Republic of Belarus must be performed in freely convertible foreign currency. The usage of Belarusian rubles and foreign currencies, which are not freely convertible, is only possible in limited circumstances and/or in transactions involving residents of certain countries;

There are also strict rules related to foreign currency in cash, when the use of cash is possible. There are limitations on the amount of foreign currency that the company may keep in its office and limitations related to travel allowances on business trips, etc.

The purchase of foreign currency is subject to special rules and is only possible for certain purposes. However, the list of these purposes is quite broad and includes, inter alia, the purchase of currency for the payment of dividends and interest.

Anti-money laundering legislation provides for additional measures to be taken by the authorities in order to prevent illegal operations. These measures include: registration of suspicious transactions, communication of information to the tax authorities and other special bodies, inspections and audits of suspicious transactions by state authorities, and interruption of illegal transactions.

The opening of accounts outside of the Republic of Belarus requires the permission of the National Bank of the Republic of Belarus.

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This manual was prepared by the professionals of Deloitte office in Belarus. It is designed to give potential foreign investors and Belarusian businesses a reference tool for the numerous tax laws, regulatory issues and compliance requirements which they may encounter. The legislative framework of Belarus tax system continues to transform itself. However, there are instances where unclear statutory language and explanatory instructions may allow more than one interpretation of the law. As a result, we advise the readers of this manual to confer with professional accountants, attorneys and consultants before taking any action. The information in this manual is not exhaustive. While all reasonable care has been taken in preparation of this book, Deloitte, accepts no responsibility for any errors it may contain, whether caused by negligence or otherwise, or for any loss, however caused, sustained by any person that relies on it.

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