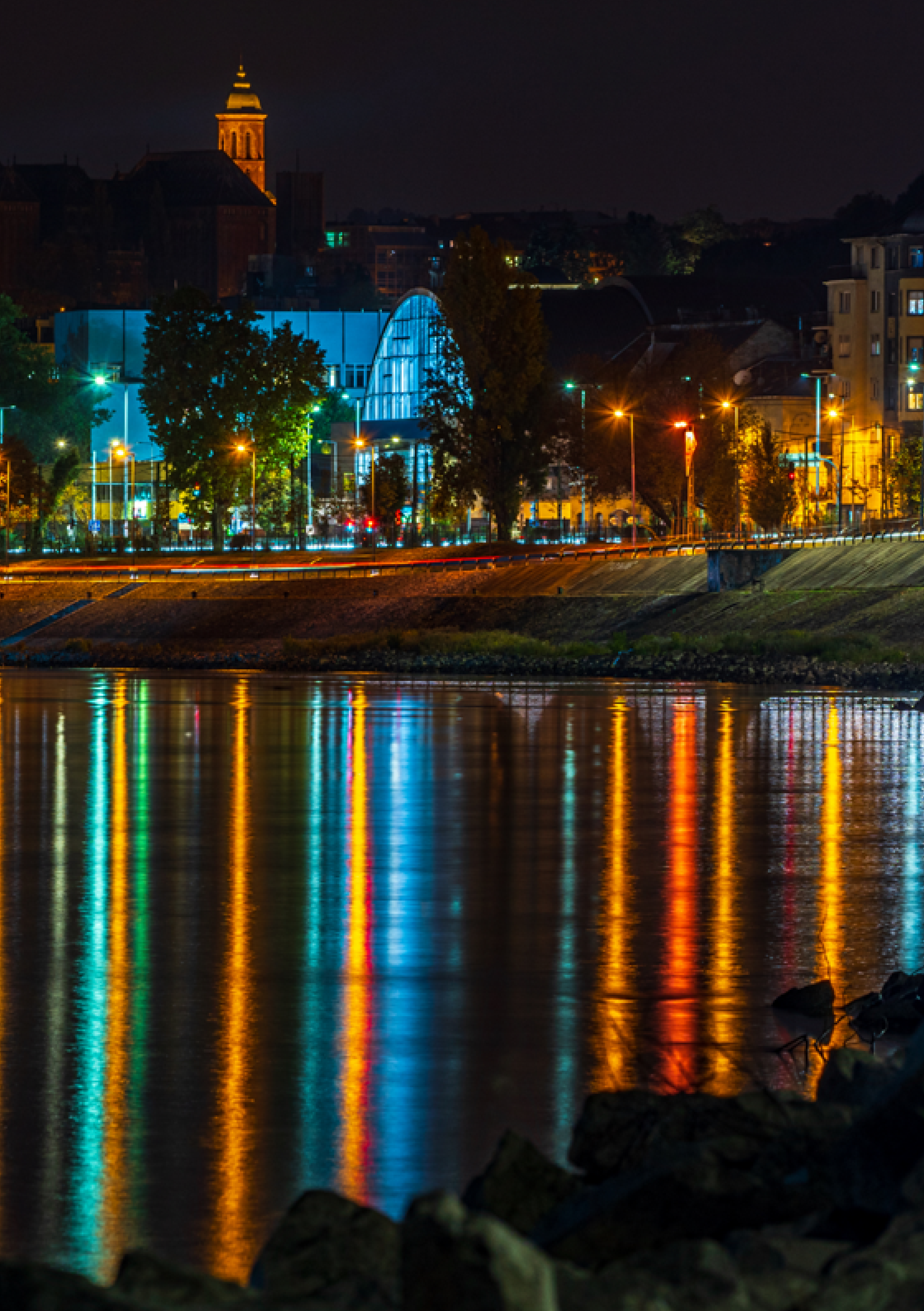
Guide to Taxes on Real Estate in Central and Eastern Europe

Edition 2021

KPMG in Central and Eastern Europe



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Introduction

The total volume of real estate investments in Central and Eastern Europe (CEE), excluding Russia, amounted to about EUR 10 billion in 2020. Analysts do not fully agree on the impact of COVID-19, estimating that investments decreased by 24-32% compared to the pre-pandemic level. The first three quarters of 2021 brought another decline of at least 10% compared to the same period of 2020. Yet, major CEE economies recorded lower recession in 2020 than the entire EU and the European Commission itself forecasts faster rebound in 2022-2023 in these countries. Therefore, outlook for CEE real estate investments seems to be positive but may be challenged by supply shortages and next infection waves.

Poland remains the dominant investment destination in this part of the continent, followed by the Czech Republic. In 2021, Slovakia saw the largest real estate transaction in its history, which at the same time was one of the most valuable deals in the region. Czech Republic on the other hand became the largest investor in CEE. In recent quarters, analysts observed the strengthening trend of domestic acquisitions in the region. Overall, most of the capital flew from companies seated in the EU Member States.

Most investments are currently focused on offices and industrial. According to various analyses, they are responsible for 67-74% of the investment volume in the region. The demand for office investments, although still the largest, has decreased over the last year. Retail investments, which were also strongly affected by the COVID-19 pandemic, still maintain a strong position and in comparison to last year - increased their share.

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The Guide to Taxes on Real Estate in CEE provides an overview of the key tax aspects related to the real estate sector in the following countries:

- Albania
- Bosnia and Herzegovina
- Bulgaria
- Croatia
- Czech Republic
- Estonia
- Hungary
- Lithuania
- Montenegro
- Poland
- Romania
- Serbia
- Slovakia
- Slovenia

This, our 8th edition, highlights the most important tax benefits and burdens connected with operations in the real estate sector. Each summary was prepared based on the situation as at 2021 and focuses on the following areas:

- Value added tax
- Corporate income tax and capital gains
- Tax depreciation
- Tax implications of financing investments (thin capitalization, dividends, withholding tax, interest and losses carried forward)
- Real estate tax
- Real estate transfer tax

We trust that this comprehensive survey of real estate taxation within our region will prove valuable to your business objectives and encourage you to contact us should you have any further questions on the issues covered herein.

Sincerely,

Honorata Green

Partner
KPMG's Tax practice
in Central and Eastern Europe

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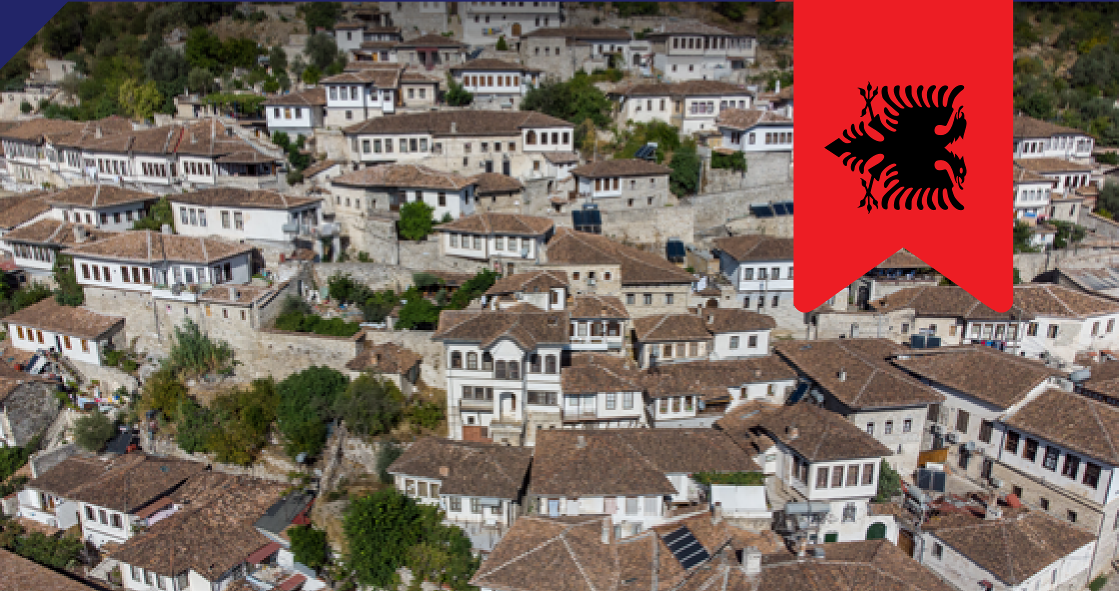
Albania



GENERAL

There have been no major changes to tax legislation introduced in 2021 concerning the real estate taxes applicable in Albania. The most relevant amendments remain the ones introduced in 2018 implementing a new methodology of taxation of the real estate properties used for living or business purposes.

In 2021 the most important amendment implemented is related to the requirements for electronic invoicing which has impacted all business entities registered in Albania (with limited exceptions) and governmental institutions.

Besides the above, the Albanian tax legislation has changed continuously defining new taxation rules, tax rates or implementing certain tax exemptions for specific activities which are considered as priorities for the country economic development.

PERSONAL INCOME TAX

Individuals' income, other than employment income, is subject to 15% personal income tax, except from dividends and profit shares which are subject to 8% tax. Employment income is taxed according to the progressive taxation method where the maximum tax rate of 23% applies for salaries above ALL 150,000 per month.

The sale of real estate by individuals is subject to 15% personal income tax on the capital gain generated. The ownership transfer of agricultural land from a registered farmer to another farmer, individual or to a registered taxpayer who

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performs agricultural activities is exempt from personal income tax.

CORPORATE INCOME TAX AND CAPITAL GAINS

The standard CIT rate applicable is 15% and applies to taxpayers having an annual turnover exceeding ALL 14 million (approximately EUR 116 thousand). Taxpayers having an annual turnover below this threshold are subject to 0% CIT.

A reduced CIT rate of 5% is applied for automotive industry and those operating in the Information Technology (IT) sector and dealing with software development. Corporate income tax is applied to the accounting profit after adjustments for tax purposes.

Capital gains

Capital gains from the sale of real estate are included in the taxable income of the entity and are taxed at the applicable CIT rate in force.

Since 1992, Albania has entered into agreements with several countries for the avoidance of double taxation. As of 1 January 2021, Albania counts 40 double tax treaties with different countries. A general rule imposed by the tax treaties Albania is party to is that the right to tax capital gains is conferred to the state of residence of the seller.

However, most of double tax treaties provide a special regime for capital gains if the shares subject to transaction derive more than 50% of their value directly or indirectly from real estate. In addition, capital gains are taxed in Albania in cases where a foreign entity or a foreign individual transfers the direct ownership of real estate situated in Albania.

Tax depreciation

Entities may set depreciation rates for assets in accordance with their accounting policies, while under the provisions of the Law on Income Tax, the maximum annual rates allowed for tax purposes are regulated based on a specific tax depreciation schedule. Land is not depreciated for tax purposes. Solid buildings, including investment properties, facilities, transmitting devices (e.g. antenna stations), machinery and production equipment which are fixed at a building's location are depreciated according to the declining balance method at a depreciation rate of 5%.

Certain assets associated with a building can be treated as separate movable assets for tax purposes and therefore can be depreciated over a shorter period.

If the net book value of an immovable asset, at the start of the year, is lower than 3% of the historic cost, the net book value shall be entirely recognized as a deductible expense for corporate income tax purposes.

Tax losses

Tax losses can be carried forward over three tax periods. They can be offset against positive financial results after tax adjustment for the respective tax period according to the "first loss before the last" principle.

Specifically, for taxpayers investing in business projects exceeding ALL 1 billion or approximately EUR 8 million, the tax loss would be allowed to be carried

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forward over a maximum period of 5 years.

In all cases, the tax losses cannot be carried forward if the direct and/or indirect ownership of stock capital or voting rights of an entity changes by more than 50% in value or number.

Thin capitalization

Thin capitalization rules apply in Albania if a company's liabilities exceed 4 times the amount of its equity (excluding short term loans) and the excess amount is not considered tax deductible. Thin capitalization restrictions do not apply to banks, non-banking credit institutions, insurance companies and leasing companies. Moreover, any interest paid exceeding the average annual interest rate of loans as published by the Bank of Albania is not tax deductible.

Interest Capping Rule

Interest capping rule apply in Albania where net interest expenses paid for loans or financing from related parties are considered tax deductible only if these do not exceed 30% of the EBITDA.

The interest capping rule is not applicable to banks, non-banking credit institutions, insurance companies or leasing companies.

WITHHOLDING TAX

Withholding Tax is to be held by Albanian tax residents entities at the rate of 8% for dividends/profit shares and 15% on any gross payments sourced in Albania such as interest payments, copyrights and royalties, payments for technical, management, financial, insurance services, rental payments, payments for performances of actors, etc. or for payments for services made to non-registered individuals.

Withholding tax may be reduced or eliminated by implementing provisions of the treaties on avoidance of double taxation.

Taxation of income from the rental of buildings

Withholding tax at 15% rate is applied to payments for rental of buildings paid by Albanian companies or registered taxpayers to individuals. In Albania the renting of buildings used for residential or commercial purposes works under regulated legal provisions. The minimum monthly rental price for tax purposes is calculated per square meter and multiplied by the total surface of the building rented.

For residential rented spaces (i.e., apartment, flat), the minimum monthly price for tax purposes should be at least equal to 0.3% of its market sale price. The market sale prices are determined through an Instruction of the Council of Ministers and updated on an annual basis as per the market trends.

The minimum rental price for buildings used for commercial or other purposes is calculated as a percentage of the minimum rental price of residential buildings. Such percentage varies from 30% - 200% depending on the purpose of use of such building (i.e. shop, garage, office, warehouse, parking, basement, etc.).

Public notaries are obliged to report any rental contract signed in front of them with the Regional Tax Directorates of the city where they operate.

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Dividends

Withholding tax of 8% on dividends applies on all dividends paid by Albanian companies unless a DTT in force states otherwise.

No WHT applies if dividends are paid to a tax resident company or partnership which is subject to CIT in Albania. In addition, the income generated from dividends is not included in the taxable income of the tax resident company or partnership.

Any legal entity should decide on the destination of the profit of closed tax year not later than 31 July of the following year. The WHT on dividends (if any) should be paid by 20 August of the following year, notwithstanding the time when the actual payment to the beneficiary is performed.

Interest and royalties

Withholding tax at 15% rate is also applied to interest and royalties paid by Albanian companies unless a respective DTT states otherwise.

REAL ESTATE TAX

Individuals and legal entities that own real estate property in Albania are subject to real estate tax. Local taxes on real estate consist of the real estate tax on buildings, on agricultural land and on land plots.

Tax on buildings is calculated as a percentage of the tax base, which is the value of the building calculated as per the methodology and procedures determined by the Council of Ministers. The property tax on buildings is calculated as follows:

- 0.05% of the tax base for residential buildings;
- 0.2% of the tax base for buildings used for business purposes;
- 30% of the approved construction area for buildings not constructed within the approved term of construction.

Buildings owned by the state and local governmental authorities as well as by religious institutions are exempt from this tax.

Tax on agricultural land is levied on each hectare and varies depending on the district where the agricultural land is located. The real estate tax on agricultural land per hectare varies from ALL 700 to ALL 5,600.

Tax on land plots is calculated on the surface of the land plot in square meters, under ownership or use. The tax payable vary based on the location where land plot is situated and the purpose of its use. The tax due vary from ALL 0.14 to ALL 0.56 per square meter per annum for residential purposes and ALL12 – ALL 20 per square meter per annum for business purposes.

REAL ESTATE TRANSFER TAX

This tax is applicable in the case of the transfer of ownership rights of buildings and other real estate properties by a legal entity. This tax is payable by the entity that transfers the ownership of the real estate. The tax on the ownership transfer of buildings is levied on each square meter and varies from ALL 100 to ALL 1,000 per square meter for residential buildings and ALL 300 to ALL 2,000 per square meter for business purpose buildings, depending on the district where the real estate is located. The tax on ownership transfers of real estate

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other than for buildings is 2% of the sale price. The tax is not applicable to individuals subject to personal income tax in Albania.

Donors of real estate property to governmental authorities, religious institutions or not-for-profit organizations are exempt from this tax. The tax should be paid by the seller of such property before the transfer of the real estate is registered in the Real Estate Register.

TAX ON INFRASTRUCTURE

Tax on infrastructure is levied as a percentage of a planned investment value or on the sale price per square meter of the new construction.

Infrastructure tax applied for residential buildings or service facilities (not designated for tourism, industrial or public use) vary from 4% to 8% on the sale price per square meter. The infrastructure tax rate applied for buildings used for other purposes vary in the ranges of 1% –3% of the investment value (for the municipality of Tirana, the applicable percentages are 2% –4%).

For infrastructure projects such as constructing of national roads, ports, airports, tunnels, dams, and others, the tax on infrastructure is levied at 0.1% of the new investment value but not less than the rehabilitation costs of the infrastructure damaged by the new construction, unless an allowance for rehabilitation costs has been provided for in the investment plan. Payment of infrastructure tax is an obligation of the investor. It is paid once a permit for a new construction is granted to the entity issuing such a permit.

For buildings under a legalization process, the tax on infrastructure is 0.5% of the investment value. Exemptions apply for investments of 5-star hotels and of agritourism facilities.

VALUE ADDED TAX

Supply of land and the lease of land are considered VAT exempt supplies. The supply of buildings (with the exception of construction works) is an exempt supply. The lease of a building is an exempt supply except in the following cases:

- when renting for not longer than 2 months;
- for those staying in hotels or vacation resorts.

Entities or individuals may opt (upon the fulfillment of certain conditions) to categorize their lease of buildings as a taxable supply subject to 20% VAT.

Place of supply of services

Based on Albanian VAT legislation, the place of supply of services relating to real estate is the place where the real estate is situated. Therefore, services related to Albanian real estate such as architectural or engineering services are considered subject to Albanian VAT regardless of whether the recipient of the services is subject or not to VAT in Albania (i.e. the general B2B and B2C rule does not apply).

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VAT refund

A legal entity carrying out taxable activities has the right to claim for reimbursement of VAT if the excess tax credit is carried forward for 3 successive months and the claimed reimbursement amount exceeds ALL 400,000. A VAT refund cannot be requested by entities or individuals not registered for VAT purposes in Albania.

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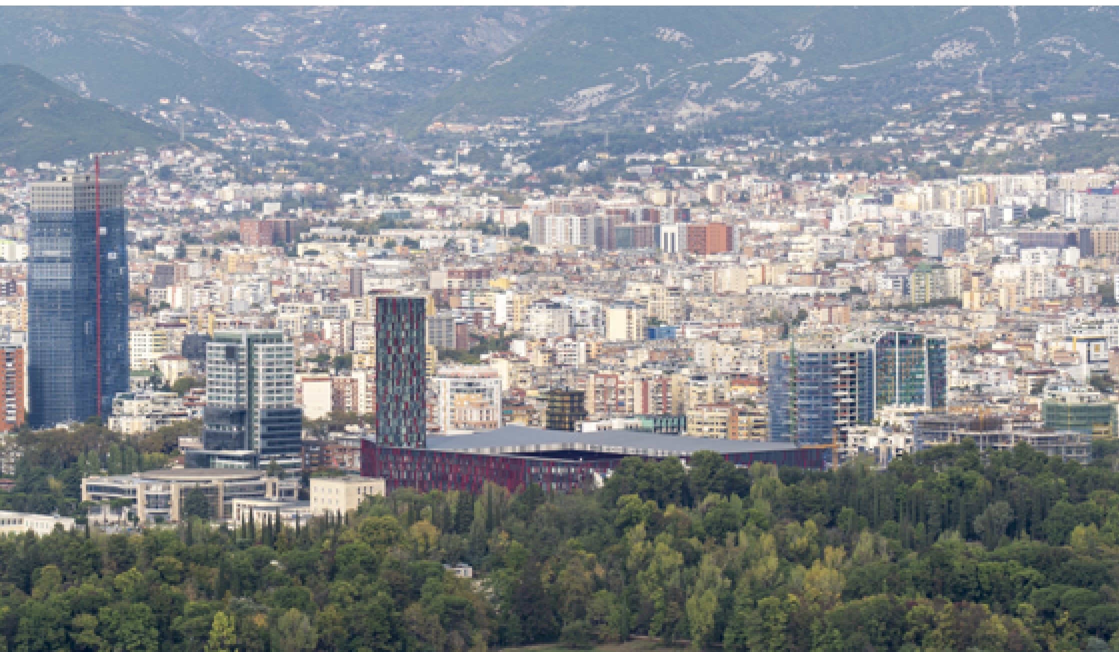

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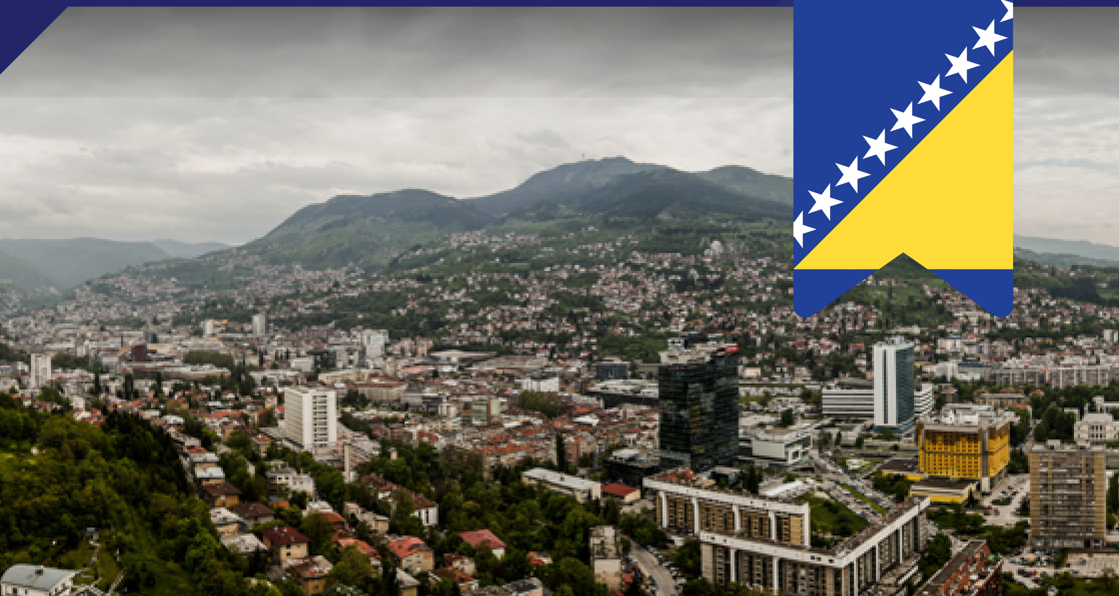
Bosnia and Herzegovina



GENERAL

Bosnia and Herzegovina (BiH) consists of two main territorial and administrative entities: the Federation of Bosnia and Herzegovina (FBiH) and the Republic of Srpska (RS), jointly referred to as "the entities", including the very small District of Brcko. Legislation related to physical and legal persons and taxes (exclusive of indirect taxes) is predominantly enacted at the level of the entities.

The observations which follow are based on the relevant laws of these entities, effective as at 1 September 2021.

All BiH taxpayers, both physical and legal persons, have a personal identification number (PIN) issued by the tax administration of the relevant entity, and all business documentation and correspondence (including tax returns) must include the PIN.

Foreign physical or legal persons (including EU citizens) can buy land (except for agricultural land) and real estate in BiH on the condition of international reciprocity for BiH physical or legal persons.

CORPORATE PROFIT TAX

Direct taxes are levied in line with the entity's legislation.

Resident legal persons (legal persons incorporated in the relevant entity, or legal persons whose place of effective management and control is in the FBiH (applies in the FBiH only) are subject to corporate profit tax (CPT) on their worldwide income. Non-resident legal persons are subject to CPT on their

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income sourced in the relevant entity. In RS, tax payer is considered legal entity from the FBiH or District of Brcko for the profit realized from real estate which is located on the territory of RS.

Taxable profit is subject to CPT at 10% in both entities. In the FBiH, taxable profit is the accounting profit adjusted for tax non-deductible and non-taxable items in accordance with provisions of the FBiH CPT legislation. In the RS, taxable profit is the difference between taxable revenues and tax-deductible expenditures in accordance with provisions of the RS CPT legislation.

The tax period is the calendar year in both entities. Corporate profit taxpayers pay monthly advance payments (by the end of the current month for the previous month in the FBiH; by the 10th of the current month for the previous month in the RS), based on the previous year's CPT return. Any CPT shortfalls at the year-end must be self-assessed in the CPT return and paid by 30 March of the current year for the previous year in the FBiH and by 31 March of the current year for the previous year in the RS, by which date the annual CPT returns must be submitted.

Capital gains are generally included in taxable profit in both entities and subject to tax at the same rate, i.e. 10%.

Generally, domestic dividend income is not subject to CPT provided profit was subject to CPT at source, in both entities.

In both entities, tax losses may be carried forward for a period of 5 years, if certain conditions are met. No tax loss carry back provisions exist in either entity.

Tax grouping is available in the FBiH only, provided that all members of the group are incorporated in the FBiH and agree to the tax grouping.

Anti-avoidance

Anti-avoidance provisions, including transfer pricing provisions, exist.

Transfer pricing provisions require that all transactions with related parties be listed separately and compared with the prices that would be charged in regular market conditions (according to the arm's length principle).

Thin capitalization rules exist in the FBiH only. Thin-cap ratio of 4:1 applies to interest expenses per financial agreements and instruments from related parties. Interest expense in relation to liabilities per financial agreements which exceed the registered share capital in the 4:1 ratio are not tax deductible and cannot be carried forward to another tax period. However, this does not apply to banks and insurance companies.

Tax depreciation rates

Accelerated depreciation is possible in the FBiH only under specific circumstances. Tax depreciation expenses can only be calculated on a straight-line basis in the FBiH.

The annual depreciation rates in the FBiH include 5% for buildings, 15% for equipment and machinery and motor vehicles, 20% for intangible assets and 33.33% for computers and equipment for environmental protection.

Tax depreciation expenses can be calculated on a straight-line basis for property, plant and intangible assets, excluding software. Additionally, the

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diminishing balance method is used for computers, information technology systems, software and servers as well as for equipment and other assets in the RS.

Tax depreciation rates in the RS include 3% for buildings, 10% for intangible assets, 40% for computers and 20% for equipment and other assets.

In the RS only, a non-resident legal person is liable for corporate profit tax in relation to income from immovable property located in the RS. Income from immovable property located in the RS includes rental income, gain on transfer of ownership over real estate, gain on transfer of shares in the equity of a company if a majority of that company's asset value is from real estate located in the RS.

There are number of compliance obligations for a non-resident legal person deriving income from immovable property located in the RS (i.e. local tax registration, self-assessment of CPT liability, submitting a CPT return, etc.). In the FBiH, however, there are no such provisions, but rental income from immovable property located in the FBiH is taxed with WHT.

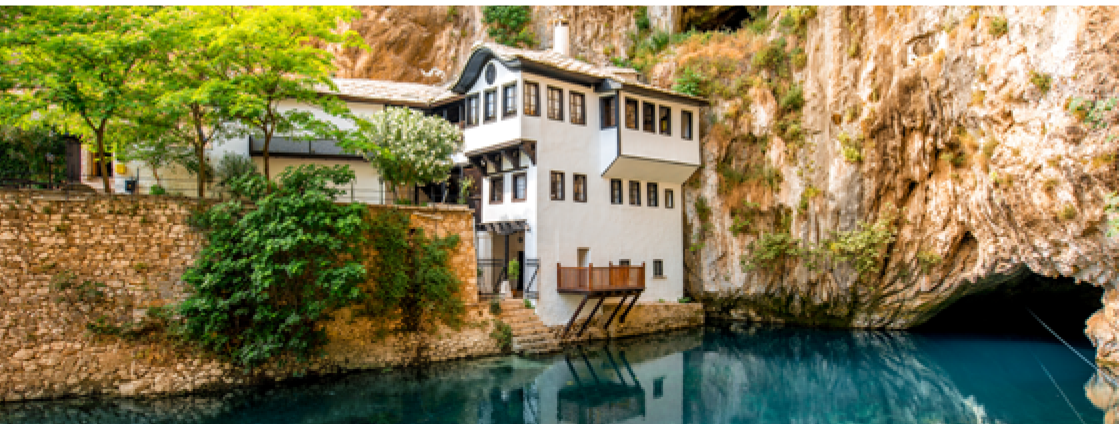
WITHHOLDING TAX

Withholding tax (WHT) at a rate of 10% generally applies to payments made to non-resident legal persons for provision of services (e.g. management consulting, tax and regulatory advisory, market research, audit services), royalties, qualifying interest, renting of movable property. Renting of immovable property is subject to WHT in the FBiH only.

In the FBiH only, WHT at a rate of 5% applies to dividends paid to non-resident legal persons.

In the FBiH only, non-resident's income subject to 10% WHT includes income which a non-resident realized from a resident or other non-resident, on the territory of FBiH, from sale of or transfer for a fee of an immovable asset, shares or stakes in the equity of a company, unless provided otherwise in an applicable double tax treaty.

The WHT rate may be reduced or eliminated pursuant to an effective double tax treaty.



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REAL ESTATE TRANSFER TAX/ REAL ESTATE TAX

FBiH applies real estate transfer tax (RETT), but not real estate tax (RET), whereas RS applies RET, but not RETT..

FBiH

Real estate transfer tax is regulated at the cantonal level in the FBiH (i.e. there are currently 10 different laws applicable in the FBiH).

Real estate transfer tax applies to transfers of land and all transfers of real estate which are value added tax (VAT) exempt, i.e. all transfers of real estate except the first transfer of newly constructed objects. Real estate transfer tax is irrecoverable.

The RETT rate applicable in all 10 cantons in the FBiH is 5%.

Income from real estate rentals (rent, lease, etc.) is regulated by the FBiH Law on Personal Income Tax. The applicable personal income tax rate in the FBiH is 10%.

RS

In the RS, the Law on Real Estate Tax became applicable as of 1 January 2016. The RET rate is prescribed up to 0.20% and applies on an annual basis to all real estate situated in the RS, except for real estate which is used for production where the RET rate is prescribed up to 0.10%.

The RET base is the market value of real estate, whose market value is determined in accordance with municipal decisions.

If the RET payer, i.e. the real estate owner, transfers the real estate during the year, they are obliged to settle the RET liability that became due in relation to the period from the beginning of the year until the transfer of the real estate in question.

Income from real estate rentals is regulated by the RS Law on Personal Income Tax. The applicable personal income tax rate in RS is 10%.

VALUE ADDED TAX

BiH (applies to both the FBiH and the RS)

Value added tax (VAT) is levied at the national level. The standard VAT rate is 17% and applies to the supply of products and services.

A VAT rate of 0% (input VAT recovery possible) applies to exports.

Services are taxable in BiH if they are deemed to have been supplied in BiH.

The reverse-charge mechanism applies to certain services supplied from abroad.

The rules regarding the place of supply are similar to the EU 6th VAT Directive prior to the implementation of the "VAT package" applicable in the EU as of 1 January 2011.

The registration threshold is set for taxable supplies of BAM 50,000 (approximately EUR 25,000). Foreign legal persons providing taxable supplies in BiH are required to register for VAT purposes, provided relevant conditions are met.

The transfer of newly constructed buildings is subject to VAT at a rate of 17%. Physical persons generally cannot recover VAT; however, VAT is generally recoverable for legal persons registered for VAT in BiH, provided general conditions for VAT recovery are met.

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Foreign legal persons are eligible to recover VAT, provided certain conditions are met. Options available to foreign legal entities in respect of VAT registration and compliance are to either register for VAT purposes in BiH through a VAT representative, or to establish a limited liability company in BiH which would then register for BiH VAT.

In accordance with the VAT Law, a foreign legal entity and its VAT representative are jointly and severally liable for VAT calculated in accordance with the BiH VAT Law.

Foreign legal persons are permitted to register a branch office in the FBiH and the RS. Such a branch office is not considered a legal entity and it is therefore deemed as an extension of the foreign company.

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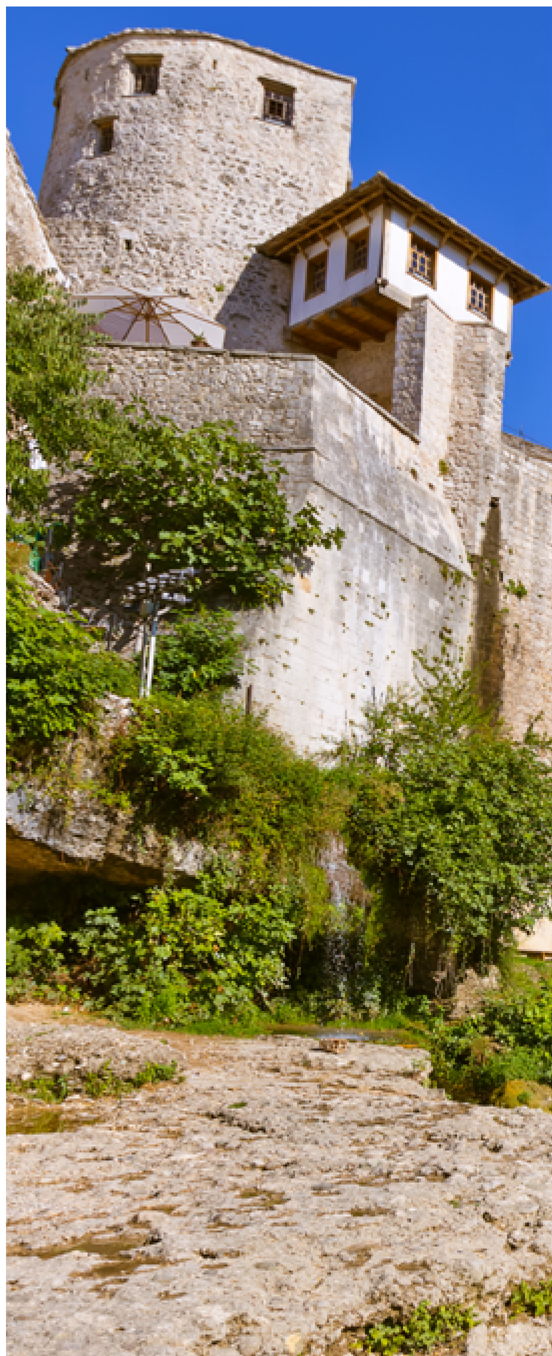

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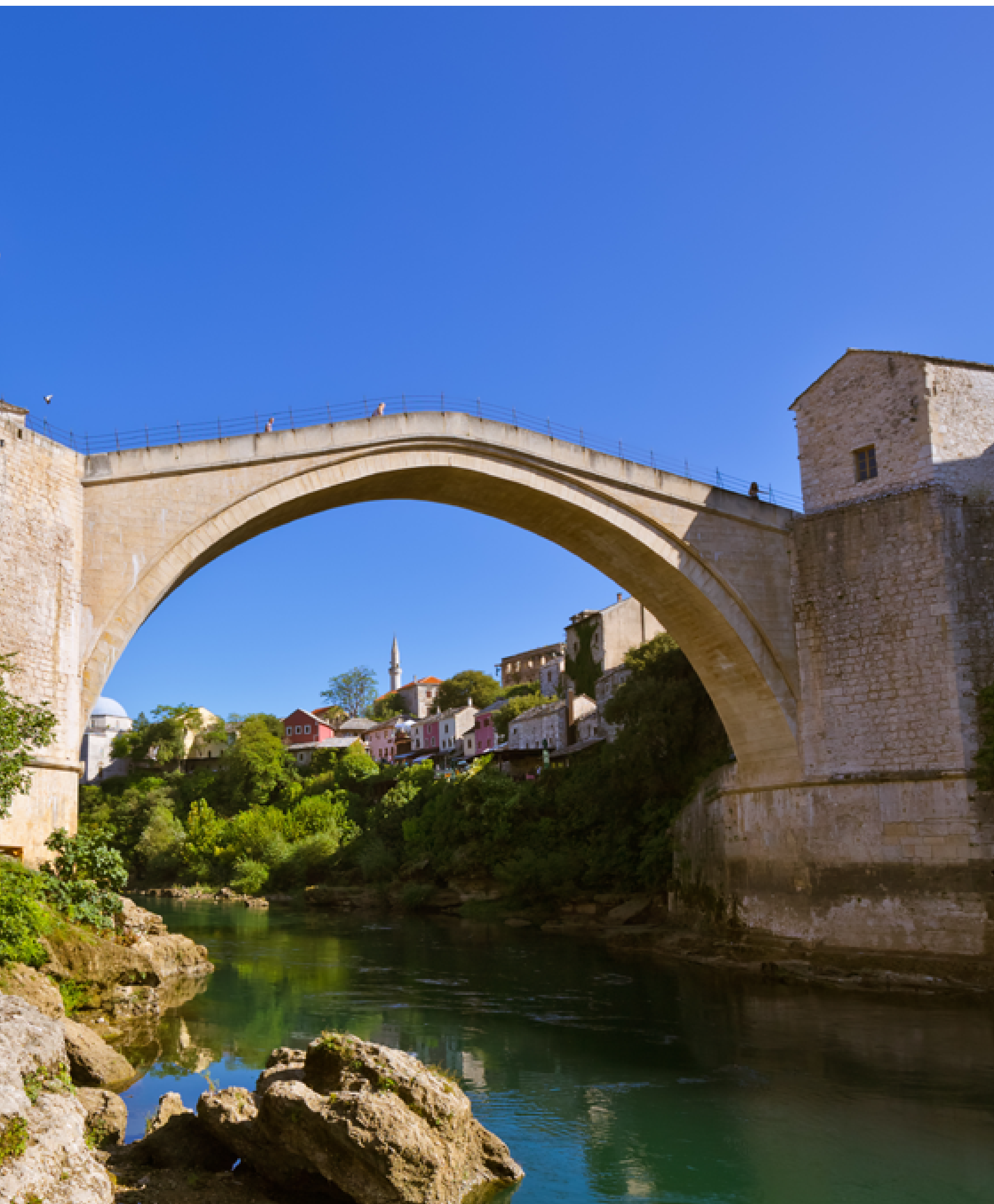

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Bulgaria

GENERAL

No major changes have been made to the Bulgarian Corporate Income Tax Act (CITA) as of January 2021 except for certain changes in the deadlines for reporting and payment of the annual corporate income tax and the advance installments in response to the COVID-19 situation.

The most recent change in the Value Added Tax (VAT) Act concerning the real estate sector was introduced in 2020 and relates to the extension of the definition of a "new building" (i.e. buildings for which the VAT exemption cannot be applied). There are no major changes in the Local Taxes and Fees Act (LTFA) as of January 2021.

CORPORATE INCOME TAX AND CAPITAL GAINS

The Bulgarian CITA specifies that Bulgarian entities are subject to 10% corporate income tax (CIT) on their worldwide income. Foreign entities are subject to tax only on the profits derived from Bulgarian permanent establishments (including branches) and/or profits related to the disposal of property owned by such a permanent establishment (PE).

CIT is calculated on the basis of the annual financial result (as per the Income Statement of the entity) adjusted with certain permanent or temporary tax differences.

The income from real estate derived by Bulgarian entities is included in their

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annual financial result to be further adjusted for CIT purposes.

Under the CITA any expenses incurred in relation to company-owned or rented assets (incl. real estate) which are used for the personal purposes of employees and/or management may be taxed either at the level of the individual as employment income or at the level of the company with a 10% one-off tax on expenses.

The annual CIT liability is determined by the taxpayer through the preparation of an annual CIT return. The annual CIT return for 2021 shall be submitted between 1 March 2022 and 30 June 2022. Any outstanding liability (offset with any advance installments made) should be remitted to the state budget also by 30 June 2022.

If changes are required after the filing of the annual CIT return for 2021, taxpayers may submit one corrective CIT return until 30 September 2022.

Effective 1 January 2021, a separate return for declaring the advance installments due is to be submitted by 15 April of the current year. Taxpayers may change the advance installments reported for the year by 15 November at the latest.

There is no provision for tax grouping in Bulgaria.

Tax depreciation

Bulgarian tax-liable persons should maintain a tax depreciation schedule (TDS) where they report all tax depreciable assets. Tax depreciation as per the TDS is to be reported as a deduction to the financial result for tax purposes, while the accounting depreciation expenses accrued during the year are disallowed for tax purposes and are reported as a tax add-back to the financial result.

The Bulgarian CITA provides for maximum tax depreciation rates depending on the type of the depreciable asset. The maximum tax depreciation rate for buildings (including those held as investment properties) is 4% p.a. Land is not depreciated for tax purposes.

Expenses for construction, improvement or repair of elements of state or municipal infrastructure

New rules implemented in the CITA as of January 2020 aim to remedy the contradictory tax treatment applied in the past with respect to expenses incurred by tax liable persons upon construction, improvement and repair of elements of state or municipal technical infrastructure (roads, bridges, etc.).

According to these rules, the accounting expenses incurred by a tax liable person for repair of elements of state or municipal infrastructure which are related to the activity of that person are recognized for tax purposes, including in the cases where the infrastructure is accessible for use by third parties.

If the costs incurred by a tax liable person for construction or improvement of elements of state or municipal infrastructure are not capitalized in the value of a long-term asset, they are treated as tax non-deductible expenses and give rise to a tax depreciable asset. Such asset is allocated to the tax category as per the CITA in which it

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would have been classified, had it been owned by the tax liable person.

Tax liable persons are given the option to recognize the expenses related to construction, improvement or repair of elements of state or municipal infrastructure which have been treated as tax non-deductible in the period 1 January 2015 - 31 December 2019 by including them in the value of an individual tax depreciable asset. Such asset is to be recorded in the TDS as of 1 January 2020 and depreciated for tax purposes at 4% p.a.

Tax losses

A tax loss can be carried forward for 5 years. It can be offset against a positive tax result for a subsequent tax year.

Deductibility of interest expenses

The CITA contains two sets of rules which may limit the tax deductibility of interest expenses: (i) thin capitalization rules and (ii) interest limitation rule.

Thin capitalization

Thin capitalization rules apply if a company's liabilities exceed three times the amount of its equity.

Interest expenses are deductible up to an amount equal to the entity's interest income plus 75% of the profits before interest and tax (EBIT). The interest expenses disallowed under the thin capitalization rules from 2014 onwards are reclaimable in the following tax years without time limitation up to the above-mentioned threshold calculated in those subsequent years.

Interest expenses on bank loans and finance leases and are not subject to thin capitalization, except in specific cases (e.g. if the underlying transactions are between related parties).

Interest limitation rule

The interest limitation rule has been introduced as of 1 January 2019 as part of the provisions transposing Directive 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (ATAD).

The interest limitation rule limits the deductibility of exceeding borrowing costs incurred in a given tax period up to 30% of the company’s earnings before interest, tax, depreciation and amortization (tax-EBITDA). The rule only applies where the exceeding borrowing costs for the year exceed the BGN equivalent of EUR 3 million.

The disallowed interest expenses give rise to a temporary tax difference that may be carried forward without time limitation.

WITHHOLDING TAX

Specific types of income derived by non-resident legal entities from Bulgarian source are subject to withholding tax (WHT) provided that the income is not derived through a PE of the non-resident entity in Bulgaria.

Such income includes capital gains, rental payments, interest, royalties, technical service fees (including consultancy services, marketing research and installation of tangible assets), management fees, etc.

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The standard WHT rate is 10%. WHT rates can be reduced under an effective double taxation treaty signed between Bulgaria and the country of residence of the foreign income recipient, following a simplified or a pre-approval procedure.

Withholding tax is generally calculated on a gross basis. Foreign recipients of income subject to WHT who are tax residents of an EU/EEA member state are entitled to an annual recalculation (on a net basis) of the WHT which has been levied and paid on a gross basis following a specific procedure. The recalculation is aimed at equaling out the tax treatment between local entities and foreign entities which are tax residents of an EU/EEA member state.

Dividends

Dividends and liquidation quotas are subject to WHT at a general rate of 5% .

Dividends and liquidation quotas distributed by local tax residents to local legal entities, as well as to foreign entities that are tax residents in an EU/EEA member state, are exempt from WHT.

Interest and royalty payments

WHT on interest income and royalties accrued by local companies to foreign tax residents of EU countries is exempt in the following cases:

(i) the beneficiary of the income is a foreign legal entity from an EU member state or a PE in the EU;
(ii) the local legal entity (payer of the income) is a related party to the foreign beneficial owner of the income; and
(iii) at the time of the income accrual, the ownership of the required minimum capital is uninterrupted.

The aim of this provision is to harmonize the Bulgarian tax legislation with Directive 2003/49/EC (i.e. the EU Interest and Royalties Directive).

Further, interest derived from bonds and other securities issued by local tax residents and traded on a regulated EU or EEA stock exchange is exempt from WHT. Neither is WHT due on interest accrued in relation to loans extended by EU/EEA residents, which have issued bonds and other securities traded on a regulated EU/EEA stock exchange, in order to lend the proceeds to the Bulgarian entity.

In addition, the interest on bonds or other debt instruments issued by the state and the municipalities and traded on a regulated market in the EU or in the EEA, as well as interest arising under loan facilities granted to the state or the municipalities and not backed-up with bonds, are not subject to WHT.

Payments for rent/the right of use of immovable properties

Rental income realized by foreign entities from rent or the right of use of immovable properties located in the country is subject to 10% WHT, which should be deducted and paid by the local payer of the income, provided that the latter is a tax liable person under the CITA

TRANSFER PRICING

Transfer pricing (TP) rules allow the tax authorities to adjust the tax base of a tax liable person subject to CIT or WHT with respect to transactions which are not carried out at arm's length.

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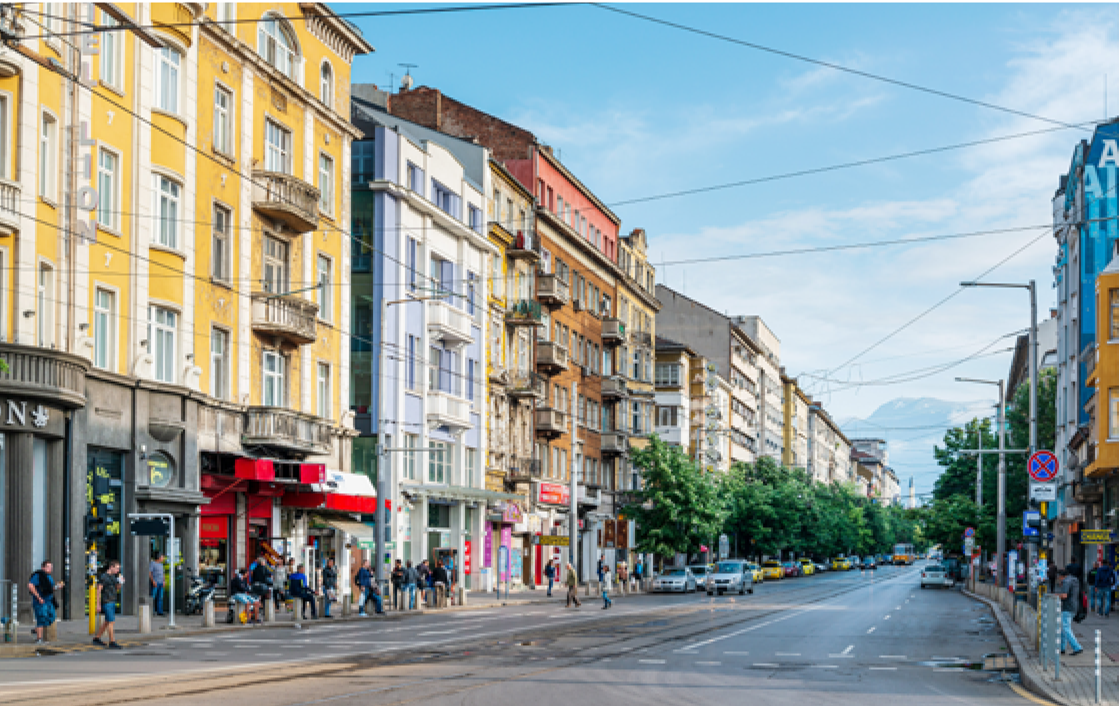

Following amendments to the Tax and Social Security Procedures Code (TSSPC) effective January 2020, local taxpayers are obliged to prepare a Local File if at least two of the following thresholds are exceeded as of 31 December of the previous year:

- BGN 38 million (approx. EUR 19 million) net book value of assets;
- BGN 76 million (approx. EUR 39 million) net sales revenue;
- average number of the personnel for the reporting period of 250;

Entities which are part of a MNE and have the obligation to prepare a Local File must also have available the Master File of the group.

The TSSPC includes specific requirements with respect to the information which the Local File and the Master File should contain. The TSSPC further outlines the scope of the controlled transactions which the obliged taxpayers should document in the Local File.

All taxpayers, even if not exceeding the above thresholds, have a general obligation to prove the arm's length nature of their related party transactions.

COUNTY BY COUNTRY REPORTING

Multinational enterprise (MNE) groups with consolidated revenue of over EUR

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750 million for the fiscal year preceding the reporting fiscal year are required to prepare and submit a country-by-country (CbC) report.

A Bulgarian entity/PE of a qualifying MNE group is to notify the local tax office about the reporting entity which will submit the CbC report for the Group and the jurisdiction in which it is tax resident. The CbC notification should be submitted no later than the last day of the reporting fiscal year of the Group.

In the absence of effective exchange of CbC reports between Bulgaria and the jurisdiction in which the ultimate parent (or surrogate company) submits the CbC report, the local entity/PE shall file the CbC report of the MNE group locally within 12 months of the last day of the reporting fiscal year of the Group.

Material sanctions apply for non-submission of a CbC notification - up to BGN 150 thousand for first violation and up to BGN 200 thousand for second violation. Failure to submit a CbC report my result in a sanction of up to BGN 200 thousand for first violation and up to BGN 300 thousand for second violation.

LOCAL TAXES AND FEES

The main local taxes and fees in relation to the ownership or acquisition of real estate in Bulgaria include real estate tax, garbage collection fees and transfer tax.

Real estate tax

Owners of buildings and plots of land situated in Bulgaria as well as acquirers of limited ownership rights of real estate property are subject to annual real estate taxation.

The rate of real estate tax varies in a range of 0.01% - 0.45%. It is determined at a municipal level and may vary from year to year.

The taxable base for real estate tax of non-residential property owned by companies is the higher amount of the tax valuation and the book value of the property. The taxable base for real estate tax of property owned by individuals or residential property owned by companies is the tax valuation of the property.

An exemption from tax on real estate properties still counts for buildings constructed before 1 January 2005 depending on the type of certificate for energy consumption that the building has received and whether any measures are applied for utilization of the building's renewable energy sources. The real estate tax exemption for the respective building may be used for a maximum of 10 years depending on the specific conditions satisfied.

Garbage fee

Generally, a garbage fee is levied on the book value/cost of the immovable property at a rate determined annually by the respective municipality where the property is located. The rates for the garbage fee may vary significantly between municipalities.

The garbage fee comprises several service fees: (i) fee for waste collection and transport to waste treatment installations, (ii) fee for waste treatment at the installations, and (iii) fee for sanitation of spatial-development areas for public use.

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An exemption from the waste collection/ transportation fee is introduced upon submission of a declaration by the owners of the properties by 31 October declaring that the property shall not be used the whole year that follows.

Owners of properties may also conclude a contract for garbage collection with an eligible third party service provider and claim exemption for waste collection/ transportation fee by filing a declaration by 31 October of the preceding year.

Transfer tax

Transfer tax is levied when transferring real estate property or limited property rights over real estate. The tax rate is in a range of 0.1%-3% levied on the tax base of the property in cases of acquisition against consideration. When immovable property is transferred as a gift, the tax rate ranges from 3.3% to 6.6%. The applicable transfer tax rate is determined by the respective municipality.

No transfer tax is due upon non-cash capital contributions in companies, cooperatives or non-profit organizations.

The tax base upon transfer of real estate property or limited property rights over it is the higher of the following values: (i) the purchase price/a price defined by state or municipal authorities, and (ii) the tax valuation of the property.

The transfer tax is generally paid by the recipient of the property, unless the parties have agreed differently. If the recipient has no clear presence in the country, the tax is payable by the transferor.

VALUE ADDED TAX

The latest major change in the VAT Act concerning the real estate sector relates to the extension of the definition of a "new building". The definition is important since the VAT exemption can be applied solely to buildings which do not qualify as new ones. The supply of new buildings is to be treated as VAT taxable as explained below.

Thus, as of 1 January 2020, a new building is[1]:

- Buildings up to the stage of "rough construction";
- Buildings for which the exploitation permit was issued less than 60 months ago;
- A newly constructed floor or an additional part to a an existing building where it can be dealt with as a separate estate and be subject to a distinct supply from the remaining part of the building (up to 60 months of the new exploitation permit);
- Renovation/ reconstruction of an old building where the related costs represent at least one third of the market value of the building as at the date of the new exploitation permit (up to 60 months of the new exploitation permit).

[1] The first two bullets of the provided definition are unchanged and formed part of the old definition as well, while the last two bullets were introduced as of 1 January 2020 in order to harmonize the Bulgarian VAT Act with the EU rules.

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VAT exempt and VAT taxable supplies

According to the provisions of the Bulgarian VAT Act, the lease of buildings for residential purposes, the sale and lease of unregulated plots of land, the sale of old buildings (i.e. buildings which do not qualify as "new" ones) as well as the transfer of construction rights, are considered a VAT exempt supply. However, the seller/lessor has the option to choose to treat these supplies as VAT taxable transactions and charge VAT at the rate of 20%.

The supply of construction rights could be exempt from VAT only up until the start of the construction process, i.e. up to the date of issuing the permit for the start of the construction.

The sale of new buildings, plant, machinery, equipment and structures immovably fixed to the land is a VAT-taxable supply, subject to 20% VAT.

Taxable amount

The taxable amount of real estate is determined under the general rules of the VAT Act and is not regulated separately.

The following special rules may also be applicable for real estate transactions:

- **Transactions between related parties.** The taxable amount for supplies made between related parties should be equal to the open market value only in specific cases where either the supplier or the recipient enjoy the right to full input VAT deduction. The aim of this rule is to prevent related parties from optimizing their pro-rata VAT deduction by applying non-arm's length prices.

- **Barter transactions (e.g. construction rights for construction services).** The taxable amount for a barter transaction for which the parties have not agreed a monetary value should be equal to the acquisition cost/direct cost of the goods/services provided. When the tax base cannot be determined in this way, it should be equal to the open market value. The open market value would also be used as a taxable base when the barter transaction is performed between related parties with restricted input VAT deduction rights, as explained above.

- **Improvement of rented assets.** The taxable amount of the deemed supply of service by the tenant to the landlord in cases of free-of-charge improvements of hired assets should be equal to the direct expenses incurred, taking into account normal wear and tear. If the direct cost cannot be estimated, the taxable amount should be the open market value.

There is no VAT grouping in Bulgaria.

From 2017 onward, a regime for a proportional input VAT deduction upon the acquisition of corporate assets (including immovable property) intended for mixed use (both business and private use) by taxpayers has been introduced. The business to private proportion is to be determined on the basis of a reasonable criterion which should guarantee the correct calculation of the amount of the input VAT to be deducted taking into account the nature of the assets. The initially deducted proportion of the input VAT should be adjusted on a yearly basis upon changes in the use of the assets.

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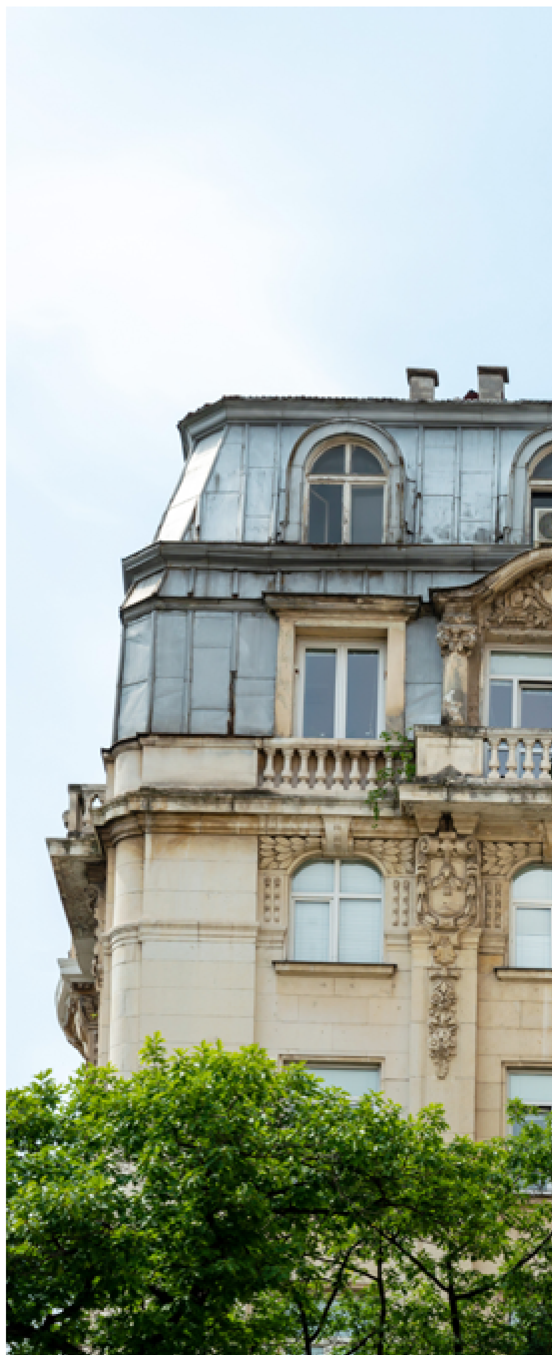
Construction, improvement or repair of elements of state or municipal infrastructure against no consideration

Effective 1 January 2020, no VAT taxable supply is deemed to take place upon construction, improvement or repair of elements of state or municipal-infrastructure against no consideration. In this case the supplier should be able to deduct input VAT on the incurred expenses related to the infrastructure under the general rules of the law. The amendment aims at harmonizing the Bulgarian VAT Act with the CJEU jurisprudence (C-132/16 Iberdrola Inmobiliaria Real Estate Investments).



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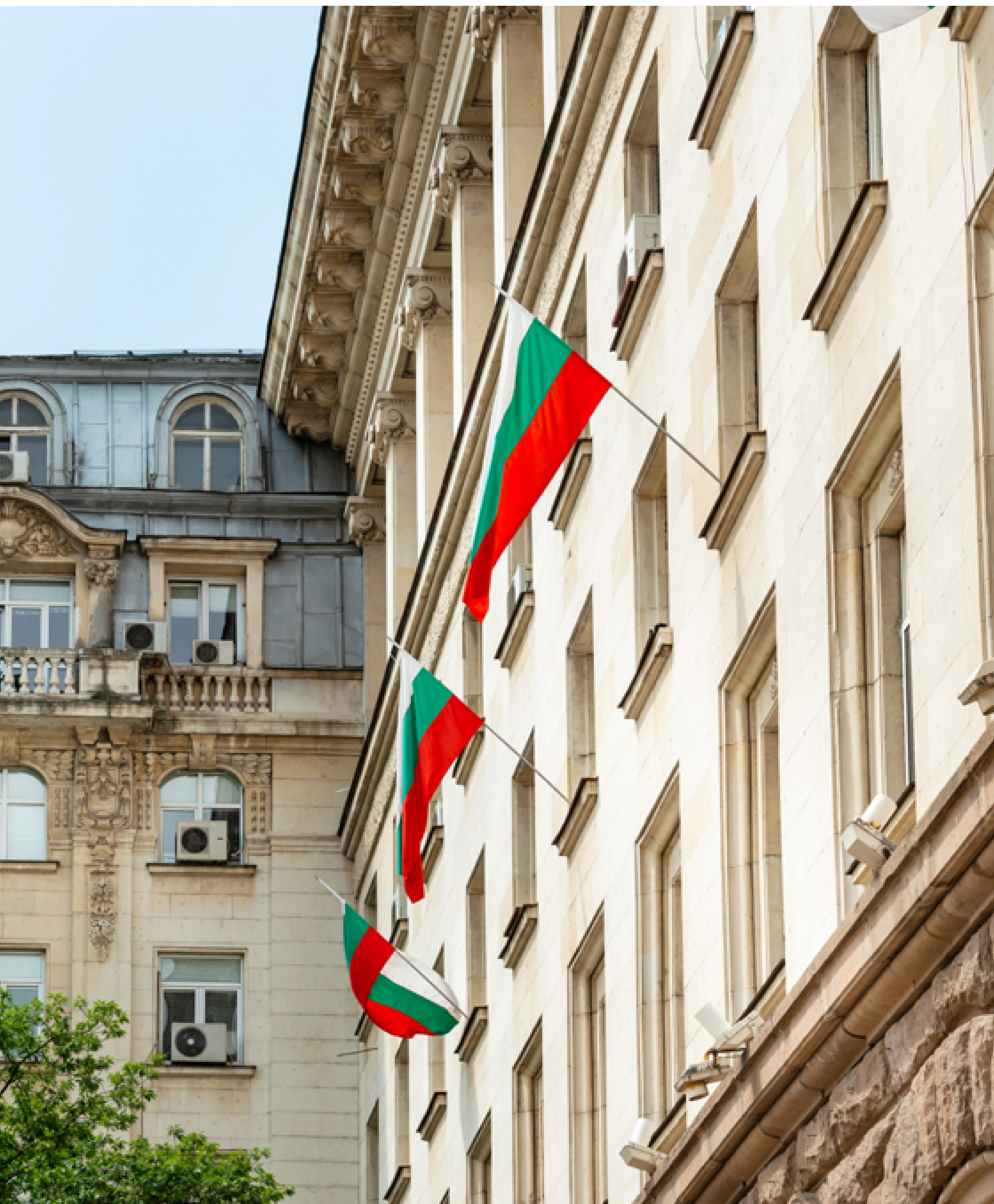

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Croatia

GENERAL

The comments below are based on Croatian laws effective as at 10 September 2021.

In general, legal entities and legitimate persons from EU member states are freely able to buy real estate in Croatia. Exceptions do exist and depend on the type of real estate. Other foreign (non-EU) legal entities and legitimate persons need to apply for a permit from the Croatian Ministry of Justice before they can be registered as owners in the land registry.

The standard value added tax (VAT) rate is 25% and it applies to most products and services. There are also reduced VAT rates of 5% and 13% for some other products and services.

Generally, land and buildings are considered to be one supply, i.e. the same tax treatment applies to both land and buildings ("real estate").

The transfer of real estate is subject to either the standard rate of VAT of 25% or real estate transfer tax (RETT) at the rate of 3%.

Whether VAT or RETT applies depends on the status of the seller, the status of the buyer and the status of the real estate. For details, please refer to the section "Real Estate Transfer Tax" and "Value Added Tax" below.

CORPORATE INCOME TAX AND CAPITAL GAINS

Resident legal entities (legal entities incorporated in Croatia or legal entities whose place of effective management

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and control is in Croatia) are subject to corporate income tax (CIT) on their worldwide income. Non-resident legal entities are subject to CIT on their Croatian-sourced income.

Accounting profit, adjusted in accordance with the provisions of the CIT Law, is subject to CIT at a rate of 18 % (or subject to CIT at a rate of 10 % if annual turnover is less than HRK 7,5 million).

Amongst other items, accounting profit needs to be increased for:

- interest on loans provided or guaranteed by a foreign direct shareholder (holding 25% or more of the shares), or by any foreign related party on the value of the loan that exceeds four times the capital of that foreign shareholder ("thin capitalization" rule, see below);
- interest calculated at a rate in excess of 3 % per annum on loans provided by a foreign related party ("excessive interest rate" rule). Alternatively, a taxpayer can perform its own interest rate benchmark and determine a different excessive interest rate so long as it is supported by benchmarking analysis as being arm's length in the given circumstances;
- interest calculated at a rate in excess of 3 % per annum on loans provided by a domestic related party, if one of the parties is in a tax favorable position or has tax losses carried forward from previous periods which can be utilized in the current tax period. Alternatively, a taxpayer may perform its own interest rate benchmark and use a different excessive rate so long as it is supported by benchmarking analysis as being arm's length in the given circumstances;
- exceeding borrowing costs based on the "earnings stripping" rule (see below); and
- penalty interest between related parties (both domestic and foreign).

The tax period is the calendar year. Corporate income taxpayers pay monthly advance payments based on the previous year's annual CIT return.

Any CIT shortfalls at year end must be self-assessed in the annual CIT return and paid by the taxpayer by 30 April of the current year for the previous year, by which date the annual CIT return must be submitted.

There is no separate capital gains tax – any capital gains realized by a taxpayer on the disposal of fixed assets (including real estate) and intangibles are added to the taxpayer's tax base and are subject to the standard CIT rate of 18 % (or 10 %). On disposal, the seller can deduct the net tax value of the fixed assets and associated disposal expenditures. Taxable income can be reduced by tax losses where they are available for utilization.

Domestic and foreign dividend income is, generally, not subject to CIT.

There is no tax grouping provision.

There are anti-avoidance provisions, including detailed transfer pricing provisions (which require a transfer pricing study including benchmarking analyses, for all cross border transactions

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with related parties and for certain domestic transactions between related parties. In addition, a form must be included with a taxpayer's annual CIT return (PD-IPO form), setting out transactions with related parties).

Hybrid mismatches

Croatia has implemented ATAD rules regarding hybrid mismatches, applicable as of tax periods commencing on or after 1 January 2020.

Application of the rules regarding reverse hybrid mismatches is postponed until tax periods commencing on or after 1 January 2022).

Tax depreciation

For tax purposes, tangible and intangible assets are depreciated on a straight-line basis according to their useful economic life and applying the annual depreciation rates prescribed by the Croatian CIT Law. Depreciation of tangible and intangible assets is a tax deductible expense starting from the month following the month in which a particular asset was brought into use. After being completely depreciated, the tangible and intangible assets are kept on record until they are sold, disposed of or found missing.

The annual depreciation rates include: 5% for buildings; 25% for equipment and machinery, motor vehicles (other than personal cars) and intangible assets; 20% for personal cars; 50% for IT equipment and mobile phones; and 10% for other long- term assets. These rates can be doubled in some cases.

Land is not depreciated for tax purposes.

In instances where a building and the land it is built on are sold as a whole, only the building is depreciable. If it is not possible to split the values of the building and land at the time of purchase (e.g. the split values are not visible from the purchase contract or the related invoice), a valuation is needed in order to correctly determine the (depreciable) value of the building.

Tax losses

Tax losses may be carried forward for a maximum of 5 years starting with the year in which they occurred, if certain conditions are met. No tax loss carry-back provisions exist.

In the case of mergers and de-mergers, tax losses can be transferred to the legal successor, but only if the legal predecessor is fully in operation and if the legal successor does not have a significantly different business activity compared to the predecessor, the timeframe being for 2 years both prior to and after the statutory change. The same applies if there is a change in ownership of the company of more than 50% compared to the ownership structure at the beginning of the tax period.

Thin capitalization

Interest on:

- a loan provided or guaranteed by a foreign direct shareholder holding at least 25% of the shares or voting rights in a company; or

- a loan provided or guaranteed by a foreign related party,

is not deductible for CIT purposes on the value of the loan which exceeds

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four times the capital of that foreign shareholder.

The value of a shareholder's holding in the loan recipient's equity capital is determined for the tax period as an average on the basis of paid-in capital, retained earnings and reserves as at the last day of each month in the tax period.

For loans provided or guaranteed by entities without a direct shareholding in the loan recipient but which are considered to be related to the loan recipient, the equity capital of the foreign direct shareholder is taken into account for thin capitalization purposes.

The thin capitalization rule does not apply to loans provided by foreign shareholders and foreign related parties that are financial institutions.

Earnings stripping rule

Based on the earnings stripping rule, exceeding borrowing costs, (i.e. borrowing costs exceeding taxable interest income) are tax deductible only to the higher of:

- 30% of the taxpayer's tax EBITDA; and
- EUR 3 million.

The rule applies to debt financing from related and third parties (financial institutions and stand-alone entities are excluded).

The value of non-deductible interest based on the earning stripping rule can be reduced for the value of non-deductible interest based on thin capitalization and excessive interest rate rules.

Controlled foreign company (CFC)

Under CFC rules, certain items of non-distributed income of a CFC entity may be attributed to a Croatian taxpayer, unless the CFC has sufficient business substance.

The income of the CFC entity must be included in the taxable base of the Croatian taxpayer proportionally to the participation in the CFC entity.

Tax losses of the CFC entity may not be included in the taxable base of the Croatian taxpayer.

Tax incentives

The CIT rate can be reduced by 50% if a taxpayer operates in a Class I Support Area or a taxpayer can be exempt from CIT if it operates in the City of Vukovar. Specific conditions must be met in both cases. In addition, other incentives may exist under the Investment Promotion Law.

Investment incentives

A taxpayer making a qualifying investment may be exempt from CIT or taxable at a reduced rate of CIT, depending on the level of investment and the number of new employees employed, for a maximum period of 5 years for micro entrepreneurs and 10 years for small, medium-sized and large entrepreneurs (or until the investment level is reached) commencing from the year in which the investment started (provided certain conditions are met).

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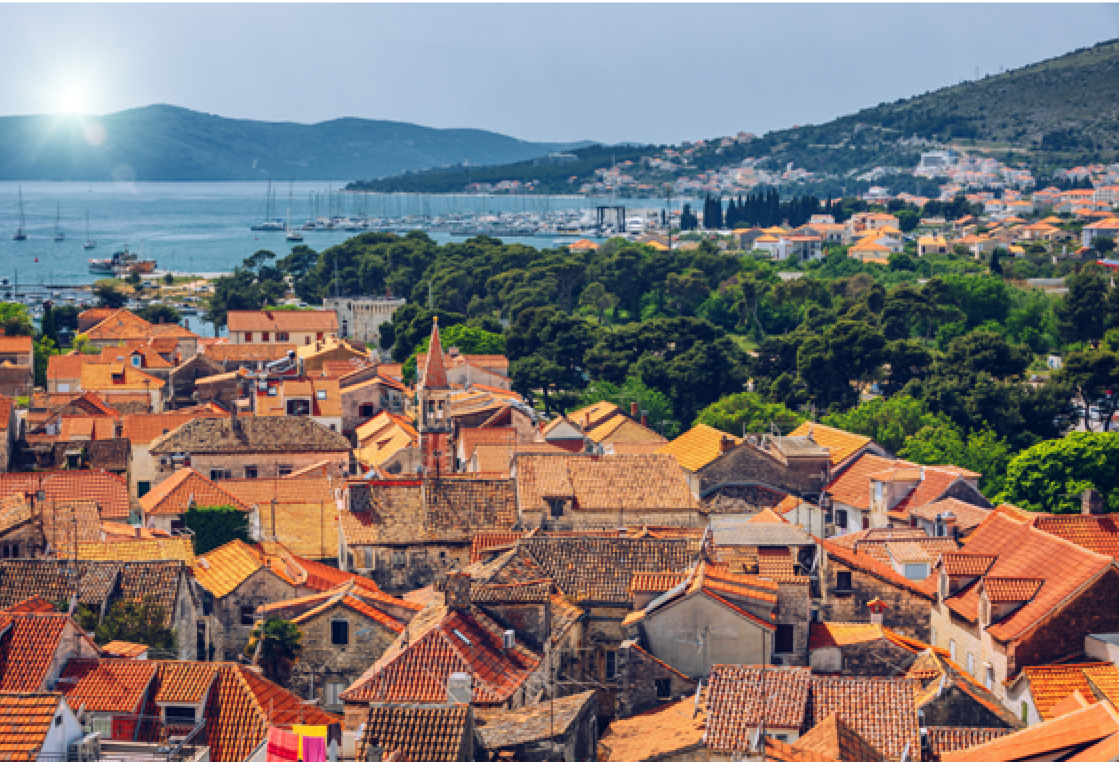

The following incentives are available:

- a 50% CIT reduced rate, if the investment level is:
  - at least EUR 50,000 and the taxpayer employs at least three new employees related to the investment within the initial period of 3 years (this incentive applies only for micro entrepreneurs); or
  - between EUR 50,000 and EUR 1 million and the taxpayer employs at least ten new employees related to investment in development of ICT systems and software; or
  - between EUR 150,000 and EUR 1 million and the taxpayer employs at least five new employees related to the investment;
- a 75% CIT reduced rate if the investment level is between EUR 1 million and 3 million and the taxpayer employs at least 10 new employees related to the investment; and
- a total exemption if a taxpayer invests at least EUR 3 million and employs at least 15 new employees related to the investment.

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WITHHOLDING TAX

Dividends

Withholding tax (WHT) at a rate of 10% applies to payments of dividends and profit shares paid to foreign legal entities made on or after 1 March 2012, but no WHT applies to payments of dividends and profit shares earned before that date.

The WHT rate may be decreased/ eliminated where an effective double taxation treaty exists to which Croatia is a party. In order for the dividend payment not to be subject to Croatian withholding tax in line with provisions of a double taxation treaty, the Croatian company – i.e. the payer of such a dividend – would need to obtain the following documents prior to the payment of the dividends:

- a Statement of Residence issued by the tax office in the country in which the recipient of the dividend is tax resident – a procedure which applies if withholding tax is eliminated (reduced to 0%); or
- a completed form for dividend payments prescribed by the Croatian CIT legislation, stamped/approved by the tax office in the country in which the recipient of the dividend is tax resident – a procedure which applies if withholding tax is reduced from the statutory rate of 10% to a lower rate provided for under a double taxation treaty (e.g. 5%).

Also, dividends paid to shareholder companies that are residents in EU member states or paid to qualifying Swiss companies are exempt from Croatian withholding tax if the shareholder owns at least 10% (for Swiss shareholders at least 25%) of the payer's shares and the shares have been uninterruptedly held for at least 2 years, and if certain other conditions are met.

If the uninterrupted holding period of 2 years is not yet met at the time of dividend payment, an exemption can still be obtained by providing a bank guarantee (in the amount equal to WHT that would be payable if no exemption would be applied) to the Croatian Tax Authorities.

In order to claim the relief based on the Parent - Subsidiary Directive, the payer of dividends must submit the following to the Croatian Tax Authorities within 15 days of the payment of each dividend:

1. proof of tax residency of the recipient at the time of payment;
2. proof that the minimum shareholding and the minimum shareholding duration conditions are met;
3. proof that the recipient has an appropriate legal form and that it is subject to CIT in its country of residence.

Interest, royalties and intangible services

Withholding tax at a rate of 15% applies to certain payments made to non-resident legal persons (for specified interest payments, payments for intellectual property rights, market research, tax advisory, business advisory and audit services).

The WHT rate may be decreased or eliminated in line with an effective double

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taxation treaty to which Croatia is a party. In order for the interest payment or royalty payment not to be subject to Croatian withholding tax in line with provisions of a double tax treaty, the Croatian company, i.e. the payer of such interest or royalty, would need to obtain the following prior to the payment of interest or royalties:

- a Statement of Residence issued by the tax office in the country in which the recipient of the interest or royalty is tax resident – a procedure which applies if withholding tax is eliminated (reduced to 0%); or
- a completed form covering interest or royalty payments prescribed by the Croatian CIT legislation, stamped/approved by the tax office in the country in which the recipient of the interest or royalty is tax resident – a procedure which applies if WHT is reduced from the statutory rate of 15% to a lower rate provided for under a double tax treaty (e.g. 5% or 10%).

In addition, interest paid to EU resident companies or to qualifying Swiss companies is exempt from Croatian WHT where a minimum of 25% direct shareholding exists between both companies or where a third company directly owns at least 25% of both companies, provided that the participation is held for an uninterrupted period of at least 2 years and if certain other conditions are met.

In order to claim the relief based on the Interest & Royalty Directive, prior to effecting payments, the payer of the interest / royalties must obtain a certificate from the Croatian Tax Authorities which proves that all required conditions for relief are met.

The certificate can be obtained based on a request which should contain the following:

1. proof of tax residency of the recipient;
2. proof that the recipient is in fact the beneficial owner;
3. proof that the recipient has an appropriate legal form and that it is subject to CIT in its country of residence;
4. legal basis of the payment (contract).

A separate request must be submitted for each payment with a different legal basis (contract).

Other services

As of 1 January 2021, withholding tax at a rate of 10% applies to fees for the performance of foreign artists in cases when these fees are payable based on contracts with foreign entities that are not individuals.

Withholding tax at an increased rate of 20% applies to all payments subject to withholding tax and paid to an entity located in a country on the EU list of non-cooperative jurisdictions.

REAL ESTATE TRANSFER TAX AND VALUE ADDED TAX

General provisions regarding real estate

The following transfers of real estate are subject to VAT (if transferred by a Croatian VAT registered entrepreneur):

- transfers of construction land;

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- transfers of buildings (or parts of buildings) before first occupation or if less than 2 years have elapsed between the period of first occupation and the date of transfer; and

- transfers of reconstructed buildings (or parts of buildings) if the costs of reconstruction in the previous 2 years exceed 50% of the sale price.

In all other instances, real estate transfer tax (RETT) applies.

However, in certain circumstances, if RETT would otherwise apply, the transferring party (of both land and buildings) is able to opt for the transfer to be subject to VAT, provided that the transferee intends to use the real estate to perform VATable transactions. In this case, the reverse- charge mechanism applies.

RETT at a rate of 3% applies to the transfer of real estate unless the transfer of real estate is subject to VAT. RETT is payable by the purchaser.

Place of supply of services

Croatian VAT rules regarding the place of supply of services are fully aligned with the EU VAT Directive.

Specifically, Croatia has the general business to business rule for taxation of services according to which services provided by a taxpayer from one EU member state to a taxpayer in another EU member state are taxable in the country of the service recipient.

However, in the case of services related to real estate (including renting or leasing), the place of supply is the place where the real estate is located.

VAT refunds and domestic input VAT can generally be recovered if a taxpayer is VAT registered and if the following conditions are met:

- the taxpayer receives a proper VAT invoice from a supplier;

- the delivery of goods (services) took place; and

- the goods (services) are used by the taxpayer for business purposes and for the performance of VAT-able supplies/ provisions.

A taxpayer whose input VAT exceeds its VAT liability is entitled to claim a refund of that difference. The refund period is 30 days from the date of submission of the VAT return. If a tax inspection is initiated prior to the receipt of the VAT refund, a refund must be made within 90 days of the day of the start of the tax inspection.

VAT refunds for non-resident entrepreneurs from other EU member states

According to the VAT legislation applicable as of Croatia's EU accession, non-resident entrepreneurs from EU member states are entitled to a refund of the VAT charged by Croatian entrepreneurs.

In order to obtain a refund of Croatian VAT, non-resident entrepreneurs from other EU member states must submit an electronic request for a VAT refund by using the electronic portal of the tax

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office of the EU member state where they are established.

Electronic requests for VAT refunds should be submitted at the latest by 30 September in relation to charges from the previous year, e.g. for the year ending 31 December 2020 the request needs to be submitted at latest by 30 September 2021.

Non-resident entrepreneurs from other EU member states which submit requests for a refund of Croatian VAT are also required to provide an explanation of the business activities and a description of the transactions for which the VAT refund is sought, bank account number, etc.

VAT refunds for non-resident entrepreneurs from non-EU countries (13th Directive)

In order for non-resident entrepreneurs from non-EU countries to obtain a refund of Croatian VAT, the reciprocity condition needs to be fulfilled.

If the reciprocity condition with the country has not been officially confirmed, then resident entrepreneurs of that country will generally not be able to recover Croatian VAT.

In order to obtain a refund of Croatian VAT the non-resident entrepreneur must submit a request to the Croatian Tax Authorities no later than 6 months following the end of the calendar year to which it relates, e.g. it has to be submitted by 30 June 2021 for transactions in 2020. A request for a VAT refund must be submitted on the prescribed form together with a certificate issued by the tax authorities of the country of the non-resident entrepreneur stating the VAT status of the claimant and include original invoices.

European sales/purchases list/ Intrastat

Apart from regular VAT returns, all Croatian taxpayers undertaking transactions with taxpayers from other EU member states must report these transactions on an European Sales List or on an European Purchase List. Additionally, all Croatian taxpayers with transactions involving goods with taxpayers from other EU member states must report these transactions on Intrastat returns, provided the relevant threshold is reached.

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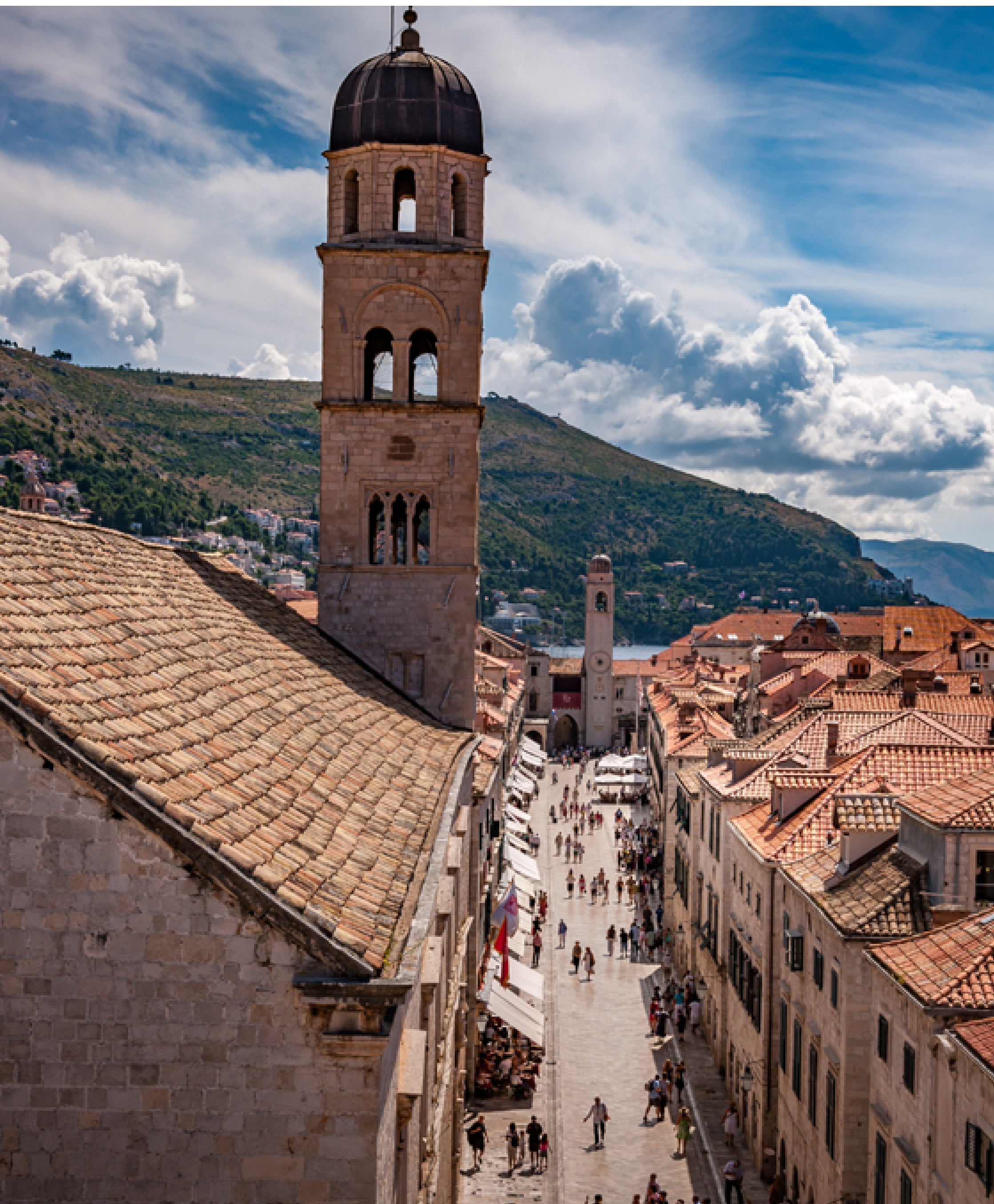

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Czech Republic

RECENT DEVELOPMENTS

EU directives and OECD initiatives are among the international factors that have deeply influenced the Czech legal environment.

As a member state of the European Union (EU), the Czech Republic has implemented various measures contained in the EU Anti-Tax Avoidance Directives (ATAD and ATAD 2). Mandatory Disclosure Rules contained in the so-called DAC 6 amendment to the Directive on Administrative Co-operation in the Field of Taxation have been transposed into Czech legislation, pursuant to which certain tax planning arrangements undertaken in periods after 25 June 2018 may need to be reported to the Czech tax authorities (the first mandatory reports of certain cross-border arrangements meeting certain hallmarks typical for aggressive tax planning became due at the beginning of 2021).

The Czech Republic is a party to the Multilateral Convention to Implement (MLI) Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting. The MLI takes effect for relevant tax treaties as from 1 September 2020 (but new measures concerning withholding tax shall not apply before 1 January 2021). The Czech Republic has opted to apply only the minimal standards, i.e. principal purpose test (whereby treaty benefits may be denied if the purpose of an arrangement was to obtain undue benefit of the treaty) and mutual agreement procedure.

Income tax

New double tax treaties with Botswana, Ghana and Kyrgyzstan were duly ratified

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by the contracting states and became effective in 2020 and the tax treaty with Bangladesh in 2021. Their ratification enables the application of several income exemptions which were conditional upon the existence of such a treaty.

The most significant changes related to real estate enacted in 2020 and 2021 are as follows:

- Tangible assets acquired during the period from 1 January 2020 to 31 December 2021 which are categorised in the 1st depreciation group may be depreciated over a period of 12 months; assets categorised in the 2nd depreciation group may be depreciated over a period of 24 months (so called extraordinary depreciation).

- The minimum value threshold for the input cost of tangible fixed assets and technical improvements thereof was increased from CZK 40 thousand to CZK 80 thousand. For low-value assets the tax treatment follows the accounting treatment. The increased limit shall also apply to technical improvements.

- Tax loss carry back has been allowed under certain conditions.

Value added tax

No significant changes in the VAT area related to real estate have been implemented in 2020 and 2021.

Tax on the acquisition of immovable property

An amendment of taxation on the acquisition of immovable property is effective as of 1 November 2016.

The amendment has brought three key changes:

- The payer of the tax may not be determined by an agreement and is always the buyer;

- Abolishment of the concept of a guarantor for the payment of the tax as a result of the buyer being liable for the tax payment;

- Limitation of the exemption on the first acquisition of new buildings and units. It should now apply only to the buildings and units already completed or used, not under construction.

TAX SUMMARY

CORPORATE INCOME TAX AND CAPITAL GAINS

Corporate income tax (CIT) is levied on profit from all activities (including rental income) and from the management of all types of property, although there are some exceptions to this rule defined in the tax law. The corporate income tax rate is 19% (with the exception of pension funds where it is 0% and certain investment funds where it is 5%).

Capital gains are generally included in income and taxed at the same rate, including income from the transfer of shares in Czech companies or cooperatives. However, if at least 10% of the shares of a company have been held by a parent company for at least 12 months, income from the sale of the shares is tax exempt if the parent company is an EU resident company or a resident of Norway, Iceland or Liechtenstein and the subsidiary is a tax resident of an EU Member State or a non-

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EU Member State with which the Czech Republic has concluded a double taxation treaty (subject to certain conditions).

As of 1 January 2021, the Czech Republic has 92 double taxation treaties. As a rule, the right to tax capital gains is conferred on the state where the seller is resident. However, a number of double taxation treaties provide a special regime for capital gains if the shares being sold derive more than 50% of their value directly or indirectly from real estate (e.g. as in agreements with Australia, Cyprus, Egypt, Finland, France, Ireland, Canada, Sweden, and the USA). In such cases, the taxation right belongs to the state where the real estate is located. In some other cases the taxation right belongs to the state of residence of the company whose shares are being sold (e.g. under agreements with Germany, Israel and Saudi Arabia).

There are no corporate tax grouping provisions in the Czech Republic.

Tax depreciation

For tax purposes, either straight-line Czech tax law distinguishes between accounting and tax depreciation of fixed assets. Tax depreciation can generally be claimed on all types of fixed assets, except for land. For tax purposes, depreciation can be calculated by either a straight-line, an accelerated or extraordinary method. Once the depreciation is started and one of the methods is chosen, the method cannot be changed. Under the accelerated method (reducing balance), the level of annual depreciation is initially higher than that applicable under the straight-line method, but it gradually declines over the depreciation period. Extraordinary depreciation methods cannot be used for buildings.

The tax depreciation period for buildings is generally 30 years except for administrative buildings, shopping centers and hotels where the depreciation period is 50 years. Special rates apply in the year of acquisition. Tax rate for straight-line tax depreciation is usually 1.4% for the first year and 3.4% for the next years except for administrative buildings, shopping centers and hotels where tax rate is 1.02% for the first year and 2.02% for the next years. The coefficient for accelerated depreciation is 30 for the first year and 31 for the next years except for administrative buildings, shopping centers and hotels where the coefficient is 50 for the first year and 51 for the next years.

Certain assets attached to a building can be treated as separate movable assets for tax purposes and therefore can be depreciated over a shorter period.

Special provisions apply for the fixed assets used to produce solar energy of (i.e. solar power plants). These fixed assets must be depreciated on a straight-line basis over 240 months and the depreciation must be claimed (unlike depreciation on most other assets).

Special adjustments are made for similar assets acquired under finance lease agreements.

The category of intangible assets for tax purposes was repealed and the accounting treatment of intangibles is decisive, i.e. amounts recorded as accounting expenses due to depreciation

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of intangible assets are treated as tax deductible expenses.

The taxpayer can voluntarily not claim CIT deductions for tax depreciation. This is a generally acceptable tax planning measure which is commonly undertaken by companies which incur tax losses and face risk of expiry due to limited permissible period for carry forward.

Tax losses

Tax losses can be carried forward for 5 years. Furthermore, tax losses of up to CZK 30 million incurred in any year ending on or after 30 June 2020 may be carried back to be utilized in the prior 2 years.

The tax law prevents the use of tax losses where there is a substantial change in the persons directly participating in the company's equity or management and less than 80 percent of the company's income in the year in which the loss is to be used is derived from those activities which were carried on in the year when the loss arose. A change in the ownership of more than 25 percent of the registered capital or voting rights is always a substantial change. A taxpayer can apply to the authorities to confirm the availability of the carried forward losses after the end of the taxable period in which the losses are to be used.

When losses are transferred on a merger, demerger or spin-off, they can only be used against the profits derived from the activity that generated them. Where an activity is transferred through a contribution of an enterprise, the losses transferred can only be used against the profits of the activity transferred. There is no restriction on the use of the losses by the transferee.

Thin capitalization and ATAD

The thin capitalization provisions act to restrict the deductibility of interest where the borrower has insufficient equity. Financial expenses connected with credits, loans and other debt instruments (e.g. cash-pooling) are non-deductible if:

- total loans, credits and other instruments received from related parties (including back-to-back financing) exceeds four times the equity (six times in the case of banks and insurance companies);
- interest or other returns is dependent on the debtor's profits (e.g. profit participating loan);
- payable to an individual who does not keep double-entry books, it can be deducted only when paid.

In addition, following implementation of ATAD the deductibility of excess borrowing costs (which includes interest, finance lease payments, capitalized interest or its amortization, hedging arrangements relating to borrowings, and certain foreign exchange losses), are subject to an overall cap, such cap being the higher of 30 percent of the taxpayer's earnings before interest, taxes, depreciation and amortization or CZK 80 million. The rules allow for carry forward of amounts for which deductions were restricted, so that they can be offset in future periods, subject to the same limitation.

Also following implementation of ATAD, as from 1 January 2020 Czech law counteracts cases of hybrid mismatches, which may arise in connection with loan financing, in certain cases where they would otherwise result in double

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deduction without dual inclusion of related expenses or in deduction without inclusion. The rules apply also to cases of imported mismatches, i.e. where a hybrid mismatch may exist between two entities that are not Czech taxpayers but where the benefit of the mismatch is 'imported' into the Czech Republic. The Czech rules would disallow the imported benefit in cases where neither of the relevant non-Czech jurisdictions counteracted it.

Interest-free loans

According to the current interpretations, the tax base of the borrower will not be affected as a result of an interest-free loan provided by a direct shareholder.

WITHHOLDING TAX

Under Czech tax legislation, a 15% withholding tax applies to dividends, as well as to interest and royalties paid to foreign entities. However, a 5% withholding tax applies on finance lease payments.

The rate may be reduced or eliminated under double tax treaties or under EU directives. On the other hand, an increased 35% withholding tax rate applies to income paid to residents of countries which have not signed a double tax treaty with the Czech Republic and where no arrangement is in place for the exchange of information on tax matters.

Dividends

Withholding tax applies on all dividends paid by Czech companies.

Under the EU Parent-Subsidiary Directive, a dividend paid by a Czech subsidiary to a parent company that is tax resident in an EU member state may be exempt from withholding tax. These provisions also apply to dividends paid between Czech companies and those paid to Switzerland, Norway, Iceland and Liechtenstein. A parent and subsidiary qualify for this exemption if a minimum shareholding of 10% is maintained for an uninterrupted period of 12 months unless one of the shareholders in question:

- is exempt from corporate income (or a similar) tax; or
- may claim a corporate income tax exemption or corporate income tax relief; or
- is subject to corporate income tax at a rate of 0%.

Interest and royalties

Under the EU Interest and Royalties Directive, qualifying interest and royalty payments between associated enterprises which are tax resident in EU member states may be exempt from withholding tax. This also applies to recipients in Switzerland, Norway, Iceland and Liechtenstein.

Residents of other EU and EEA countries have the option to file a tax return for income subject to withholding tax (e.g. interest payments, royalties, income from freelance work), and to claim a deduction of related expenses. This may result in a reduction in the tax burden as withholding tax is calculated on a gross basis.

Reporting duty relating to payments abroad

Taxpayers should report not only payments to foreign entities from which tax was withheld but also transactions

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generally liable to withholding tax but exempt from tax in particular cases, either under national legislation or the relevant double taxation treaty.

This duty includes dividends, royalties, interest paid abroad, and gratuitous income.

Untaxed income payments flowing abroad have to be reported if such income exceeds CZK 300,000 per month. The report should be submitted once a year, always by the end of January of the following year. The reporting of income taxed by withholding tax should be submitted on a monthly basis.

REAL ESTATE TAX

Real estate tax comprises land tax and building tax. The property in question must be located in the Czech Republic and recorded in the Czech Real Estate Register. This tax is calculated by multiplying the area in square meters by the tax rate factor.

The rate varies according to the type and location of the property. The basic rates of tax applicable to buildings may be increased depending on the number of floors, the prevailing activity for which the building is used and the location. Municipalities can also issue a decree increasing the basic tax rate or coefficient.

Improved land surfaces are regarded as a separate class of real estate on which a special rate of tax applies.

REAL ESTATE TRANSFER TAX

A 4% real estate transfer tax was applicable until 2019 but was abolished in 2020. No real estate transfer tax is paid on acquisitions of real estate (buildings and land) where the ownership change was registered in the Czech Real Estate Register after December 2019.

VALUE ADDED TAX

The Czech Republic levied value added tax (VAT) at rates of 10%, 15% and 21%. Most goods and services are subject to the standard rate of 21%.

The sale of residential property that qualifies as social housing is subject to15% reduced VAT rate. To qualify as social housing, an apartment should have a floor area of 120 square meters or less and the floor area of houses should not exceed 350 square meters. Such areas also include the area physically beneath the walls.

According to the Civil Code, a building is an integral part of the land on which it stands. Therefore, it is no longer possible to treat the sale of land with a building on it as two separate transactions for VAT purposes and the whole transaction is considered as a sale of land even if the price is split into two parts.

In principle, the sale of land with a building on it is considered as a transaction subject to the standard VAT rate of 21% unless 5 years have passed from the date when the first consent to use the building was granted, or from the date when the building was brought into use. The 5-year period also counts from the date of any substantial change made to the building in question. The sale of building land is not VAT exempt and it is always considered as a transaction subject to VAT.

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The taxpayer can opt to tax the sale of the land and/or the building after expiry of the period. If the sale is to a Czech VAT payer, the VAT may be applied after the buyer's consent and the supply is subject to the "reverse charge" mechanism.

A change in the level of exempt sales within 10 years of acquisition of the building (or improvement of a building) may lead to a claw back of previously recovered input VAT.

The lease of buildings and land is generally VAT exempt except the short-term lease, lease of the parking lots, lease of the safety deposit boxes or lease of the machinery, but the lessor can opt to charge 21% VAT rate on a lease with a tenant who is registered for VAT (the option cannot be applied on lease of residentials – flats or buildings).

Groups of related companies may form a VAT group.

Construction work and building assembly services between two Czech VAT payers are subject to the reverse charge regime. As a result, the duty to report and pay VAT rests with the recipient of the service.

Sale of land (other than building plot) without a structure on it is generally exempt from VAT. As of 1 January 2016, a taxpayer can opt to tax the sale of the land. If the sale is to a Czech VAT payer, the VAT may be applied after the buyer's consent and the supply is subject to the reverse charge mechanism.

The sale of a building plot is subject to a standard 21% VAT rate.

VAT ledger statement report

The Czech VAT payers are required to file the VAT ledger statement report. The VAT ledger statement report must be submitted electronically by the 25th day of the following month at the latest.

A VAT ledger statement reports on individual local sales and purchases as well as intra-community acquisitions of goods or services including information such as tax bases, VAT applicability, dates of taxable supply, VAT numbers of suppliers/customers, and evidence numbers of the relevant tax documents, etc.

ADMINISTRATION OF TAXES

Tax administration is governed mainly by the Tax Code with specific procedures covered by other legislation.

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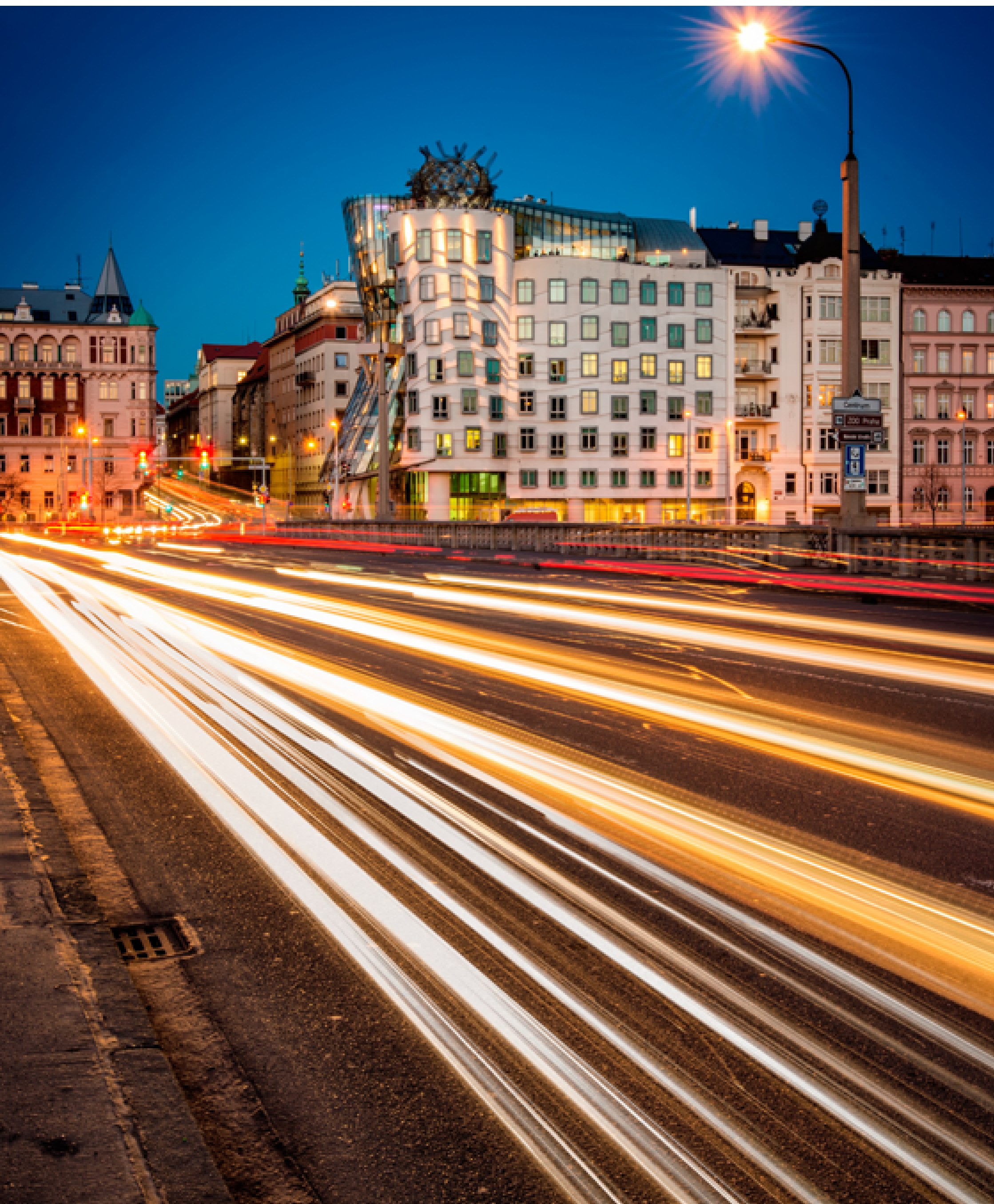

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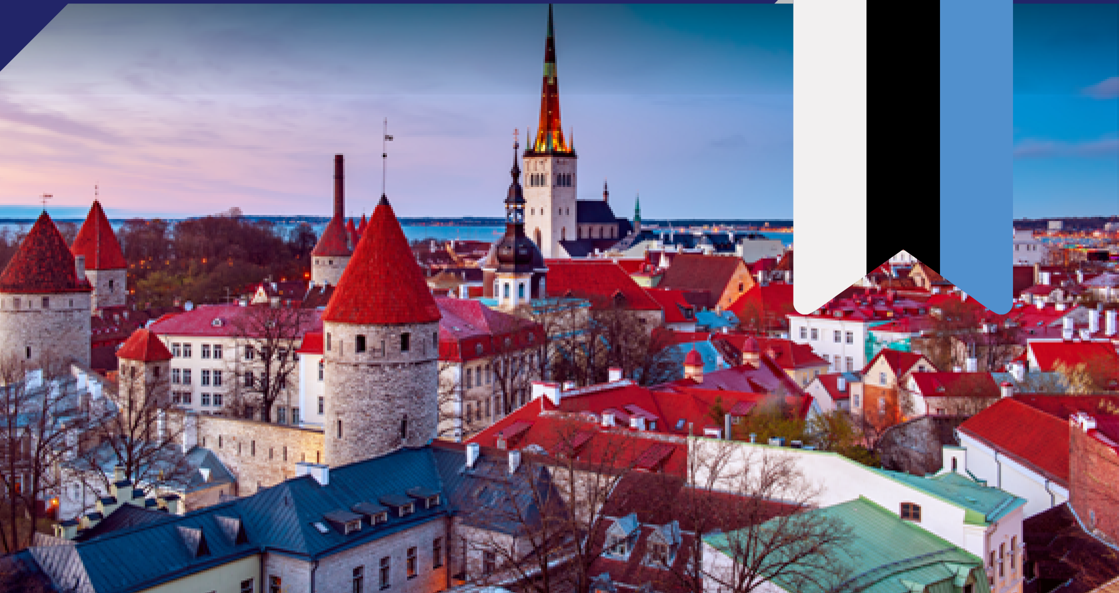
Estonia



GENERAL

The sale of immovable property and the leasing or letting of immovable property or parts of them are generally tax exempt when arranged as supply without credit according to the Estonian Value Added Tax (VAT) Act. Tax exemption applies neither for the supply of buildings before their first occupation, nor for their parts, nor for significantly renovated buildings (nor their parts), nor for building land.

However, the taxpayer is entitled to use optional taxation, except for the case of residential housing, as long as the tax authorities have been notified in writing beforehand. The notice regarding optional taxation of the leasing or letting of immovable property or parts thereof is binding for 2 years.

CORPORATE INCOME TAX AND CAPITAL GAINS

The corporate tax system in Estonia differs from that used by many countries. In Estonia, corporate income tax is not levied when profit is earned but when it is distributed. In 2021, the standard tax rate is 20% (calculated as 20/80 of the net distribution). Under the regulation in force from 1 January 2018, a profit distribution that is smaller than, or equal to, the past three years' average profit distribution which has been taxed in Estonia will be subject to income tax of 14% (calculated as 14/86 of the net distribution).

Taxable expenses and payments are taxed at the rate of 20/80 as well.

There is no separate tax on capital gains, but proceeds from the disposal of fixed assets and intangibles are added to the

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taxpayer's regular business income, so that corporate income is taxable only upon distribution in the form of a dividend.

A non-resident is obliged to pay income tax on income derived from the transfer of property if the immovable property is located in Estonia. In addition, income from the transfer of a shareholding in a real estate company or of the right of claim or real right related to real estate located in Estonia is subject to taxation. Generally, the tax treaties concluded between Estonia and other countries grant the right of taxation of real estate or rights related to real estate to the country where the real estate is located.

Tax depreciation

As Estonian companies pay income tax upon distribution of profit, corporate income tax depreciation is not relevant in Estonia.

Tax losses

Tax losses are not recognized nor do they have any effect on corporate taxation.

Thin capitalization

The deduction of borrowing costs from the taxable base is limited if the borrowing costs are deemed excessive (and are not subject to any exceptions). Borrowing costs are considered excessive if they exceed 30 percent of earnings before, interest, tax depreciation and amortization (EBITDA) and the borrowing costs exceed EUR 3 million in a single financial year. There are also certain exceptions to which limitation is not applicable.

WITHHOLDING TAX

Dividends

In general, there is no withholding tax (WHT) on dividends. Companies which distribute profit and pay 14% CIT on it are additionally obliged to withhold income tax of 7% from dividends paid to resident and non-resident natural persons. Tax treaties may provide lower withholding tax rates.

Interest, royalties and intangible services

Interest

From 2014, income tax is charged on interest received from the holding (in a contractual investment fund or other pool) of assets, where no less than 50% of the property part of those assets, at the time of the transfer or for up to 2 years prior to the transfer, was or is directly or indirectly made up of immovable real estate or movable structures located in Estonia and in which the non-resident had a holding of at least 10% at the time of transfer.

Royalties

Patent royalties, including payments for the use of commercial, scientific or industrial equipment, paid by resident companies to non-resident ones, are subject to income tax withholding. The rate is 10%, unless a treaty provides for a lower rate. However, in order to apply the treaty rates, the payer should hold a certificate of tax residence in the name of the recipient party.

Under the domestic law implementing the provisions of the EU Interest and Royalties Directive and the EU-Switzerland Savings Agreement,

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outbound royalty payments are exempt from WHT, provided that the recipient company is an associated company of the paying company and is resident in another EU Member State or in Switzerland, or if such a company's permanent establishment is situated in another member state, or in Switzerland. Two companies are "associated companies" if one of the following conditions is met:

- one of them directly holds at least 25% of the capital of the other; or
- a third EU or Swiss company directly holds at least 25% of the capital of the two companies.

In both cases, a minimum holding period of 2 years is required. The exemption is not granted if the payment in question exceeds a similar payment between non-associated entities.

Intangible services

A 10% WHT rate applies to fees paid to a non-resident for services rendered in Estonia. The tax rate is reduced to 0% under any double taxation treaty to which Estonia is a party. However, in order to apply the treaty rates, the payer should hold a certificate of tax residence in the name of the recipient.

Payments to legal person located in a non-cooperative jurisdiction for tax purposes for services rendered to an Estonian resident are subject to a 20% WHT, irrespective of where the services were provided or used.

A 20% WHT rate applies to rental payments made to non-residents and resident individuals.

REAL ESTATE TAX

The only property tax imposed in Estonia is land tax. Taxable persons are the owners or, in specific circumstances, the users of land. Tax is levied on the market value of all land unless specific exemptions apply. The tax rate is established by the municipal council and may vary between 0.1% and 2.5% of the taxable value of the land. Land beneath or directly around a domestic residence is tax exempt.

TAX ON CIVIL LAW TRANSACTIONS (PCC, TRANSFER TAX)

Transactions involving immovable property are subject to a state fee the amount of which depends on the value of the transaction. For transactions of more than EUR 639,120, the fee is fixed at 0.16% of the value, up to a maximum value of EUR 2560.

VALUE ADDED TAX

General provisions regarding real estate

The sale of immovable property and the leasing or letting of immovable property or parts thereof are generally tax exempt if they are supplies without credit. Tax exemption does not apply for the supply before the first occupation of buildings or their parts, or for significantly renovated buildings or their parts, or for plots if there are no construction works on such plots.

However, the taxpayer can opt to charge/pay VAT, except in the case of residential housing, as long as the tax authorities have been notified in writing beforehand. The notice regarding optional taxation of the leasing or letting of immovable property or parts thereof is binding for 2 years.

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The standard VAT rate in Estonia is 20% (for land and building sales) and 9% (for accommodation services).

Place of supply

Generally, the place of supply of services to a taxpayer registered for VAT purposes in another EU country is the place where the purchaser is registered. Services provided to a third country taxable person are subject to taxation in the country where the purchaser has established its business. In cases where the services are provided to a non-business entity, the place of supply of services is usually where the service provider was originally registered.

However, in the case of services that are regarded as services related to real estate, the place of supply of such services is where the real estate is situated. Also, the supply of immovable property is taxable in the country where the real estate is situated.

Registration of a foreign person for VAT purposes in Estonia

If a foreign person who is not registered for VAT purposes in Estonia performs a VAT taxable supply in Estonia, that person is required to register in Estonia for VAT purposes if:

- the foreign person has no fixed establishment in Estonia and no tax is payable upon the acquisition of goods by an Estonian customer; or
- the foreign person has a fixed establishment which intervenes/participates in the supply in Estonia and where supplies during a calendar year exceed the threshold of EUR 40,000, excluding the transfer of fixed assets.

The foreign person is required to submit an application for registration for VAT purposes to the tax authority within 3 working days as of the date on which the registration obligation arises.

Value added tax returns and EC Sales Lists

Estonian VAT payers submit VAT returns and EC Sales Lists monthly. The EC Sales List includes data on supplies of goods and services to VAT registered persons in other EU countries, i.e. supplies which are subject to taxation in the buyer's country under the so-called reverse charge mechanism. Services related to real estate in Estonia are subject to Estonian VAT and therefore are not to be reported in the EC Sales List.

VAT returns and the EC Sales List should be filed by the 20th day of the following month.

VAT refunding under domestic law

If VAT calculated by the Estonian taxpayer during a taxable period is less than the amount of deductible input VAT in the same period, the overpaid amount of VAT is refundable to the taxpayer. The standard refund period is 30 days.

The tax authority may, in connection with checking a claim for refund, extend the term for fulfillment of the claim by a reasoned decision for up to 90 calendar days, if there is reason to believe that it may be impossible to reclaim the sum paid upon satisfaction of the claim for refund. The term for fulfilling a claim for refund may be extended for up to 30 calendar days at a time.

There is no right for VAT deduction if the taxable person paid the input VAT

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when paying for goods or services relating to the reception of guests, or the provision of meals or accommodation for employees of the taxable person.

This provision does not apply to the deduction of input VAT which is paid for accommodation services received during a business trip. In addition, there is no right to deduct input VAT on purchases directly related to exempt supply or purchasing of items for non-business use.

Foreign VAT refund under Directive 2008/9/EC

Since 1 January 2010, foreign persons may claim input VAT incurred in Estonia by filling in reclaim forms obtainable electronically from the local VAT authority (where a company is registered). Value added tax refund applications have to be filed electronically. The Estonian Tax Authority notifies relevant parties of the acceptance or rejection of the application within 4 months or, upon the request of additional information – e.g. an invoice or import documentation – within 6 months of the receipt of the application. Upon request of further additional information, the Tax Authority notifies applicants of the decision concerning the refund of VAT within 8 months of the receipt of the application.

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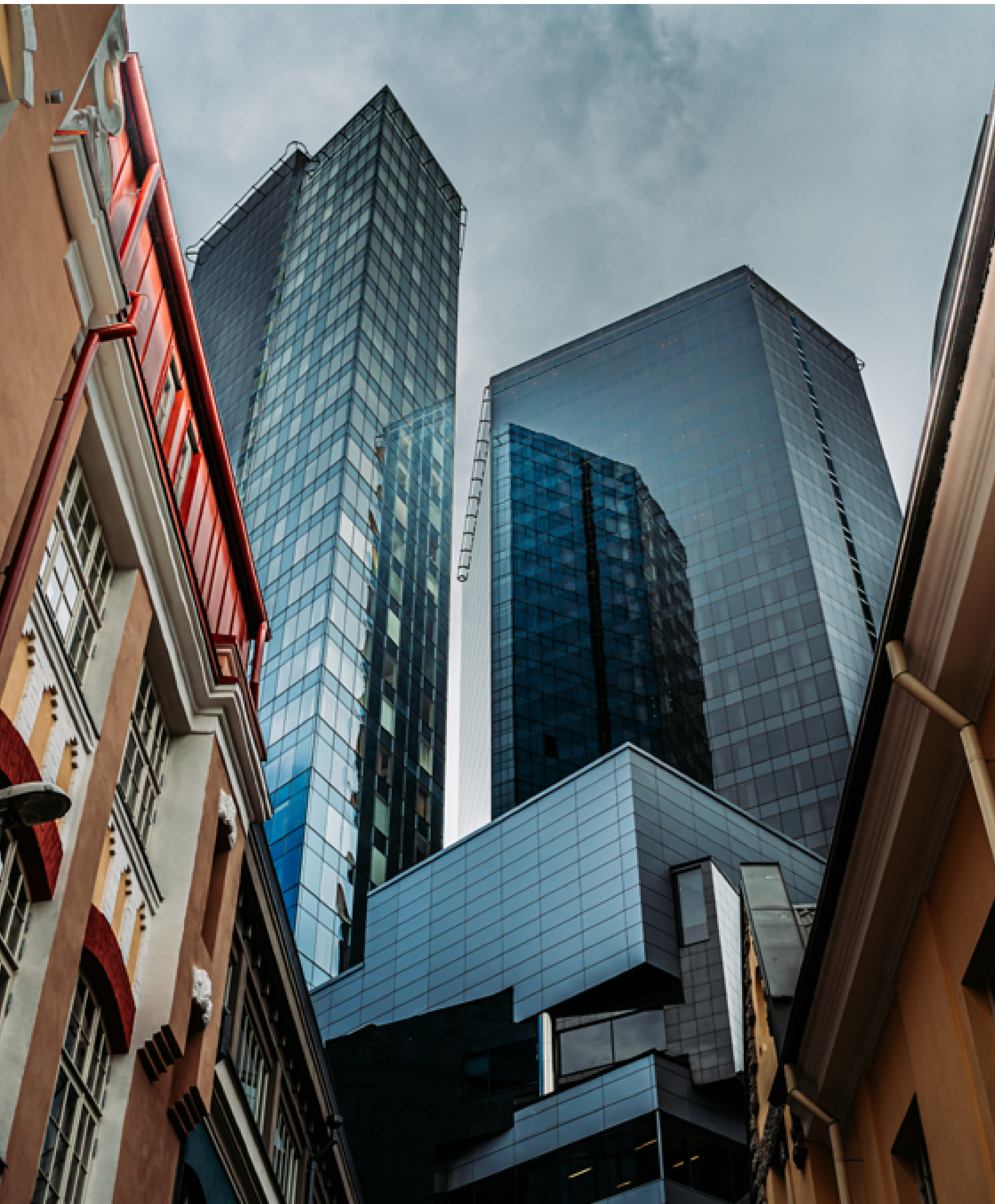

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Hungary

GENERAL

In Hungary, as of 2012, the value added tax (VAT) rate was increased to 27% (up from the previous 25%). As a main rule, real estate rental and the sale of real estate older than 2 years are exempt from VAT, but VAT-able treatment may be opted for upon the taxpayer's request. In the case of opting for VAT-able treatment, the real estate rental is VAT-able according to the general rules, while the sale of real estate (older than 2 years) can be VAT-able under the rules of the established domestic reverse charge mechanism.

The share purchase is VAT exempt; however, under certain circumstances, the purchase of shares (in companies owning real estate) may be subject to transfer tax and the capital gain achieved by foreign entities via selling the shares in real estate companies may be subject to Hungarian corporate income tax (CIT).

Since 2011, a new Real Estate Investment Trust (REIT) regime has been introduced, under which CIT and local business tax exemption is available for entities fulfilling the relevant conditions.

CORPORATE INCOME TAX

Rental income

Effective since 2017, rental income is subject to 9% corporate income tax.

With respect to tax deductible items, only costs and expenditures which are not related to the core business activity of a company are not deductible in Hungary for corporate income tax purposes. With respect to "normal" business costs, there is no specific limitation. Availability

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of robust and complete documentation is important to support the tax deductibility of business costs.

Certain consulting and financing expenses (e.g. interest) which relate directly to units of property prior to capitalizing the asset should be taken into account and capitalized as part of the investment value. Amounts spent on future reconstruction/ enlargement costs may also be capitalized as part of the real estate.

Tax depreciation

In the case of buildings, generally 2% per annum depreciation is acceptable according to the corporate income tax regulations. In the case of real estate subject to rental, the accepted depreciation rate is 5% per annum. The value of land cannot be depreciated.

Interest deduction limitation

In line with the provisions of ATAD, thin capitalization rules were replaced by a result-based calculation method for determining the non-deductible interest in a given tax year as of 1 January 2019. Under the rules on interest deduction limitation, the CIT base has to be increased by the portion of the net financing costs exceeding 30% of the fiscal year's tax EBITDA (i.e. EBITDA calculated for tax purposes) or HUF 939,810,000, whichever is higher. At the same time, this amount can be reduced by any unused interest deduction that accrued from previous financial years.

However, a grandfathering rule has been also introduced, which states that in the case of loan agreements concluded prior to 17 June 2016 the old rules (i.e. thin capitalisation debt-to-equity approach) could be applied until there is no increase in the amount of debt or the maturity date is not prolonged.

Minimum income (or minimum tax base)

Resident taxpayers and foreign entrepreneurs (PEs) can be subject to corporate income tax even if their taxable base for corporate income tax purposes is negative. The minimum tax base is 2% of total revenues modified by certain items, e.g. relating to preferential transactions; but these cannot be decreased by the cost of goods sold or services intermediated from 1 January 2015. If the higher of the tax base or the accounting pre-tax profit does not reach the minimum tax base, then the minimum tax base should be considered as the tax base.

However, taxpayers may choose not to pay the tax on the minimum tax base even if they were obliged to be based on the above calculation, but they can elect to file a specific declaration to the tax authorities stating that their tax base did not reach the required minimum income level. The tax authorities specifically focus on those companies which file such a declaration when they decide whom to audit.

The minimum tax base rule does not apply in the year of foundation, nor in cases where certain natural disasters have caused a loss.

Loss carry forwards

As from 1 January 2015, a general 5-year time limitation has been introduced in the case of tax losses arising in 2015 or later. Tax losses arising up until 2014 may be utilized (by applying the rules in force on 31 December 2014) until the end of the tax year but no later than in 2030.

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From 2010, no permission needs to be obtained from the tax authority in order to carry forward losses[1]. Since 1 January 2010 (and in some cases for 2009), financial institutions have also been able to carry forward losses.

As of 2012, losses carried forward from previous periods may only offset half the positive tax base (calculated without the utilized loss). Accordingly, the effective utilization of losses is expected to cover double the timeframe previously seen as necessary.

Effective from 1 January 2012, in the case of a transformation, available losses may be utilized if, as a result of the transformation, no new majority shareholder is introduced in relation to the company and where income would be realized at least from one of the activities (not including holding activities) performed by the predecessor over the following 2 tax years commencing from the date of transformation. From 2013, if the successor is terminated without legal succession or if the predecessor's activities include significant holding activities, this requirement for realizing revenue is not applicable.

As of 1 January 2014, in the case of a merger, the successor will be entitled to utilize the losses arising at the predecessor in the tax year of the merger first in its tax year including the day of the merger. This rule can already be applied with regard to 2013.

Furthermore, losses carried forward cannot be utilized if majority interest is acquired in a company where the parties were not affiliated in the 2 tax years prior to the acquisition. This prohibition should not be applied if a portion of the shares of the acquirer or acquired company was introduced to a recognized stock exchange prior to the acquisition, or if the business activity of the acquired company will be continued after the acquisition over the next 2 tax years commencing from the date of acquisition (except if the company is liquidated without legal succession), and if the acquiring company will realize income from this activity and where the activity will not be significantly changed.

As of 1 January 2015, there is a further restriction that only those losses acquired may be utilized by the successor which are attributable to the original activity.
A proportional adjustment should be made if new activities are pursued. This provision may be ignored if the predecessor's sole business was asset management.

WITHHOLDING TAX

Withholding tax (WHT) rules were discontinued on 1 January 2011[2].

VALUE ADDED TAX

The sale of buildings is subject to VAT if the transaction occurs:

1) before the first occupation; or

2) after the first occupation, but if less than 2 years has elapsed between the date of the occupancy permit and the date of sale.

[1] Before that, if the taxpayer had a negative profit before establishment of its tax position and had tax losses for 2 consecutive years (after the initial start-up period), or the total revenue of the company in the tax year did not exceed 50% of the total costs and expenses, then the carrying forward of losses was subject to the granting of permission from the tax authority.

[2] Between 1 January 2010 and 31 December 2010, withholding tax at a rate of 30% was payable on royalties, interest and certain service fee payments granted to foreign entities. Exemption from WHT was only possible for foreign companies that were tax residents in countries having a double taxation treaty with Hungary. Having only their seat in such countries was not sufficient for exemption.

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In case of sales after 2 years of the issuance of the occupancy permit, the sale is by default exempt from VAT. However, the taxpayer can opt for taxation. In such case, the sale is generally subject to reverse charge (i.e. the customer should account for VAT). The taxpayer has to retain that choice for 5 years.

If the taxpayer opts for taxation, the taxpayer has to notify the tax authority by the end of the preceding tax year. Since 1 January 2010, the taxpayer has also been able to opt for taxation only for the sale of non-residential real estate.

Rental activity is exempt from Hungarian VAT, but there is a taxpayer option to charge the standard 27% VAT on rental fees. Since 2008, the VAT status of residential and non-residential real estate rental can be treated separately.

The VAT exempt method allows entities not to charge VAT on property rental – however, in that case, input VAT cannot be deducted or reclaimed. Companies have to submit a request to the Tax Authority by a statutory deadline if they wish to apply standard rated VAT. If such a choice is made, the VAT treatment of the rental activity cannot be changed for 5 years.

The domestic reverse charge system is applicable to construction and other similar works that are subject to authorization by the competent building authority. From 1 January 2015, the domestic reverse charge scheme is broadened to staff leasing and employee leasing.

As of 1 January 2016, the regulations in connection with periodic settlements ("continuous performance") changed. As per the general rule, the date of the performance of business transactions subject to the rules of periodic settlement is the closing day of the settlement period as opposed to the previously applicable due date of payment.

In contrast to the above general rule, two additional special regulations were also introduced as of 1 January 2016:

- if the date of issuing an invoice and the due date of payment occur before the last day of the period, then the date of issuing the invoice is the date of supply;
- if the due date of payment occurs after the last day of the period, then the date of supply is the due date of payment, but not later than the 60th day following the last day of the period.

All taxpayers with Hungarian VAT numbers are obliged to report to the Hungarian Tax Authority details about which invoicing software they use, by submitting a special form. The invoicing software should be capable of providing the Tax Authority with invoicing information in a standard format. From 4 January 2021, the rules on the obligation to report invoices have changed in Hungary. All invoices, including correction and cancellation invoices, must be provided to the Hungarian tax authority directly from the invoicing system, online in real time.

LOCAL BUSINESS TAX

If real estate is recognized as stock in the books of a company at the time of an asset deal, local business tax should be paid; the maximum tax rate is 2%. Rental income is also subject to local business

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tax. In order to calculate the amount of the local business tax base, the cost of goods sold, the amount of mediated services, the value of services provided by subcontractors, material costs and direct R&D costs can be deducted from the net sales revenue.

Effective from 1 January 2013, the deductible value of the cost of goods sold and mediated services is limited for local business tax base calculation purposes for entities with annual net sales revenue of over HUF 500 million. Net sales revenue ranges have been determined where certain proportions of the cost of goods sold and mediated services are allowed to be deducted, limited to decreasing percentages of the revenue (the following thresholds have been introduced in the revenue ranges: up to HUF 500 million: 100%; HUF 500 million to HUF 20 billion: 85%, HUF 20 billion to HUF 80 billion: 75%, over HUF 80 billion: 70% is applicable).

The cost of goods sold and mediated services relating to export sales revenue is 100% deductible.

A consolidated local business tax base establishing method has been introduced for taxpayers qualified as related parties for corporate income tax purposes as result of demerger took place after 1 October 2016. When determining the local business tax base, the figures for the related parties need to be taken into account proportionally, based on the period of the existence of the related party status.

Please note that local business tax amounts are deductible from the corporate tax base only once as of 1 January 2010. As part of pre-tax profit, it is accounted as a cost under Hungarian GAAP.

CAPITAL GAINS ON SHARE DEALS

If the shares of a Hungarian entity are sold by a non-Hungarian entity, the gain is not taxable in Hungary. However, such capital gains are taxable in Hungary from 1 January 2010 if shares of a real estate company are transferred. A company will be considered to be a "real estate company" if the following requirements are met:

1) more than 75% of its total assets on a consolidated and/or stand-alone basis are real estate units located in Hungary; and

2) at least one of its shareholders is resident in a state with which Hungary has not concluded a double taxation treaty, or in a state where the double taxation treaty allows such gains to be taxed in Hungary.

As of 1 January 2014, to determine whether a company qualifies as a real estate holding company, the book value of the real estate units should be considered instead of their market value effective on the balance sheet data.

According to the Act on CIT, tax liability for shareholders of a real estate company will arise when the shareholder sells, provides free of charge or as an in-kind contribution the shares of such a company to another party. The tax base will be the difference between the income from the sale of the shares and the acquisition costs including expenses related to the shares during the shareholding period.

The tax rate will be 9%. Deciding whether or not a taxpayer qualifies as a real estate company could give rise to considerable administrative work. A further complicating factor is that the real

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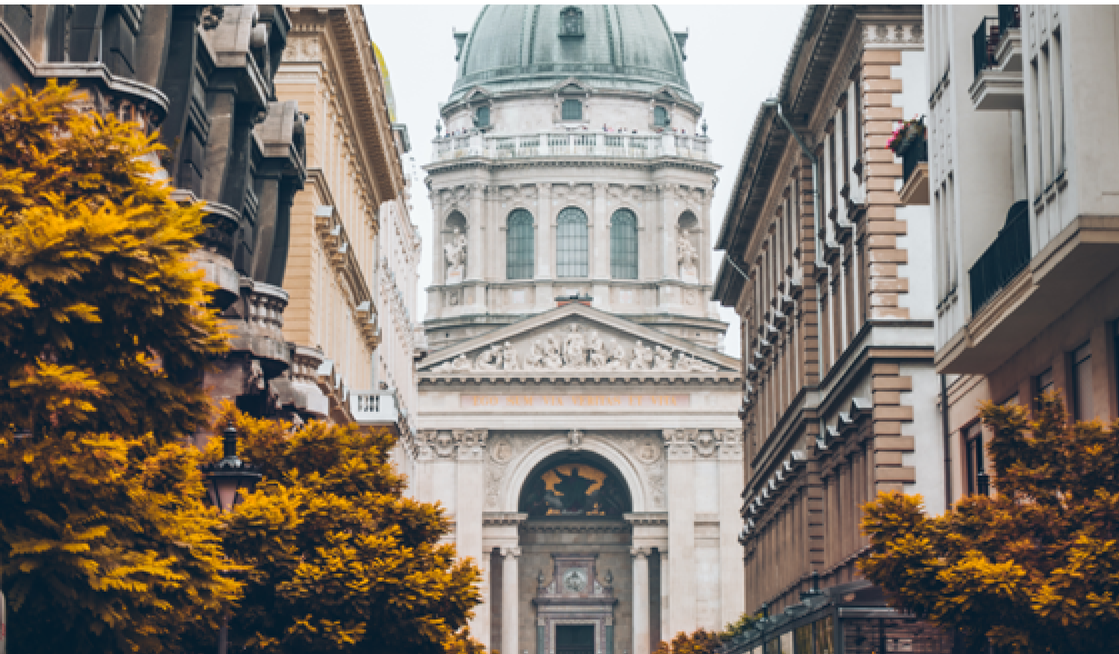

estate of affiliated undertakings has to be considered too.

ASSET DEALS

If real estate is sold as an asset, the gain is subject to corporate income tax as part of the normal tax base at a rate of 9%.

PROPERTY TAX

Hungarian companies may be subject to local land tax or local building tax.

The maximum rate of local building tax may be 3.6% of the fair market value of the building owned or HUF 2,018 per square meter (approx. EUR 5.5 per square meter). The maximum rate of local land tax may be 3% of the market value of the plot or HUF 367 per square meter of land (i.e. approx. EUR 1 per square meter). The applied method of tax base calculation depends on the local municipality[3].

The tax liability arising is paid in two installments (whose deadlines are 15 March and 15 September). This tax may be levied by the local municipalities at their own discretion.

REAL ESTATE TRANSFER TAX

Until 2010, by purchasing the shares of a Hungarian entity, no VAT or real estate transfer tax (RETT) liability would arise in connection with the transaction.
Only minor procedural costs would

[3] Please note that the above maximum rates may be modified by changes in the consumer price index. For 2016 the maximum rate of building tax is HUF 1,852,1 per m2 and the maximum rate of land tax is HUF 336,7 per m2.

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be payable to the Hungarian court of registration to register new shareholders.

However, since 1 January 2010, transfer tax liability has been payable in cases of the acquisition of shares of companies that own real estate. The liability arises at the time when the direct or indirect ownership (through the owner's related parties) of such company reaches 75%.

However, from January 2014, the definition of real estate holding company was amended similarly to the Act on CIT. According to this, a company qualifies as a real estate holding company,

- if the book value of the real estate presented in the balance sheet reaches 75% of the total assets, or
- if the entity owns 75% shares (directly or indirectly) in another company which has a real estate to total assets ratio of 75%.

From January 2015, beside cash and financial claims, accrued assets and loans should not be considered when calculating the amount of total assets either. As of 10 July 2021, the movements of real estates (sale, purchase, etc.) between the balance sheet date and the date of transfer tax liability should be considered during the qualification of real estate holding company. In addition, an important change is that the acquisition of shares in real estate holding companies is subject to transfer tax payment liability irrespective of the company's main activity indicated in the company register.

In the case of acquisitions of real estate in Hungary, the buyer is liable to pay stamp duty on the property, based on the market price of the property. It is important to note that based on a recent court case, the basis of the stamp duty liability should be the market value exclusive of VAT.

The standard rate of stamp duty is 4%, for the acquisition of real estate property or shares of a real estate owning company 4% up to HUF 1 billion of the value of the real estate, and 2% for the value above that, but with the maximum stamp duty liability of HUF 200 million per unit of real estate.

Furthermore, the transfer of real estate and the transfer of shares in a real estate holding company between related parties is exempted from transfer duty under certain conditions.

In special cases, lower stamp duty may be applicable:

- The stamp duty rate is 3%/2% if the purpose of the acquisition of the property is resale/finance leasing and in the year prior to the purchase, more than 50% of the buyer's sales revenue arose from the resale of property/ finance leasing, or if the buyer is licensed by the Hungarian Financial Supervisory Authority to perform financial leasing. Moreover, the buyer must declare that the property will be either sold within 2 years, or leased, with the condition that the lessee would eventually buy the property. (The 3% tax rate is applied if the company undertakes to sell the property within the subsequent 2 years. The 2% rate is applicable if the company also undertakes that the subject of the sale contract will be realized within the

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following 2 years.) Special limitations (payment liability of the double amount) are applicable if the above conditions of the reduced rates are, in the end, not met.

- With regard to plots of land, if the buyer of the plot makes a declaration that he will build residential property on the purchased plot within 4 years, stamp duty exemption may be obtained (as long as the 4-year deadline is met).

REAL ESTATE INVESTMENT TRUST

A new Real Estate Investment Trust (REIT) regime was introduced in 2011. Public limited companies with a minimum starting capital of HUF 5 billion, registered (at the request of the company) with the Tax Authority are eligible for REIT status if the conditions set out by the legislation are met.

The activities of a REIT entity or its 100% subsidiary project companies (SPV) are limited to the following, within and outside the territory of Hungary:

- sale of one's own real estate;
- rental and operation of one's own real estate;
- property management; or
- asset management..

The main advantages of a Hungarian REIT are the following:

- A corporate income tax exemption is available for the REIT and at SPV level (including gains on asset deals);
- Exemption from local business tax at REIT and SPV levels (including gains on asset deals) is introduced;
- The transfer tax rate is 2% (although with no upper cap);
- The SPV can have its seat outside of Hungary;
- The current SPV entities may be converted into a REIT in a tax neutral way (including transfer tax exemption);
- The REIT entity is able to hold shares in a project company.

Limitations and obligations regarding the operation of a REIT:

- REIT entities have an obligation to dividend out 90%, or for SPVs 100%of their profits each year. There are mitigating rules in case free cash would not match the dividend obligation amount;
- A starting capital of HUF 5 billion is required;
- At least 25% of the shares would have to be split among at least 20 minority shareholders (below 5% for each);
- Share acquisition by banks and insurance companies would be limited to 10% in a REIT;
- The entity should follow strict registration obligations administered by the Tax Authority;
- The total debt to real properties ratio would be a maximum of 65% for REITs, and 70% for SPVs;

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- None of the real estate's or REIT ownerships' value can exceed 20% of the balance sheet total;
- A compulsory quarterly market valuation of the property portfolio is required.

Further notes

Since 9 July 2009, loan debt assumptions have been considered as exempt from gift duty if the assumption is carried out between two legal entities. Before that time they were subject to gift duty of 40%.

According to mnb.hu, the exchange rate as at 25 October 2021 was EUR 1/HUF 364,46.

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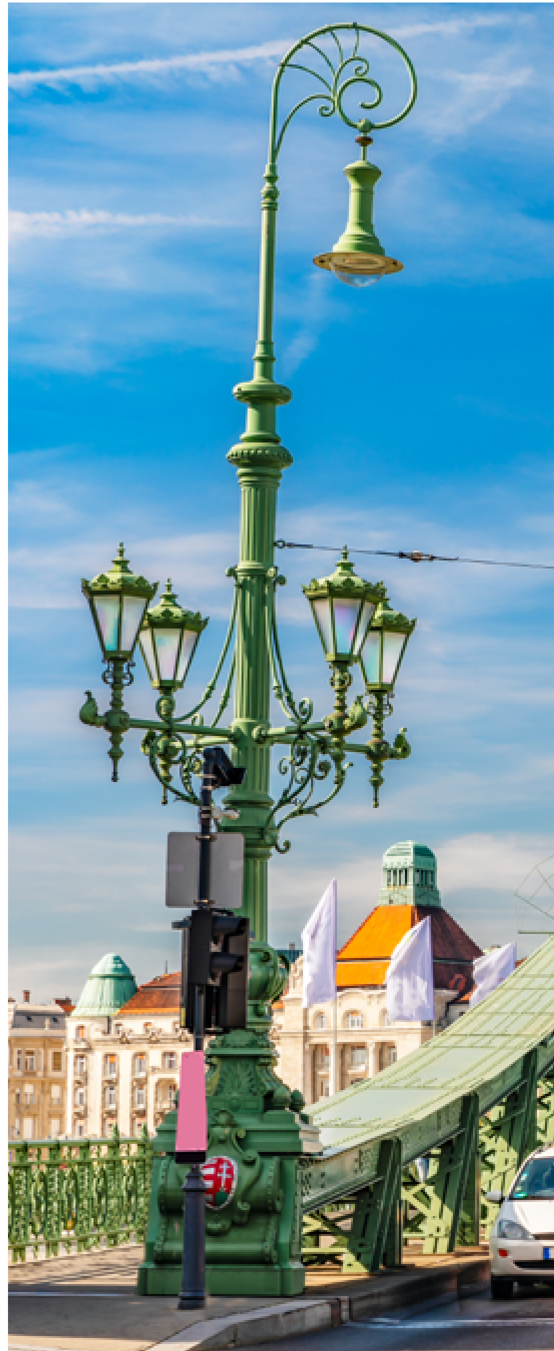

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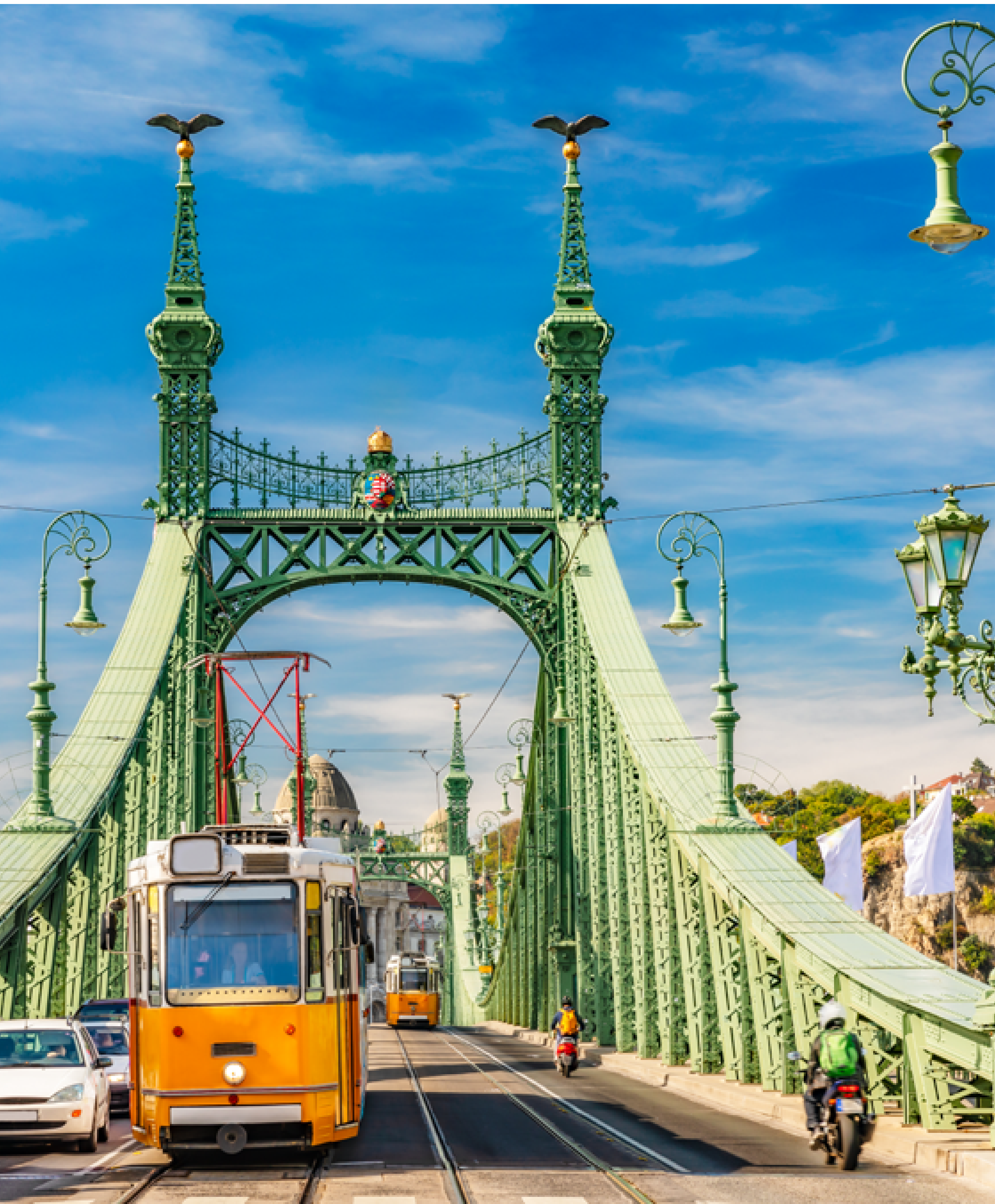

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Lithuania

GENERAL

Real estate located in Lithuania is subject to real estate tax. Real estate tax is paid by Lithuanian and foreign legal entities and organisations, also by Lithuanian and foreign individuals holding real estate in Lithuania. Land is subject to a separate land tax. For VAT purposes, only new buildings and land for construction is taxed at the standard VAT rate of 21%.

There is no specific transfer tax applicable to real estate transactions in Lithuania. However, certain notarization and real estate registration fees apply.

CORPORATE INCOME TAX

Taxable profit is subject to a standard flat rate of 15%.

Tax-exempt income

Exempt income includes received penalties and fines, revaluation of fixed assets and liabilities (except for qualifying hedging financial derivatives), insurance compensations, income from collective investment undertakings (except for income from tax havens), etc.

Allowable and partly allowable deductions

Deductions allowed are all expenses actually incurred in the ordinary course of business that are necessary for the earning of income or in order to receive economic benefit.

Partly allowable expenses include: depreciation and amortization of fixed assets, business trips, advertising and entertainment, ordinary loss of inventories, taxes, bad debts, payments

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for the benefit of employees, granted support, membership fees, etc.

The main types of non-deductible expenses are: penalties and default interest, compensation for damages, payments to tax haven entities (if not verified this relates to the ordinary activities of tax haven entities), other payments not related to the ordinary business of a taxpayer, etc.

CAPITAL GAINS

Capital gains are non-taxable if they are derived from the transfer of shares of an entity that is registered in Lithuania or another EEA country, or in a country with which Lithuania has a double tax treaty and is subject to CIT or equivalent tax (participation requirement: more than 10% of shares held continuously for at least 2 years). If the transfer of shares takes place in the course of a corporate reorganization, the minimum holding period is 3 years.

Tax depreciation

Depreciation of fixed assets is usually calculated from acquisition cost on a straight-line basis, or using a double declining balance method over periods as outlined in the Lithuanian Law on CIT. The tax depreciation period for new buildings (except residential buildings) used in a company's economic activity for tax purposes may not be less than 8 years.

Tax losses

Ordinary tax losses can be carried forward indefinitely if a taxpayer continues to perform business activities from which such losses occurred.

Ordinary tax losses carried forward can only be set off against up to 70% of the calculated taxable profits of the taxable period. Capital losses from the disposal of securities or financial derivatives can be carried forward for 5 years and exclusively to set off gains from the disposal of securities or financial derivatives (applicable for non-financial institutions).

Grouping

Tax loss of a company incurred for the taxable period may be set off against the respective profit of another company forming a group

provided the following criteria are met: the parent company directly or indirectly owns at least two-thirds of the shares in subsidiaries; and the transfer of losses is performed between companies that have continuously been members of the group for at least 2 years, or if the participants of the transfer have been a part of the group since their incorporation and will be part of the group for at least 2 years.

Grouping with a foreign loss is possible where the foreign entity transferring the loss is a tax resident in the EU and where there is no possibility to carry forward respective loss in that foreign country; additionally, such loss has to be calculated according to the rules of the Lithuanian Law on CIT.

Thin capitalization and interest limitation

A certain part of interest paid to a controlling lender may not be deductible for CIT purposes. Under the thin capitalization rules, the non-deductible part of interest expenses is calculated based on a debt/equity ratio of 4:1

As of 1 January 2019 new interest limitation rule came into force. The exceeding borrowing costs shall be deductible in

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the tax period in which they are incurred only up to 30% of the taxpayer's taxable EBITDA. This restriction does not apply if interest expenses do not exceed EUR 3 million. Special rules apply to calculation of interest, EBITDA and group interest expenses. Interest limitation and thin capitalisation rules apply simultaneously.

WITHHOLDING TAX

Dividends

In general, dividends are subject to a 15% withholding tax (WHT) rate. However, dividends paid to a company holding not less than 10% of the shares granting the same percentage of votes for at least 12 months are tax exempt, except for dividends paid to tax haven countries.

To note, based on the special anti-avoidance provisions tax exemptions for dividends may not apply where the main purpose (or one of the main purposes of the arrangement) is obtaining a tax advantage, which is contrary to the subject and purpose of the EU Parent-Subsidiary Directive and, therefore, such an arrangement is artificial.

It is possible to pay interim dividends in Lithuania.

Interest and royalties

Interest is subject to a 10% WHT rate. However, interest paid to an EEA company, or to a company registered in a country with which Lithuania has a double taxation treaty, is tax exempt.

Royalties are generally subject to a 10% WHT rate. Royalties paid to associated EU companies are exempt from WHT. Two companies are deemed to be associated companies if one of them directly holds at least 25% of the capital of the other, or a third EU company holds directly at least 25% of the capital of these two companies.

A minimum holding period of 2 years is required.

Real estate

Non-resident companies are subject to a 15% WHT rate on income from the sale, transfer or rental of real estate situated in Lithuania. Non-resident companies may also apply to the tax authorities to recalculate the tax withheld in order to be taxed on the net capital gains instead of the whole proceeds of the transfer of the real estate.

WHT may be reduced under the applicable tax treaties.

REAL ESTATE TAX

Real estate located in Lithuania is subject to real estate tax.

The annual tax rate for legal entities ranges from 0.5% to 3% of the taxable value of real estate. Municipalities are entitled to establish a precise rate by 1 July of each year to govern taxation in the following year. The taxable value is the average market value of the real estate established by applying the mass valuation method or the recoverable value (costs) method depending on the purpose of the real estate. Owners of real estate may request an individual valuation.

New taxable values are applicable as of 2021 and will be valid for consecutive 5 years.

Legal entities have to file the annual real estate tax return for their estate owned or used with the tax authorities and pay real estate tax by 15 February of the following

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year. Quarterly advance real estate tax amounts have to be paid by 15 March, 15 June and 15 September respectively if the annual amount of tax payable exceeds EUR 500.

Lithuanian and foreign individuals owning residential real estate in Lithuania have to pay real estate tax based on the taxable value of the real estate. The rates are: 0,5% for EUR 150,000 – 300,000 valued real estate, 1% for EUR 300,000 – 500,000 value and 2% for real estate value exceeding EUR 500,000 threshold. Tax exempt amount of EUR 150,000 applies to each individual. Families and/or individuals having joint ownership have to split property's taxable value between themselves, while the tax exempt amount applies to each one of them separately. Qualifying property includes residential premises, gardens, garages, homesteads, science facilities, places of worship. The non-taxable real estate value is increased by 30% for families raising three or more children and families raising disabled children. The annual real estate tax return has to be filed and the tax paid by 15 December of the current year. Other than residential property (e.g. commercial property) owned by individuals is taxed in the same way as real estate owned by legal entities with the exception applicable for advance payments.

Land tax

Land tax is paid by the owners of private land. The land tax rates range from 0.01% to 4% of the taxable value. The rates are established by local municipalities by 1 July to cover the following year (or they are set by 1 December in specific years).

Land tax does not apply to roads of common usage, land owned by embassies, land in protected areas and also other specific areas of land. Land tax is paid annually for the whole calendar year according to the taxable value of the land owned on 30 June of the current year. The taxable value is established based on the mass valuation method, which is intended to reflect the market price of the land.

Legal entities and individuals leasing state or municipality owned land must pay land lease tax, which is not less than 0.1% and not higher than 4% of the land value. A precise rate and payment dates for land lease tax are established by the local municipality in each individual case. The land value on which the land lease tax is estimated according to special rules is stated in the land lease agreement.

VALUE ADDED TAX

General provisions – real estate

In general, the Lithuanian Law on VAT provides that the sale of buildings, land and other real estate is VAT non- taxable, except for new buildings and building land, which are both subject to the standard 21% VAT rate. The Lithuanian Law on VAT defines a new building or structure as unfinished building or structure as well as a finished building or structure within 24 months after its completion or material improvement. "Building land" means a plot of land assigned for construction works regardless of whether or not any development of the plot has been undertaken. Besides this, the land transferred together with new buildings (e.g. land beneath a new block of flats which is allocated to each flat) or structures or their parts is subject to the standard 21% VAT rate.

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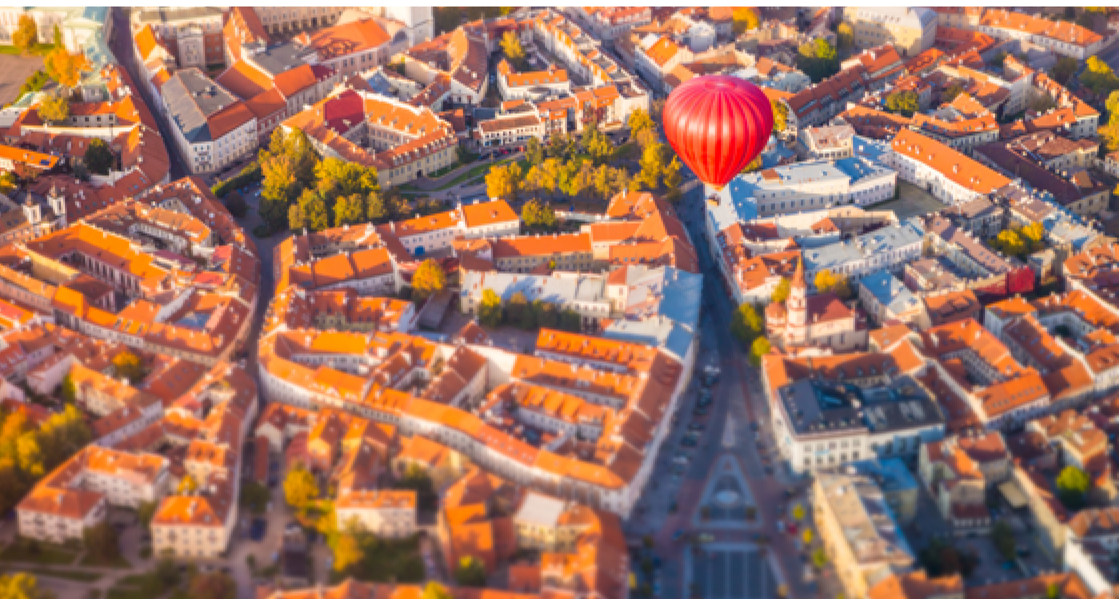

If real estate is sold without VAT, but the taxpayer has deducted input VAT, they shall be obliged to adjust the VAT deduction (for real estate a 10-year term is applicable).

Rent of real estate is VAT non-taxable unless the real estate is categorized among certain exceptions. Exceptions are made for hotels, motels, camping sites, and similar accommodation services as well as short- term rentals within residential areas. The renting of garages, parking lots and similar real estate properties, as well as equipment treated as real estate, are subject to a standard VAT rate of 21%.

A taxpayer can choose to sell or rent real estate to another VAT payer applying the standard VAT rate of 21%. Such choices have to be declared to the tax authorities and must remain unchanged for at least 24 months from commencement.

Services related to a real estate unit which is, or will be located, in Lithuania are considered to be provided in Lithuania. Therefore, such services have to be subject to the standard Lithuanian VAT rate of 21%. In such cases, foreign taxable persons rendering services related to real estate in Lithuania have an obligation to register for VAT in Lithuania. Services related to real estate include construction, projecting, relevant research, engineering, architectural works, valuation, supervision and maintenance of real estate, and other real estate-related services. Qualifying construction works are subject to the local VAT reverse charge procedure, i.e. the customer has to withhold and pay VAT to the state budget if it is a taxable person registered as a VAT payer.

VAT refund under domestic law

Application for VAT refund may be filed with the Lithuanian tax authorities as soon as

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VAT has been reported (subject to certain conditions).

The VAT is typically refunded within 30 days after submission of the application. In the case of a tax review or investigation, VAT has to be refunded within 20 days as of completion of the tax review/investigation.

Foreign VAT refund

Claims by EU businesses for cross-border refunding of VAT in the EU must be filed with their local tax authorities (i.e. in the country where the company is established) and not where VAT has been paid. VAT claims have to be filed electronically.

Non-EU businesses may refund input VAT incurred in Lithuania under the 13th VAT Directive if Lithuania has a reciprocity agreement with their country of establishment subject to particular conditions.

INVESTMENT INCENTIVES

Investment incentive for certain groups of fixed assets (applicable 2009-2023)

Companies may reduce their taxable profits up to 100% by the amount of expenses incurred for investment in certain fixed assets, machinery and equipment, computer hardware and software, communication equipment and acquired rights. The incentive also applies to acquired trucks, trailers and semi-trailers. Part of the acquisition costs of fixed assets which has not been utilized during the taxable year may be carried forward, but for not more than 4 years.

Incentive for research and development

Expenses incurred via scientific research and experimental development purposes may be deducted three times in the tax period when they are incurred, provided that the research and development works are related to usual business activities.

Reduced rate for small companies

Small companies are subject to a reduced 5% CIT rate if their average number of employees does not exceed 10 and their taxable income during the taxable year is less than EUR 300,000.

Double tax incentive for movie making supporters (applicable 2019-2023)

An entity may deduct (from its taxable profits) an amount up to 75% of the funds they provide for production of a film or its parts in Lithuania. Furthermore, an entity's payable corporate income tax may be reduced by up to 75% by the amount provided in order to support film production. If the amount of funds exceeds 75% of that entity's corporate income tax payable, then the exceeding amount may be carried forward to reduce profits in two subsequent tax periods.

Free economic zones

A company with investments of EUR 1 million or more and operating in a free economic zone (FEZ) is exempt from Lithuanian corporate income tax for 10 taxable years and is subject to a 50% reduced corporate income tax rate in 6 subsequent years. Such relief is applicable for FEZ companies if at least 75% of the income in the tax year is derived from production, manufacturing, processing or warehousing activities performed within an FEZ, or from wholesale trade in goods stored within an FEZ, as well as services related to the above-mentioned activities. IT services (e.g. programming, computer consultancy, data processing, services of web servers etc.), aircraft and spacecraft

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maintenance services are also included in the list. Real estate tax is not applicable in an FEZ territory.

This tax relief may also apply for a FEZ company having an average minimum of 20 employees during the taxable period and investments of at least EUR 100 thousand. This relief is applicable if at least 75% of the income during the taxable period is derived from accounting and consulting activities (except audit), business administration and support services, human resources, architecture and engineering activities as well as related technical consulting.

"Innovation Box" (applicable since 2018)

A reduced 5% CIT rate (instead of 15%) is applied to profits from commercialization of patentable inventions or software. Such relief is applicable, if the profits of commercialization are received only by the entity that created the assets and only this entity incurred all the costs. In addition, respective patent/copyright/software protection requirement applies.

"Green corridor" for large-scale investment projects.

Large-scale investment project that meets the required investments of at least EUR 20 million CAPEX (EUR 30 million when investing in Vilnius) and creating at least 150 new full-time jobs (200 when investing in Vilnius) in manufacturing, data processing, internet server hosting services may enjoy 0% CIT rate for up to 20 years. The project developer has to sign a mandatory contract with the Government which grants the project the status of national significance, ensuring fast decision-making and simplified bureaucratical procedures.

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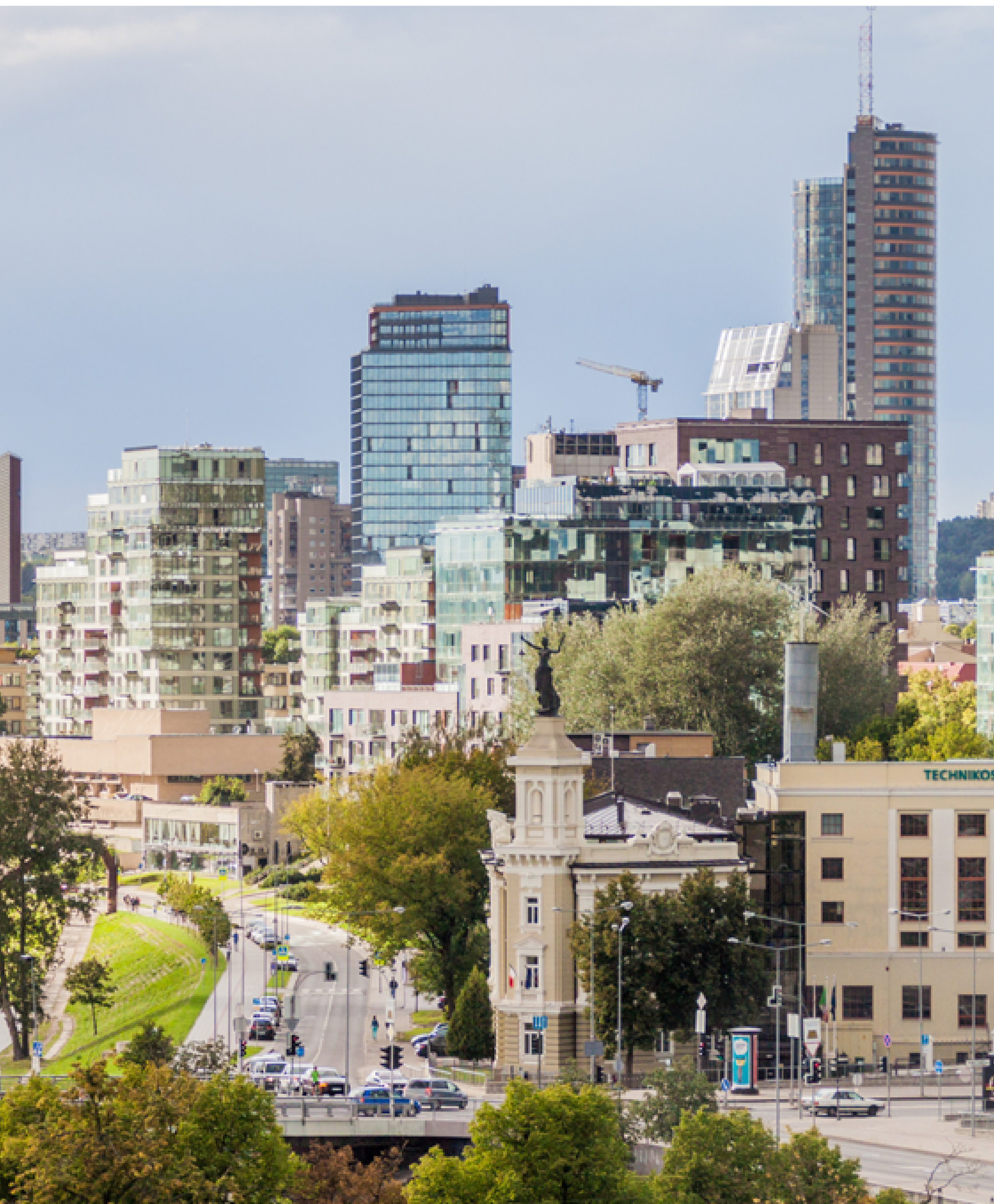

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Montenegro

GENERAL

The general value added tax (VAT) rate is 21% and it is applicable on the first transfer of ownership rights for buildings built after 1 April 2003, while 3% real estate transfer tax (RETT) is applicable on all other real estate transfers.

Gains arising from real estate deals are subject to a 9% corporate income tax (CIT) rate, which is one of the lowest in Europe.

CORPORATE INCOME TAX AND CAPITAL GAINS

In Montenegro CIT is levied at 9% for resident entities and branches of non-resident entities. A resident is a legal entity which is incorporated, or which has a place of effective management and control within the territory of Montenegro. Resident legal entities pay tax on their worldwide income.

Non-resident entities pay tax on the income generated through a permanent establishment within the territory of Montenegro.

The tax period is the financial year which is also the calendar year except in the event of liquidation or for businesses starting their business activity during the year.

A corporate tax return must be submitted within 3 months of the end of the period for which the tax is assessed.

Corporate income tax liability is paid in one installment within 3 months of the end of the tax year.

Taxable income is determined on the basis of accounting profit disclosed in the annual income statement, in accordance with International Financial Reporting

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Standards and is subject to further adjustments in the tax balance.

Capital gains are disclosed separately from business profits in the tax return and are taxed at 9%. The capital gain is the difference between the sale and purchase price of assets (land, buildings, property rights, capital share and securities). If such a difference is negative, a capital loss is reported.

Tax losses

Tax losses generated from business transactions, financial and non-business transactions, excluding capital gains and losses, may be carried forward for up to five subsequent tax periods and can be offset against future taxable income. Losses can be carried forward irrespective of mergers, acquisitions, spin-offs or other organizational changes.

Capital losses may be carried forward for 5 years and offset only against capital gains.

Tax depreciation

For CIT purposes, non-current tangible assets are divided into five groups, with depreciation rates prescribed for each group:

Group	Depreciation Rate
I	5%
II	15%
III	20%
IV	25%
V	30%

Buildings and other immovables (excluding land) are classified into tax depreciation Group I, while plant and equipment are classified into groups II-V. Non-current assets classified in Group I are depreciated using the straight-line method at 5%. A declining model is prescribed for non- current assets classified in groups II-V.

In addition, non-tangible assets such as franchises, patents, authorship rights and others are tax depreciated based on their estimated useful life.

Thin capitalization

There are no thin capitalization rules in Montenegro.

WITHHOLDING TAXES

Withholding tax (WHT) at a rate of 9% is levied on dividends, profit sharing, royalties, interest, capital gains, lease payments for immovable and movable property, consulting services, market research services and audit services earned by non- residents. Withholding tax may be reduced via double taxation treaties.

Distribution of inter-company dividends between Montenegrin companies is subject to withholding tax.

DOUBLE TAXATION CONVENTIONS

Montenegro has declared that it will honor all tax conventions that have been concluded by the state union of Serbia and Montenegro (and previously by the Federal Republic of Yugoslavia and the Socialist Federative Republic of Yugoslavia). However, the application of such agreements with Montenegro has to be confirmed on a case-by-case basis by those entering such agreements.

As at 1 January 2021, Montenegro has 43 effective double taxation conventions

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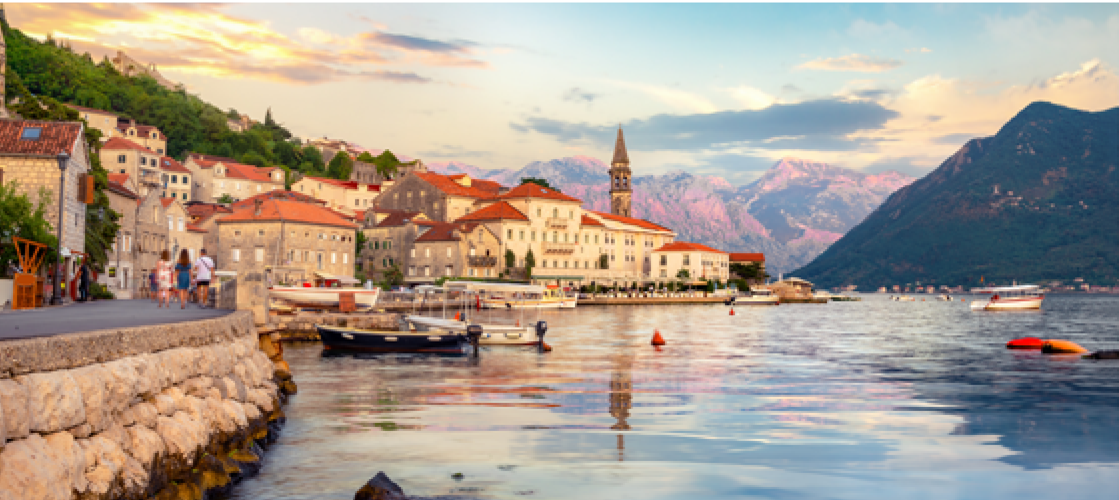

on income and capital with the following states: Albania, Austria, Belarus, Belgium, Bosnia & Herzegovina, Bulgaria, China, Croatia, Cyprus, Czech Republic, Denmark, Finland, Germany, Hungary, Italy, Iran, Kuwait, Latvia, Macedonia, Moldova, Netherlands, North Korea, Norway, Poland, Romania, Russia, Slovakia, Slovenia, Sri Lanka, Sweden, Switzerland, Turkey, Ukraine; additionally, agreements with Azerbaijan, Egypt, France, Ireland, Malaysia, Malta, Portugal, Serbia, UAE and United Kingdom cover the avoidance of double taxation of income only.

VALUE ADDED TAX

VAT is levied on the following:

- supplies of goods and services for business purposes by a taxpayer for consideration within the territory of Montenegro; and
- import of goods into Montenegro.

A taxpayer is any entity that independently supplies goods and services in the course of doing business.

The threshold for VAT registration is prescribed at the equivalent of EUR 30,000. Namely, if turnover in the previous 12 months exceeds or is likely to exceed EUR 30,000, then registration for VAT is obligatory.

Only the first transfer of newly built buildings (i.e. buildings built since 1 April 2003) is subject to VAT at the general rate of 21 % (there is no reduced rate for residential buildings).

Reduced VAT amounts to 7%.

The supply of land (except the first transfer of the ownership right or the right to make use of or transfer a newly constructed building), the lease of land, as well as services linked to the leasing of residential buildings for longer than 60 days are exempt from VAT without credit.

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PROPERTY TAX

Tax on property is paid by the titleholder of the property rights (ownership, right of use, etc.). Property tax is paid on land and buildings. The property tax base is the market value of the property. In general, property tax rates range from 0.25% to 1.0%. For certain types of real estate (e.g. hotels in coastal areas), the rate can be even higher (up to 5%). Property tax is paid in two installments, on 30 June and31 October, upon receipt of the tax assessment which is issued by 30 April for the current year

REAL ESTATE TRANSFER TAX

Acquisition of property rights over real estate (land and buildings) is subject to RETT unless the transaction is subject to VAT.

The RETT tax base is the market value of the real estate at the time of its acquisition.

The tax rate is 3%. The taxpayer will be the acquirer of the real estate. Real estate transfer tax is not paid when a unit of real estate is included as part of an initial stake as a contribution in kind, in connection with a share capital increase, or in the event of the acquisition of real estate in the course of a merger or de-merger.

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Poland

RECENT DEVELOPMENTS

Many of the recent changes in the Polish tax law are related to COVID-19 pandemic. The Polish government has introduced several so-called Anti-Crisis Shields which included, in particular, extension of deadlines for annual CIT and PIT reconciliations, MDR reporting, submission of transfer pricing information and issuing tax rulings as well as exemption from social security contributions and payments of tax on income from buildings.

As of 1 January 2021, major amendments to the Polish tax law came into force, including among others:

- CIT taxation was extended to limited partnerships and certain general partnerships; essentially, this means that instead of one-level taxation applicable to partners, two-level taxation was introduced - the income generated by limited partnerships (and certain general partnerships) is to be covered by CIT at the partnership level and PIT or CIT at the partner level;

- amendments in taxation of gain on disposal of real estate companies were made. In the case the seller of shares (or interest of similar nature) is a non-resident and the transaction covers at least 5% of the voting rights/ interest of the real property company, the obligation to settle the capital gains tax (i.e., compute and remit) will be imposed on the real property company (whose shares are sold);

- obligation of real estate companies and taxpayers holding directly or indirectly

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at least 5 percent of shares in a real estate company to provide information on the share structure of such company to the Head of the National Revenue Administration;

- obligation for taxpayers whose revenue exceeded EUR 50 million to prepare and publish a report on the tax strategy executed in the given tax year;
- the annual maximum revenue threshold to apply the 9% instead of the 19% CIT rate has been increased from EUR 1.2 million to EUR 2 million;
- an alternative taxation scheme dubbed "Estonian CIT" was introduced, i.e. a flat rate on gains of certain commercial companies with the main assumption to provide CIT payers with the possibility to pay income tax only when they decide to distribute the company's earning; the Estonian CIT may be applied only by the entities meeting a number of criteria and conditions.

Further, On 29 October 2020 the protocol amending the Convention between the Republic of Poland and the Kingdom of the Netherlands on the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed. The Protocol introduces the so-called real estate clause and a principle purpose test (which serves as an anti-abuse clause). It appears that the protocol may enter into force since 1 January 2023..

CORPORATE INCOME TAX AND CAPITAL GAINS

Generally corporate income tax is levied on all taxable income, with some exceptions, e.g. income derived from forestry and agricultural activities. CIT is payable on income which is calculated as taxable revenues reduced by eligible costs incurred to generate these revenues, or in order to retain or secure a source of taxable revenue.

The regular CIT rate for 2021 amounts to 19%. The reduced 9% CIT rate is applicable to small taxpayers (revenues for the previous fiscal year less than equivalent in PLN of EUR 2 million) and taxpayers commencing their business activity (if certain conditions are met).

The costs incurred in respect of abandoned investments may be treated as tax-deductible costs.

Capital gains are taxed separately from mainstream revenues (also at a 19% rate). The catalogue of revenue streams subject to the separate taxation regime is wide and includes items which would not normally be regarded as typical capital gains, for example profits from participation (dividends, liquidation proceeds), but also certain royalties on trademarks, revenues from disposal of certain receivables, revenues arising from restructurings, interest on profit participation loans etc.

In the case of a sale of shares in a Polish company held by a non-Polish shareholder, double taxation treaties concluded with other countries generally provide a taxation right of respective capital gains in the jurisdiction of the shareholder. However, based on the real estate clause present in the Polish CIT Law, capital gains arising on the sale of shares in a company whose assets value is derived in more than 50% from

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real estate located in Poland (directly or indirectly) are considered to be sourced from Poland and subject to a 19% CIT rate, unless the relevant Double Tax Treaty provides otherwise.

The real estate clause also applies to the sale of participation rights in a partnership or certificates of an investment fund.

A fiscal group may be created for corporate tax purposes. There is a number of conditions that need to be met (in practice, the most difficult to be fulfilled is the requirement for the profit of the group for tax purposes to be equal to at least 2% of gross taxable revenue).

Tax depreciation

Depreciation of fixed assets is usually calculated on a straight-line basis using the rates provided in the Polish CIT Act. Depreciation write-offs are then claimed from the initial value of an individual fixed or intangible asset, in equal amounts each month, starting from the month following the month in which a particular asset was brought into use, until the end of the month in which the total of depreciation write-offs equal the asset's initial value – or in the month in which it is liquidated, disposed or found missing. The key annual depreciation rates are: 2.5% for buildings, 4.5% for constructions and 10% for technical devices. Land is not depreciated for tax purposes.

In order to limit transactions resulting in a tax free step up of the value of intangible assets, depreciation write-offs on intangible assets, including in particular trademarks, which had been acquired or self-developed by the taxpayer and subsequently disposed, can be treated as tax deductible only up to the amount of profit made on such disposal in case such assets will be transferred back to this taxpayer.

Tax losses

Tax losses may be carried forward for up to 5 consecutive tax years and up to 50% of a specific tax loss can be utilized in any one tax year. There is the possibility of a one-off reduction of taxable base of the taxpayer by an amount of loss up to PLN 5 million.

In principle, the ability to utilize tax losses is unaffected by a change of ownership in a company. However, the new regulations, introduced as of 1 January 2021 preclude the possibility to deduct the tax base for the taxpayer's loss on acquisition of an entity, an enterprise or an organized part of an enterprise, including acquisition through an in kind contribution, or reception of a cash contribution, for which the taxpayer purchased an enterprise or an organized part of the enterprise, and as a result:

- following such purchase or acquisition, the scope of the core business activity actually carried out by the taxpayer became different, in whole or in part, from the scope of the core business activity actually conducted by the taxpayer prior to such purchase or acquisition;
- at least 25 percent the taxpayer's shares are owned by the entity or entities that did not have such rights at the end of the tax year in which the taxpayer incurred a loss (relates to downstream merger also).

Under the new regulations, in order to settle tax loss incurred in the previous

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years, the taxpayer who acquired (purchased) another entity, an enterprise or an organized part of an enterprise must demonstrate that the core business activity actually carried out remained unchanged upon the transaction.

Taxpayers have to recognize tax losses incurred within each income source (business or capital) separately.

Earnings stripping rules

The Polish earnings stripping rules generally work as follows:

- debt financing costs are excluded from tax deductible costs in the amount in which the surplus of debt financing costs exceeds a cap of 30% of EBITDA,
- debt financing costs affected by the limitation encompass all costs related to obtaining financial resources from other entities, (including unrelated parties), and using such resources.

Surplus of the debt financing costs is to be understood as an excess of debt financing costs deductible in the given tax year over the interest-like revenues subject to the tax in the given tax year. The restrictions do not apply in cases where the surplus of debt financing costs does not exceed PLN 3 million (approx. EUR 660 thousand) in the given tax year (covering 12 months).

Debt financing costs disallowed in a given tax year tax year may be utilized within the following 5 years.

Other aspects for debt financing

In general interest incurred on financing for the acquisition of shares in a company is treated for CIT purposes as tax deductible costs. However, the deduction is denied if interest reduces income associated with the acquired company's business continuity, in particular due to a merger and transformation of its legal form. This limitation aims at restricting debt-push-down benefits.

Limitation of deductibility of fees for intangible services

Fees paid for certain intangible services (e.g. consultancy, advertising, marketing, data processing), royalties and insurance costs, guarantees and suretyships are excluded from tax-deductible costs if they exceed 5% of tax EBITDA.

The limitation covers payments made directly or indirectly to related parties. The restrictions do not apply if the taxpayer obtains an advance pricing agreement ("APA") from the Polish Ministry of Finance in that regard. The restriction does not apply to the fees for intangible services up to PLN 3 million annually.

The intangible services costs excluded from the tax-deductible costs in the given tax year is subject to deduction within the consecutive five years under the limits applicable in the particular year

Controlled foreign corporations' rules

Generally, certain income or gain derived by foreign subsidiaries owned by Polish taxpayers are taxed in Poland. Taxpayers may be obliged to pay 19% CIT in Poland on income derived by foreign entities if they are qualified as so called 'controlled foreign companies' ("CFC").

The controlled foreign corporations' rules apply if the following criteria are satisfied:

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1) the subsidiary is considered a CFC because:

- its seat or place of management is in a black-listed country (practicing harmful tax competition), or in a country with which Poland has not concluded an agreement containing an exchange of information clause;
- at least third of the income/ gain derived by the subsidiary is passive in nature, e.g. gain from the disposal of shares, interest income, IP income, etc.;
- the above income/gain is tax exempt in the subsidiary country or the tax paid is lower than half of the liability to be paid if the foreign company would be tax resident in Poland; or

2) because no genuine economic activity is carried out by the subsidiary.

However, if the foreign company conducts genuine economic activity in the country of its seat (being EU/EAA country) and it is taxed there on its worldwide income then no taxation on CFC in Poland would arise.

Transfer pricing

The threshold of at least 25% stake, based on which entities can be considered as related parties, applies also to instruments other than shares that determine ownership dependency. Thus, relations need to be determined e.g. by the proportion of participation units or investment certificates held, and thus the catalogue of affiliated entities additionally includes, among others, investment funds.

The TP regulations also specify the issue of personal relations, indicating the condition of having an actual ability to influence legal decisions taken by the entity and thus extending the catalogue of related entities, among others, by including foundations.

The obligation to prepare transfer pricing documentation is dependent on the type and value of transactions made with related parties. Currently, the benchmark analysis should be part of every local file, regardless of the taxpayer's income or expense threshold.

The obligation to prepare a master file which would include information on the group structure, occurs if, among the others, consolidated revenues of the group exceeded PLN 200 million in the previous financial year.

Entities, which carry out a transaction other than a controlled transaction with an entity from a "tax haven", are obliged to prepare local transfer pricing documentation, if the value of such a transaction for the tax year exceeds PLN 100 thousand and in case the transaction is with a no-tax haven country but the beneficial owner is situated in tax haven and the value of such a transaction for the tax year exceeds PLN 500 thousand.

WITHHOLDING TAX

Dividends

Dividends are subject to a 19% withholding tax rate which is generally reduced under double taxation treaties to which Poland is a party. To apply the reduced rate, the payer should be in possession of a tax residence certificate of its shareholder.

Dividends paid to a qualifying Polish resident company, EU/EEA resident

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companies (or their foreign permanent establishments), or to qualifying Swiss companies are exempt from Polish withholding tax if the shareholder owns at least 10% (for Swiss shareholders at least 25%) of the payer's shares and the shares have been uninterruptedly held for at least 2 years. The withholding tax exemption is also applicable if the dividend payments were made before the end of this period; but, if the shares were disposed of earlier, any withholding tax due is payable together with penalty interest. In order to apply the reduced rates, a relevant treaty should provide for the exchange of information between the Polish tax authorities and the relevant country, and the payer should also be in possession of a tax residence certificate of its shareholder. Moreover, in order to apply the WHT exemption based on the EU directive, the payer should possess written confirmation from the dividend recipient that he is not CIT exempt in his country of residence.

The anti-abuse clause is applicable to dividend payments and other profit distributions made by a subsidiary to a parent company. The scope of application of the Parent-Subsidiary Directive 2011/96/UE is limited in the case of artificial arrangements (i.e. carried out without justifiable business or economic reasons) and where the main driving force for concluding the transaction is to obtain a tax advantage (i.e. tax exemption).

Interest, royalties and intangible services

A withholding tax of 20% is applied on payments of interest, royalties and fees for intangible services made abroad.

This is generally reduced or eliminated under the double taxation treaties to which Poland is a party. In order to apply the treaty rates, the payer should hold a certificate of tax residence of the recipient and the relevant treaty should provide for the exchange of information between tax authorities.

Interest and royalties are subject to withholding tax exemptions, if they are

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paid to qualifying EU entities. To apply the EU Interest and Royalties Directive provisions, a 2-year holding period is required. These provisions can also be applied before the 2-year holding period has been fulfilled. The minimum shareholding is 25%.

In order to apply the exemption, the Polish company paying interest/ royalties should possess appropriate documentation consisting of the beneficiary's certificate of residence and written statement that the beneficiary is not CIT exempt with respect to its revenues (irrespective of their source). Similar provisions apply to Switzerland.

The Polish CIT Act includes a beneficial owner clause as a condition for claiming the WHT exemption based on the EU Interest and Royalties Directive. The recipient of the interest must be the beneficial owner of the interest and this needs to be documented in a written statement provided by the interest recipient to the interest payer. The recipient of the interest is considered a beneficial owner if it obtains the interest for its own benefit and not as an intermediary/agent for other entities.

Due care procedures

Also a wider due care requirement exists under the Polish CIT Act. It obliges the taxpayer to execute due care taking into account the nature and scale of business activity in verifying and documenting whether the payment recipient status entitles them to benefit from WHT reliefs. The threshold required is not clearly specified, although some general guidelines exist, and would depend on the characteristics of the payment recipient and the value of payments made.

New WHT mechanism

The new WHT collection rules are in place as of 2019 (part of them are currently postponed until January 2022 on the basis of Decree of Ministry of Finance). Based on regulations binding till 31 December 2021, in order to apply the reduced DTT rates or exemption under the given DTT, the Polish payer should possess a tax residency certificate of the recipient of the qualifying payment (taxpayer). The same applied to WHT exemptions under the EU Interest and Royalties Directive and EU Parent Subsidiary Directive regime. As of 1 July January 2022, such an approach would only be as a rule applicable as long as the aggregate qualifying payments to the given recipient do not exceed the threshold of PLN 2 million. If the aggregate qualifying payments to the given taxpayer exceed PLN 2 million, as a rule the Polish WHT remitter will be obliged to collect and pay WHT at domestic rates (i.e. at 19% for dividends and 20% for other qualifying payments), ignoring the WHT domestic exemptions and DTT reliefs. This would apply to the payments in excess of PLN 2 million made for passive income (i.e. interest and dividends, excluding intangible services) to entities seated outside of Poland and being related party of the payer.

Nevertheless, there are the following exceptions from this rule allowing application of the reduced WHT rates or WHT exemption even when the PLN 2 million threshold is exceeded: (i) providing the tax authorities with WHT remitter's statement on fulfilling the conditions to apply a relief, or (ii) obtaining a WHT clearance opinion from the tax authority.

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Minimum Income Tax

Minimum income tax ('MIT') on commercial properties located in Poland has been introduced in Poland. MIT is applicable only to buildings (or their parts) that are given for use under a contract of lease, tenancy, etc. Vacant areas are not subject to MIT. Taxpayers have the right to deduct MIT from the CIT base in the month to which the particular minimum tax advance pertains.

The tax rate amounts to 0.42% per annum of the surplus of the initial value over the amount of PLN 10 million (approximately EUR 2.1m) applicable for a single taxpayer. Taxpayers have the right to deduct MIT from the CIT base in the month to which the particular minimum tax advance pertains.

As one of the measures implemented in order to combat negative economic impact of COVID-19 pandemic, Polish MIT regime is not applied for the period from 1 March 2020 until the end of the state of the epidemic crisis in Poland.

REAL ESTATE TAX

Real estate tax is a local tax which applies to land (and perpetual use of land), buildings and constructions (or installations).

The taxable base for all buildings is the floor space area of the building. For land (and perpetual use of land), it is the land area. For constructions (installations), the depreciation value is taken into account. The 2021 maximum rates for real estate tax cannot exceed:

- PLN 0.99 per square meter for land used for business activities;
- PLN 0.52 per square meter for other land;
- PLN 0.85 per square meter for dwellings;
- PLN 24.84 per square meter for buildings used for business activities;
- PLN 8.37 per square meter for other buildings;
- 2% of the value of constructions/ installations (in principle the value being the base for tax depreciation purposes on 1 January each year, before any depreciation deductions).

The applicable rates of real estate tax for the given year are set by each municipality separately.

TAX ON CIVIL LAW TRANSACTIONS (TRANSFER TAX)

Any establishment (or increase) of the share capital in the Polish company is subject to 0.5% transfer tax (PCC) in Poland (a share premium is not subject to PCC).

Shareholder loans are PCC exempt, while non-shareholder loans are generally subject to 0.5% PCC (the borrower is obliged to pay the transfer tax; if certain conditions are met, there is no obligation to pay PCC on loans).

Transfer of an individual asset requires case by case analysis and may be either subject to VAT or VAT exempt (and in such case – subject to 2% PCC). The transfer of organized part of enterprise is subject to PCC (generally at 2% rate of fair market value in case of real estate) payable by the purchaser.

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Acquisition of shares in Polish companies is, in principle, subject in Poland to 1% transfer tax payable by the purchaser.

VALUE ADDED TAX

General provisions regarding real estate

Generally, acquisition of buildings, constructions and their parts (along with the purchase of land on which these are situated) is VAT exempt if the purchase is performed after two years from the so called „first occupation", which should be understood as letting for use to the first acquirer or first user or commencement of own use of buildings or structures, after completion of their construction or improvement (if the expenses incurred on the improvement constituted at least 30% of their initial value). In case of transfer of building after two years or more since first occupation, the VAT exemption is not mandatory and the parties to the transaction may elect to apply VAT on the transaction. This voluntary VAT taxation should be considered as a market standard (unless the buyer is VAT exempt) as input VAT should be generally recovered by the buyer. In the case of a VAT exempt sale of buildings, constructions and their parts, the transaction is subject to 2% transfer tax.

The standard VAT rate in Poland on the sale of land and buildings which are not VAT exempt is 23%. The reduced 8% VAT rate for sales of residential property applies only if the property meets the certain conditions in terms of social housing program.

Where a property is acquired as an organised part of enterprise such transactions are not subject to VAT. For these, transfer tax applies at 2% on its fair market value and is payable by the buyer.

The lease of office and rental space is subject to 23% VAT. Short-term lease is taxed with a preferential rate of 8%. The lease of residential property for housing purposes is VAT exempt.

Tax point

Based on the Polish VAT provisions, as a general rule, the tax point arises upon the supply of goods or performance of

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the service, whereas for the supply of construction services, the special VAT point is determined with the issuance of a VAT invoice (but not later than 30 days after the completion of services). Tax base constitutes generally everything which is due to the taxpayer for effecting the supply from the purchaser of third person excluding the amount of tax. The supplier or service provider should, in general, issue an invoice by the 15th day of the month following the month when goods were supplied, or services provided.

The taxpayer is generally entitled to reduce output VAT (resulting from sales) by the amount of input VAT incurred on the purchase of goods and services related to its VAT-able activity. As a rule, the right to deduct input VAT arises:

- in the case of domestic purchases of goods or services – in the period in which the tax becomes chargeable, but not earlier then upon receiving a VAT invoice or customs document documenting given transaction;

- in the case of intra-EU acquisition of goods – in the period when tax point for a given transaction arises, provided that the taxpayer both receives an supplier invoice within 3 months following the one in which tax point for that transaction arose and reports output VAT in the correct VAT return.

Place of supply of services

Generally, the place of supply of services performed for a taxpayer is a place where the purchaser has its seat, fixed place of business or permanent place of residence. However, in cases where the supply of services is provided to entities other than taxpayers, in general, the place of supply of services is where the service provider has its seat, fixed place of business or permanent place of residence (with several exceptions).

For services related to real estate, the place of supply of services is where this real estate is situated.

Services (including, amongst others, advisory and engineering services) provided to a non-taxpayer having its seat or permanent place of residence outside of the EU, are subject to taxation where the purchaser has its seat or permanent place of residence.

Split payment

As of 1st November 2019, split payment is obligatory in certain situations. Application of split payment mechanism means that the purchaser pays the gross amount to the supplier, but only the net amount is transferred to the general bank account of the supplier, whereas the VAT amount is transferred to the technical VAT account where the funds are locked and may be used only for the purpose of paying VAT amounts to the suppliers or payment of tax liabilities or custom duties to the tax authorities or custom agencies.

Obligatory split payment is applicable in case the payment is performed as bank transfer, gross invoice value is at least PLN 15 thousand, and the invoice includes at least one item from attachment 15 to the VAT Act.

Lack of payment via split payment, in case the transaction was subject to this payment method, triggers various

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sanctions for the purchaser and the supplier.

Split payment mechanism may also be used in case of real estate transactions.

White List

Head of the National Revenue Administration keeps a so-called "White List" - a list of VAT taxpayers, i.e. entities registered, deleted or restored to the VAT register. The White List, among others, provides the list of bank accounts of the taxpayer notified to the tax authorities as accounts tied to business activity.

Pursuant to the regulations applicable as of 1st January 2020, if the payment for the transaction between active VAT taxpayers exceeding PLN 15 thousand is not made to the contractor's bank account disclosed in the White List and some additional requirements are met, the purchaser:

- may not include the expense as a deductible cost for PIT and CIT purposes,
- will be joint and several liability with the seller for the unsettled VAT on the transaction.

The purchasers may avoid the aforementioned sanctions by submission of the special notification to the head of the tax office competent for the purchaser (via the ZAW-NR form) or make a payment with the use of split payment mechanism.

VAT refund

The standard VAT refund period is 60 days. In order to apply for a direct refund of input VAT excess within the standard 60 days, the taxpayer has to perform a taxable transaction.

The standard period of refund (60 days) can be shortened to 25 days if several conditions are met, among others:

- all purchase invoices in which VAT is declared in the specific VAT return were paid via bank transfer (if the total amount exceeded PLN 15 thousand – approx. EUR 3.3 thousand), and the payment confirmations have been submitted to the tax office not later than on the day of filing the given VAT return.
- the taxpayer is VAT registered and has submitted VAT returns for the 12 months preceding the period for which the taxpayer requested the VAT refund, and
- the amount to be transferred from the previous periods does not exceed PLN 3 thousand (approx. EUR 660).

The 25 days deadline applies also in case a taxpayer requests the refund onto the taxpayer's VAT account (technical account used for split payment where the funds may be used for limited purposes).

If there is no VAT-able activity, then a VAT refund may still be obtainable. However, in such a case, the deadline is 180 days (but an application for the refund must be submitted). This period can be shortened to 60 days if the taxpayer files a security deposit.

EC services list

EC services lists must be filed monthly by taxpayers if they supply services to taxpayers from other EU countries where

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the reverse-charge mechanism applies. Advisory services where VAT is charged in the recipient's country have to be included. Services relating to local real estate where the VAT is charged locally not need to be reported.

The EC services lists must be filed electronically by the 25th of the following month.

Uncollectable debts

According to the VAT regulations, taxpayers are able to benefit from bad debt relief (i.e. to adjust the tax base and the output tax) where the debt will not be settled within 90 days from the date of payment. The debtor, in turn, is obliged to adjust the amount of input tax, if the amount due resulting from this invoice is not paid within 90 days from the due date set forth in the contract or in the invoice. In the absence of such an adjustment, the debtor may be liable under the Polish criminal fiscal code.

Bad debt relief also applies to related parties (i.e. if there is a capital, pecuniary, family or employment relation between creditor and debtor).

Further notes

According to oanda.com, the exchange rate as at 1 September 2021 was EUR 1/ PLN 4.51247.

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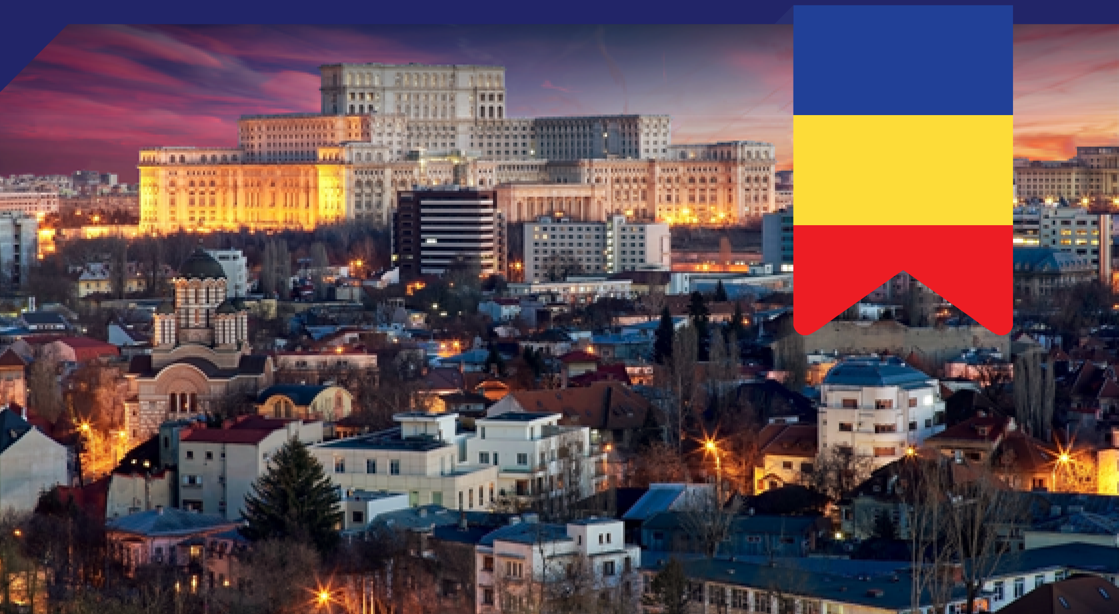
Romania



GENERAL

Romania features a 5% tax on dividend and a favorable participation exemption regime.

The corporate tax rate is 16%, and the standard VAT rate is 19%.

CORPORATE TAX, INCOME TAX AND CAPITAL GAINS TAX

Taxable profits are determined based on accounting profits, as recognized in accordance with Romanian accounting standards, subject to specific adjustments as provided by corporate tax law. The standard corporate tax rate is 16%. Capital gains realized by corporate entities from the sale of assets are deemed to be corporate profits and are taxed at 16%.

Income realized by individuals from the transfer of real estate is subject to lower tax rates on income (not on profits).

Capital gains derived by individuals from the sale of shares is subject to 16% personal income tax rate, irrespective of the period for which the shares are held.

A special taxation regime (1% on revenue for micro-enterprise with at least one employee and 3% on revenue for micro-enterprises with no employees) is applicable instead of 16% on profit for so-called micro-enterprises (companies fulfilling certain conditions, e.g. an annual turnover below EUR 1,000,000).

Income from immovable property located in Romania is subject to 16% capital gains tax. Income from immovable property located in Romania mainly includes

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income from rental or the grant of use of immovable property located in Romania and gains from the sale-assignment of the rights of ownership or other rights related to immovable property located in Romania.

Non-Romanian vendors may be entitled to claim Romanian tax exemption under double taxation treaties where applicable.

However, certain double taxation treaties (e.g. those with Germany, France and Austria) provide special regimes for capital gains if the shares being sold derive their value mainly from real estate located in Romania, such gains being taxable in Romania.

Tax consolidation has been made possible (optionally) for corporate income tax starting with 1 January 2022, under certain conditions.

Taxpayers can opt for a fiscal year corresponding to the accounting year, which can be different that the calendar year.

Tax depreciation

The following depreciation methods are available for tax purposes:

- Straight line method;
- Reducing balance method (may be applied only to certain assets)
- Accelerated depreciation method (may be used for technological equipment such as machinery and installations, computers and related equipment). The accelerated method allows for a deduction of 50% of the costs of the asset during the first year of operation.

Land and goodwill cannot be depreciated for tax purposes. Buildings can be depreciates only using the straight-line method. The tax depreciation period for buildings is between 40 and 60 years.

Certain assets attached to a building can be treated as separate movable assets for tax purposes and therefore can be depreciated for a shorter period.

Tax losses

Tax losses cand be carried forward and the deducted from taxable profits recorder during the following 7 years on a “first in, first out” basis.

Fiscal losses recorded by taxpayers performing transfers of activities following a spin-off/merger can be taken over by the new parent company under specific rules provided in the law.

There is no withdrawal of the tax loss carry-forward right if there is a change of ownership or activity. Tax losses can only be carried forward, not carried back.

Exceeding borrowing costs

As from January 2018, the former thin capitalization rules have been replaced with interest limitation rules implementing the provisions of the Anti-Tax Avoidance Directive (ATAD1).

Romanian tax law provides limitations for the corporate income tax deductibility of exceeding borrowing costs. Exceeding borrowing costs are calculated as the difference between debt related costs (interest, commissions, FX losses) and income from interest and other equivalent income from an economic perspective. Currently, the deductibility

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limitations for corporate income tax purposes, are as follows:

- the equivalent in RON of 1,000,000 euros/year;
- plus 30% of the "Romanian tax EBITDA" computed as accounting gross profit less non-taxable income, plus corporate income tax payable, plus excess debt related costs, plus tax depreciation.

Any financing costs which are non-deductible following the above limits during a particular year can be carried forward indefinitely and deducted for tax purposes in future periods, under specific rules.

Arm's length principle should also be observed in case of inter-company loans.

The right to carry forward interest expenses and net foreign exchange losses for taxpayers who cease their operations as a result of a merger or de-merger operation may be transferred to newly established taxpayers, or to those which take over the assets and liabilities of the absorbed or divided company, as appropriate, but this must be in proportion to the assets, equity and liabilities transferred to the beneficiary legal entities, as provided in the merger/de-merger plan.

Withholding tax

The standards Romanian withholding tax (WHT) rate is 16%. However, this rate can be reduced in accordance with double taxation treaties (Romania has concluded double taxation treaties with around 100 countries).

If the income is paid in a state with which Romanian has not concluded a treaty for the exchange of information and the payment is deemed to be related to an artificial transaction, a special WHT rate of 50% is applicable.

Dividends

Generally, a 5% dividend tax rate applies to dividends paid to non-residents (whether individuals or companies).

However, dividend payments made by a resident legal entity to an EU legal entity which holds at least 10% of the Romanian entity's shareholding for a period of at least 1 year at the moment of distribution, the dividend tax paid may be reclaimed when this condition is fulfilled.

Interest and royalties

Income derived from interest and royalties is exempt if the beneficial owner of the income is a legal entity which is located in an EU member state, or a permanent establishment of a company from an EU member state, or if it is located in another EU member state. Exemption applies subject to the condition of direct ownership of at least 25% of the shares for an uninterrupted period of at least 2 years.

REQUIRMENTS FOR APPLYING EU DIRECTIVES

To apply the provisions of EU Directives, a non-resident should provide Romanian companies with their certificate of tax residence and with an affidavit stipulating that the non-resident fulfills the mandatory holding conditions mentioned above.

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PARTICIPATION EXEMPTION RULES

Certain sources of income are non-taxable for Romanian corporate tax purposes under participation exemption rules. These include dividends, gains from the sales/transfer/(re)valuation of shares and proceeds from liquidation, if the legal entities in which the company holds shares are Romanian are foreign entities from states with which Romania has concluded double tax treaties (both EU and NON-EU). These revenues are non-taxable, provided that certain conditions are met (the seller/transferor is a Romanian legal entity or a foreign entity located in a state with which Romanian has concluded a double tax treaty and at the time of the sale/transfer transaction or at the when the liquidation process starts, the seller/transferor must have owned at least 10% of the share capital of the legal entity for an uninterrupted period of at least 1 year).

REAL ESTATE TAX

Real estate tax comprises land tax and building tax.

Tax on land is determined by taking into account the area of the land in square meters, the status of the locality where the land is located, and the area and/or category of use of the land, in accordance with relevant guidelines issued by the local council where the land is located.

For companies, tax on buildings varies between 0.2% and 1.95% of the taxable value (usually 1.5%) for non-residential buildings and between 0.08% and 0.2% for residential buildings (for mixed use, tax is calculated proportionally). For buildings used in agriculture, the tax rate is 0.4% of the taxable value.

The taxable value is generally determined by valuation for tax purposes (carried out by and authorized valuator, at the owner's expense).

If the taxable value of buildings has not been updated in the 5 previous years, the building tax rate is 5%.

For individual, the same principle apply (e.g. the distinction between residential and non-residential buildings), however tax rates and taxable values may be different from those applicable for companies.

REAL ESTATE TRANSFER TAX

There is no reals estate transfer tax as such.

Transfers of real estate may result in land/building registry taxes and notary fees of approximately 1% of the value of the transaction.

VALUE ADDED TAX

The standards value added tax (VAT) rate applicable in Romania is 19% starting from 1 January 2017.

A reduced rate of 9% is applicable for certain supplies of goods and services (e.g., foodstuffs, , medicines, fertilizers and pesticides).

A reduced VAT rate of 5% is applicable, among others, for accommodation, restaurant and catering services, sales of dwellings as part of the government's social policy, under certain conditions (e.g. a threshold of RON 450,000 / approx. EUR 91,000 per house sold).

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As a general rule, supplies of buildings, parts of buildings and land are VAT exempt without credit (i.e. any input VAT incurred on the relevant expenditures is not allowed to be offset against output VAT, but should be borne by the company as an extra cost).

However, there is an exception for supplies of “new” buildings, parts of “new” buildings and building land (i.e. any land on which building cand be erected), which are subject to VAT and for which the taxpayer is entitled to deduct the VAT incurred on the related costs, if certain conditions are met.

Rental of real estate is also VAT exempt without credit.

For both rental and sales of real estate property, companies may opt to charge VAT and, when they do so, a formal notification must be submitted to the tax office.

The reverse charge mechanism applies to supplies of buildings, parts thereof and any type of land, if taxable either by law or by option.

The VAT grouping system applicable in Romania Allows only there mere consolidation of the VAT returns of the members of the VAT group, possibly leading to a reduction in the amount of VAT payable.

A VAT cash accounting system may be applied by eligible taxpayers, i.e. resident companies with a turnover below RON 4,500,000 (the approximate equivalent of EUR 910,000).

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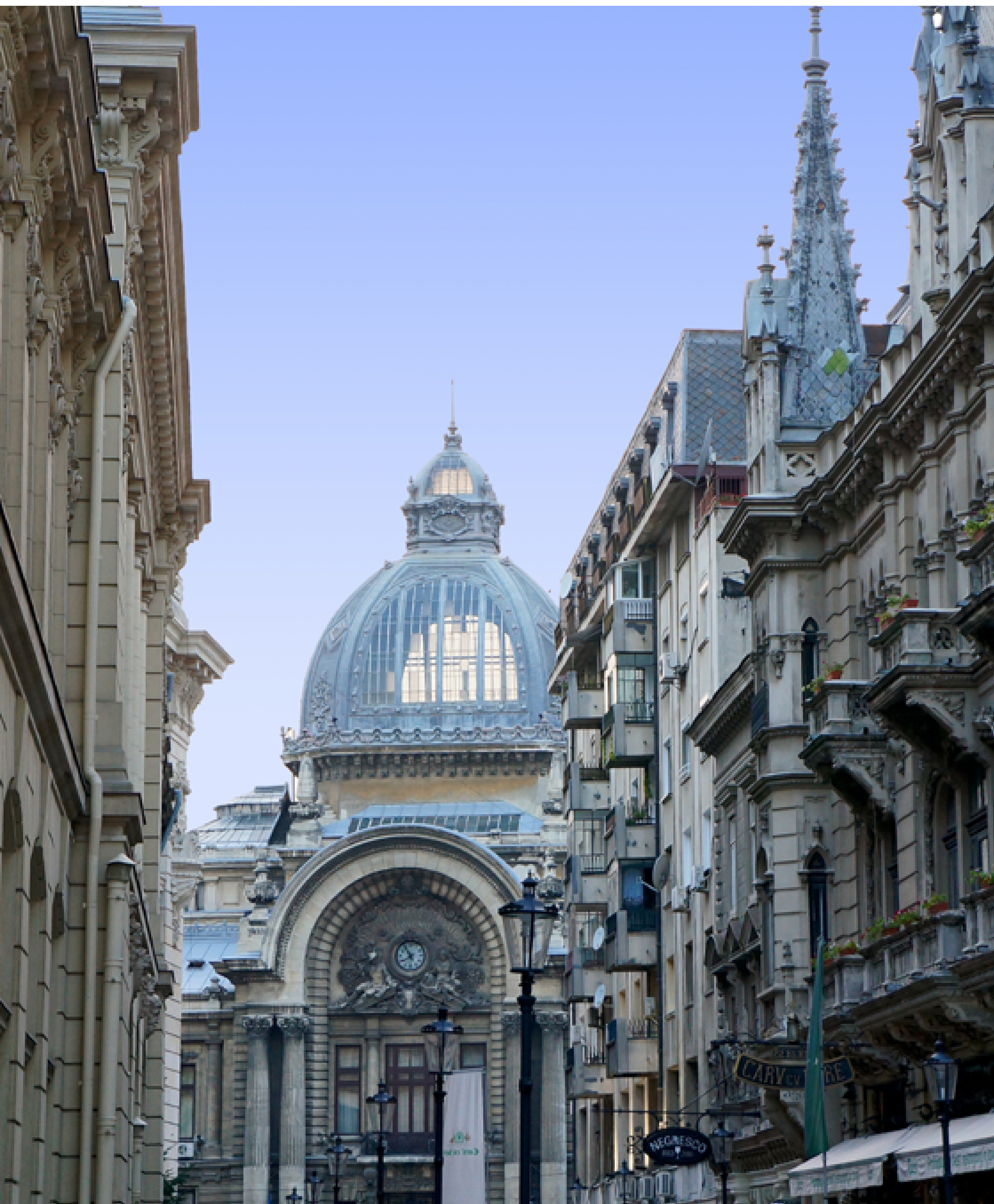

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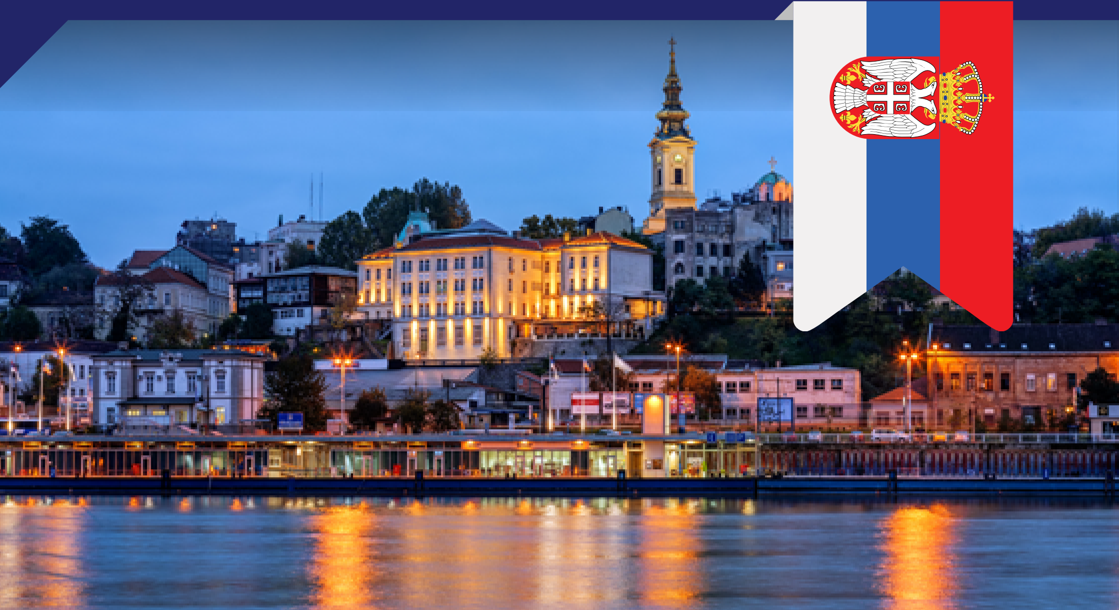
Serbia



GENERAL

The general value added tax (VAT) rate stands at 20%. The reduced VAT rate is 10%.

Value added tax is applicable on the first transfer of ownership rights for newly built buildings constructed after 1 January 2005. Residential buildings are subject to a reduced VAT rate, while all other buildings are subject to the general VAT rate.

In addition, a VAT reverse charge scheme is in place to govern the sale of real estate and the provision of construction services. Under certain conditions buyers of buildings and construction services can apply the reverse charge mechanism. Such measures are intended to reduce the costs of VAT financing in real estate and construction deals.

The transfer of ownership for real estate not subject to VAT is subject to transfer tax at a rate of 2.5%.

The corporate income tax (CIT) rate is 15%.

CORPORATE INCOME TAX AND CAPITAL GAINS

Corporate income tax is levied at 15% on resident entities and branches of non-resident entities. A resident entity is a legal entity which is incorporated or has a place of effective management and control within the territory of Serbia. Resident legal entities pay tax on their worldwide income in the country. Non-resident entities pay tax on the income generated through a permanent establishment within the territory of Serbia.

The tax period is the calendar year, which may be altered by consecutive calendar 12-months period in accordance with

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multinational company's financial year (changes of the financial and tax year is subject to special administrative procedure).

A CIT return for each year has to be filed within 180 days from the end of the tax year. Corporate income tax liability is payable in monthly advanced payments (by the 15th day of the following month). Corporate income tax payable is settled by the CIT return filing date. Upon request, a taxpayer may change its tax year to a period of any 12 consecutive months, but only if the foreign parent entity has a financial year which differs from the calendar year.

Taxable income is determined on the basis of accounting profit disclosed in the annual income statement, in accordance with International Financial Reporting Standards, and is subject to further adjustments in the tax balance.

Capital gains are disclosed separately in the tax balance and are subject to 15% tax. The capital gain is the difference between the sale and purchase price of assets (real estate, shares/securities, intellectual property rights, investment units). If this difference is negative, a capital loss is reported.

Capital gains realized by non-resident entities which do not have a permanent establishment in Serbia, are subject to 20% tax unless otherwise prescribed by a respective double tax treaty.

Losses

Tax losses generated from business transactions, financial and non-business transactions, excluding capital gains and losses, may be carried forward for up to five subsequent tax periods and can be offset against future taxable income. There are no change of ownership rules (i.e. losses carried forward are not lost in the case of a change of ownership, or of mergers, acquisitions, spin-offs or other organizational changes).

Capital losses may be carried forward for 5 years and offset only against capital gains.

Tax depreciation

For CIT purposes, non-current assets are divided into five groups, with depreciation rates prescribed for each group:

Group	Depreciation Rate
I	2.5%
II	10%
III	15%
IV	20%
V	30%

Non-current assets classified under Group I are depreciated using the straight- line method at 2.5%. Non-current assets classified under Groups II-V acquired before 1 January 2019 are depreciated using declining balance method while straight-line method is used for assets acquired after 1 January 2019. Buildings and other immovables (excluding land) are placed into tax depreciation Group I, while plant and equipment are in groups II-V

If a non-current asset is acquired from a related party, the tax depreciation base will be the lower of:

- the transfer price of the non-current asset;

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- the amount/value determined in line with the arm's length principle.

Thin capitalization
Interest and related expenses arising from business with related entities are deductible to a value of up to four times the taxpayer's equity (the limit for banks and finance lease entities is 10 times the entity's equity).

Related-party interest
Interest expenses arising from business with related entities, which are allowable according to thin capitalization rules, are subject to transfer pricing rules. Taxpayers have an option either to apply a safe harbor interest rate prescribed by the Ministry of Finance or to assess a market interest rate by applying general transfer pricing rules.

Transfer pricing
Transactions with related parties need to be separately disclosed in the tax return. Penalties are prescribed for non-compliance. Transfer pricing documentation must be submitted along with the CIT return.

Acceptable methods for assessing the "arm's length" principle of transactions with related parties have been harmonized with OECD methods and include:

- comparable uncontrolled prices method;
- cost plus method;
- resale price method;
- transaction net margin method;
- profit split method;
- any other method, provided the above-mentioned methods are not applicable or if the other method is more appropriate.

WITHHOLDING TAXES
Withholding tax (WHT) at 20% is withheld from dividends, the share in profits, liquidation surplus, royalties, interest, some service fees (market research, accounting and auditing, other services in the field of legal and business consulting regardless of the place where the service is provided or used and lease payments for movable and immovable assets located in Serbia and which is derived by non-residents.

Withholding tax may be reduced in line with double taxation treaties.

If a non-resident taxpayer receives capital gains on, among other, sale of Serbian based rea-estate or shares/ownership stakes in Serbian companies, from a Serbian resident, from a non-Serbian resident based in Serbia, from a non-resident individual, or from an open investment fund within the territory of Serbia, then 20% tax has to be paid unless otherwise prescribed in line with a double taxation treaty. A non-resident taxpayer has to submit a special tax return within 30 days of generating the capital gains via proxy, based on which the tax authorities assess the tax liability.

Withholding tax at 25% is applied on royalties, interest, lease payments for movable and immovable assets and service fees (irrespective of the place where they are provided or used) paid by a resident entity to a non-resident registered in a jurisdiction with a preferential tax system (i.e. tax havens). There is a list of 49 preferential tax jurisdictions to which this special regime applies.

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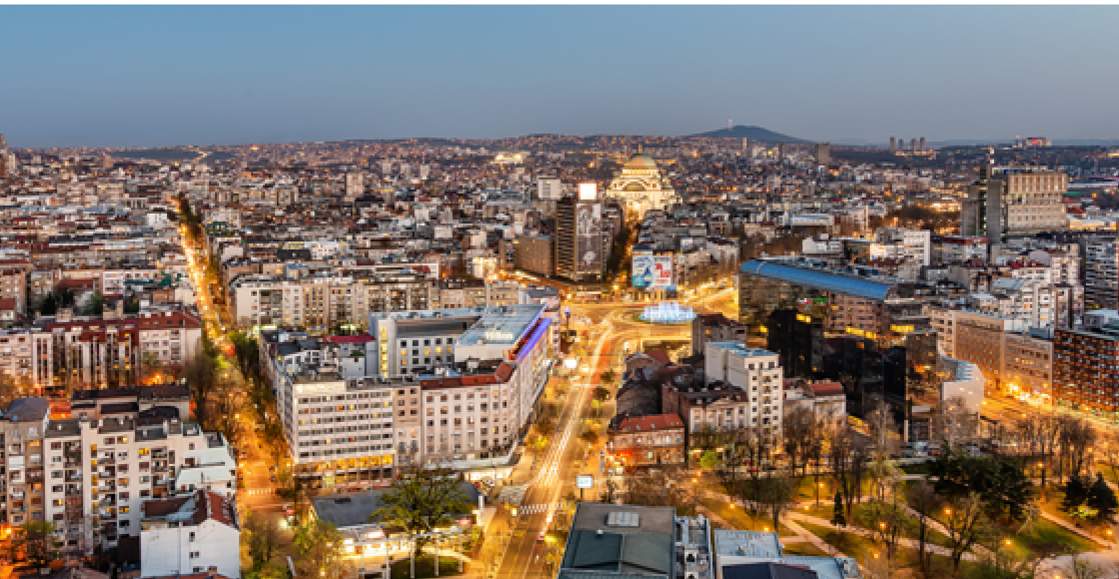

DOUBLE TAXATION CONVENTIONS

As at 1 January 2021, Serbia has 61 effective double taxation conventions on income and capital with the following countries: Albania, Armenia, Austria, Azerbaijan, Belarus, Belgium, Bosnia & Herzegovina, Bulgaria, Canada, China, Croatia, Cyprus, Czech Republic, Denmark, Finland, Georgia, Germany, Greece, Hungary, Hong Kong, India, Iran,Italy, Kazakhstan, Kuwait, Latvia, Lithuania, Luxembourg, Moldova, Netherlands, North Korea, North Macedonia, Norway, Poland, Romania, Russia, Slovakia, Slovenia, South Korea, Spain, Sri Lanka, Sweden, Switzerland, Tunisia, Turkey and Ukraine. Agreements with Egypt, Estonia, France, Indonesia, Ireland, Israel, Libya, Malta, Montenegro, Pakistan, Qatar, San Marino, UAE, United Kingdom and Vietnam cover the avoidance of double taxation of income only.

VALUE ADDED TAX

Value added tax is levied on the following:

- supplies of goods and services for business purposes by a taxpayer within the territory of Serbia; and
- the import of goods into Serbia.

A taxpayer is any entity that independently supplies goods and services in the course of doing business.

Each entity whose turnover in the previous 12 months (sales of goods and services excluding sales of real estate and equipment used in performing business activities) exceeds RSD 8 million (approx. EUR 68,050) is obliged to register for VAT.

The first transfer of newly built residential buildings (for buildings constructed since 1 January 2005) is subject to 10% VAT, while

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first transfer of other newly built buildings is subject to 20% VAT.

Supplies of land, as well as the renting of land and real estate for residential purposes, are exempt from VAT without input VAT recovery. There is a possibility to apply VAT on any transfer of buildings (option to tax) through a reverse charge mechanism if both the purchaser and the seller are VAT registered and purchaser is entitled to deduction of input VAT.

In addition, a VAT reverse charge scheme is in place for construction related supllies. VAT reverse charge scheme is applicable to supplies exceeding RSD 500 thousand (approximately EUR 4,255) excluding VAT under certain conditions. Such measures are intended to reduce the costs of VAT financing.

PROPERTY TAX

In Serbia, tax on property is paid by the titleholder of the property rights (ownership, right of use, tenure, etc.). The property tax base is the market value for most entities instead of its book value. Each municipality issues detailed rules on how to calculate property tax liability. Entities applying fair value accounting use the book value as the tax base.

Property tax rate may not exceed 0.4%.

Property tax returns are submitted by 31 March of the current year.

REAL ESTATE TRANSFER TAX

The transfer of ownership for real estate which is not subject to VAT is subject to transfer tax at a rate of 2.5%. The taxpayer is the seller (i.e. transferor of the ownership right, intellectual property right, or the person who leases or gets use of the construction land).

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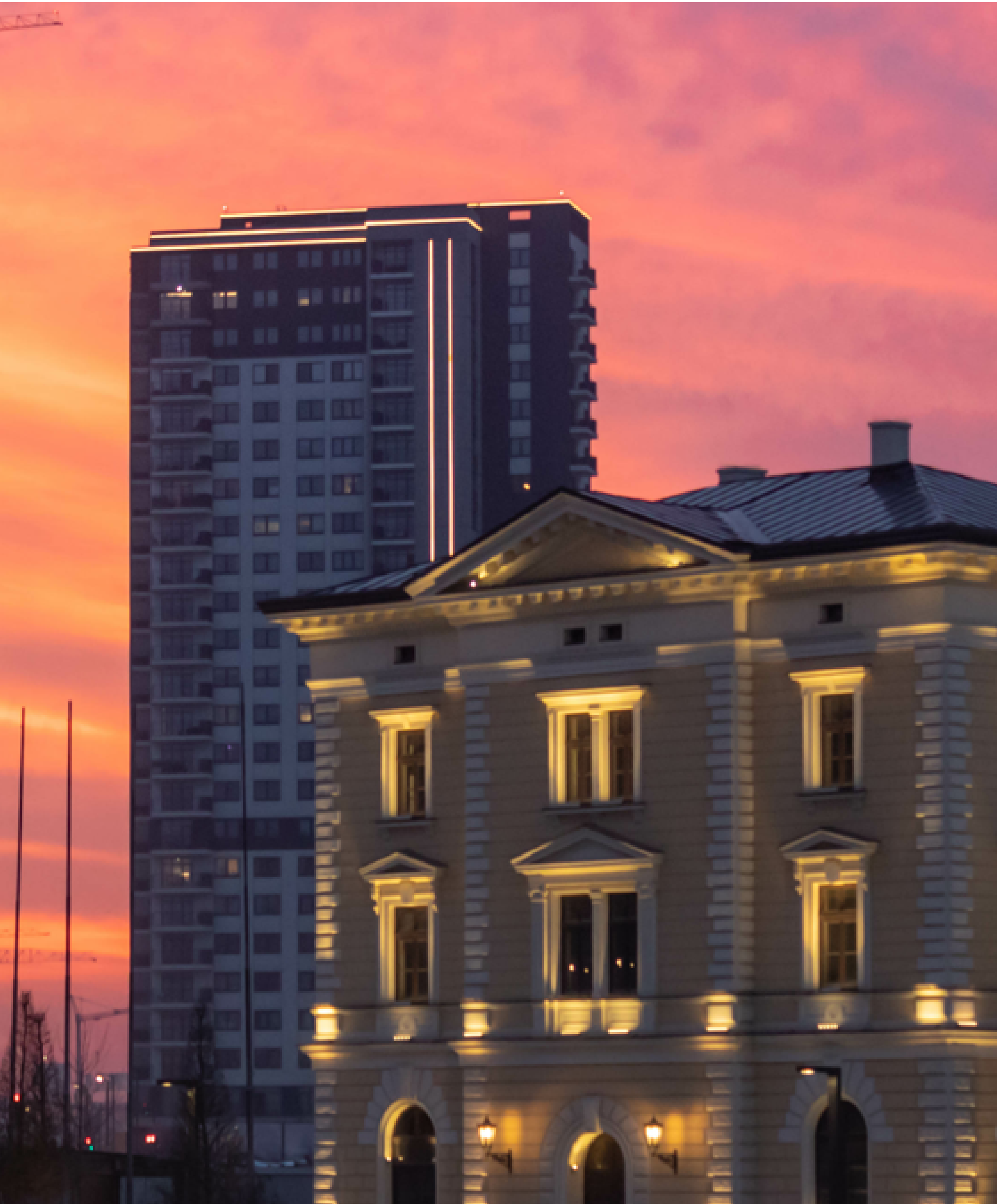

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Slovakia

GENERAL

The tax system in the Slovak Republic is comparable to taxation systems in other EU Members States and follows OECD guidelines and principles.

Recent amendments to the Slovak tax legislation have brought transposition of rules for hybrid mismatches, refined rules for tax loss utilization and introduced a concept of a microtaxpayer.

Over the past few years several tax law amendments were aimed to support small and medium-sized enterprises and the automotive industry in Slovakia, simplify tax calculation, reduce administrative burden, and last but not least, implement the EU directives for the prevention of tax avoidance.

The CFC rules, exit tax, as well as specific measures to support R&D have also been implemented into the Slovak income tax legislation.

The latest amendment to the VAT Act introduced among others new rules for taxation of cross-border supplies of goods (distance sales) and defined conditions for correction of tax base upon total or partial non-payment of consideration for supply of goods or services.

CORPORATE INCOME TAX AND CAPITAL GAINS

Corporate income tax (CIT) in Slovakia is levied at the standard corporate tax rate of 21 %. From 1 January 2021, the reduced corporate income tax rate of 15% is applicable for taxpayers with revenues not exceeding EUR 49,790

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per tax period. Tax base is calculated as taxable revenues reduced by tax deductible costs incurred to generate, assure or maintain taxable income, subject to additional tax adjustments.

There is no separate capital gains tax in Slovakia and gains on the disposal of fixed assets and intangibles are included in a taxpayer's total income. On disposal, the taxpayer can deduct the net tax value of the assets (after accumulated depreciation) and associated disposal expenditures. Losses on the sale of certain buildings are not tax deductible, nor are losses on the sale of land. The capital gains on sales of real estate, rental income or other income from real estate situated in Slovakia is also subject to local rules; hence there is also a liability to pay income tax if both parties involved in the transaction are Slovak tax non-residents not having a permanent establishment in Slovakia, unless a double tax treaty provides exemption from paying tax.

In the case of a sale of shares in a Slovak company held by a foreign shareholder, under the domestic rules the capital gain is taxable in Slovakia but exemptions may be available to EU resident taxpayers.

Also, Slovakia has an extensive array of double tax treaties which normally but not always provide the right to tax the capital gain in the jurisdiction of the seller. Potential gains here may also be taxable if the Slovak company holds substantial real estate.

Slovakia has adopted Multilateral Instrument which after ratification of the contractual parties modifies double tax treaties including wording of the real estate clause.

Fiscal grouping

There is no concept of fiscal grouping for corporate income tax purposes in Slovakia.

Tax depreciation

Depreciation of fixed assets is calculated on a straight-line or accelerated basis, using rates laid out in legislation.

Depreciation is based on categorization of assets into groups with depreciation periods. There are six depreciation groups with a maximum tax depreciation period amounting to 40 years. Accelerated ax depreciation may only apply to depreciation groups two and three (mostly on technological equipment).

Buildings are depreciated over 20 or 40 years depending on the type of building.

Land cannot be depreciated for tax purposes in Slovakia.

Any tax depreciation of leased out fixed tangible assets can be considered as a tax-deductible item only up to leasing revenues received in the respective tax period.

It is possible to decide to interrupt (not claim) depreciation of tangible assets in any particular year (the interruption of tax depreciation of tangible assets is not possible during a tax audit and via a supplementary income tax return for a tax period that was already subject to a tax audit). Generally, interruption of depreciation of tangible assets prolongs the depreciation period.

In the case of certain components of (multiple unit) real estate it is also possible to divide a fixed asset into

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separate components if the acquisition value of each respective component is higher than EUR 1,700 - and also to depreciate them separately in a different tax depreciation group.

Microtaxpayer

The concept of a microtaxpayer was introduced to support small enterprises. The term microtaxpayer is defined as an individual or a legal entity whose income (revenues) does not exceed EUR 49,790 in the respective tax period and complies with certain other conditions.

Microtaxpayers can benefit from e.g. faster tax depreciation charges, easier rules for tax deductible provisions against receivables or for tax losses carry forward. The provisions concerning the microtaxpayers entered into effect on 1 January 2021.

Tax loss carry forward

Tax losses can be utilized for a period of 5 subsequent tax periods, but only up to 50% of the tax base (this limitation does not apply to microtaxpayers). The above tax loss amortization provisions apply to tax losses reported for tax periods beginning not earlier than on 1 January 2020.

Transitional provisions apply to tax losses declared for the preceding tax periods.

A company wound up without liquidation (e. g. on a merger or demerger), is allowed to transfer the right to carry forward its tax losses to its legal successor(s) to set off against subsequent taxable profits subject to certain anti-avoidance provisions.

Different rules may apply to tax losses of companies benefiting from various tax incentive schemes.

Thin capitalization/earnings stripping rules

Interest and other expenses related to loans received from a related party exceeding 25% of an amount roughly corresponding to EBITDA (earnings before interest, taxes, depreciation and amortization) will be tax non-deductible. The rules apply to related parties - in line with the definition of related parties for transfer pricing purposes, i.e. to foreign and domestic related parties. These rules do not apply to certain financial institutions, e.g. banks, insurance companies, re insurance companies and others.

WITHHOLDING TAX

Dividends

Dividends in general were not taxable. As of 1 January 2017 dividends paid to individuals or tax non-residents from contractual countries by Slovak companies are subject to withholding tax at a rate of 7%, if the applicable double taxation treaty does not determine otherwise. A withholding tax rate of 35% applies to dividends paid by Slovak companies to all residents from countries not listed by the Slovak Ministry of Finance as contractual countries or from blacklisted countries by the EU including individuals and companies.

Interest, royalties and intangible services

Under Slovak domestic legislation, withholding tax of 19% applies to payments of interest, royalties and fees for intangible services paid to treaty countries. This is generally reduced or

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eliminated under the double taxation treaties to which Slovakia is a party.

However, in order to apply the treaty rates, the payer should hold a certificate of tax residence of the recipient.

Furthermore, the Interest and Royalties Directive fully applies in Slovakia.

In the case of non-cooperative countries, the withholding tax rate is increased to 35%. The Ministry of Finance issues a list of the treaty countries annually.

Currently, withholding tax is regarded as the final tax with certain exceptions, such as certain income of tax non-residents listed in line with the tax legislation.

Exemption of income from sale of shares and a business share

Similarly to Participation Exemption regimes known from other EU countries an exemption from the corporate income tax for income from sale of shares and business shares applies provided that the following conditions are simultaneously met:

- minimum holding of 10 % of the registered capital;
- holding period for at least 24 consecutive calendar months;
- substance test: the company selling shares must perform economic activities in the territory of Slovakia, perform material functions, bear risks related to the investment and have the respective personal and material equipment.

Only legal entities (not individuals) are entitled to the exemption and it is applicable also to shareholdings acquired up to 31 December 2017; however the holding period test on existing shareholdings started on 1 January 2018.

SECURITY TAX

Payments to non-resident entity from non-cooperative jurisdictions are subject to 35% security tax with the exception of treaty counties, in the case of which the security tax rate remains at 19%. This is not applied if the receiving entity holds a certificate proving it makes advance payments of tax or if the receiving entity has its registered seat or address within the EU.

BUSINESS COMBINATIONS

In general **business combinations** of domestic companies can be performed in principle only **at fair values** for tax purposes. Tax regime of historic values can only be applied for certain cross-border transactions upon specific conditions.

In such a case, the revaluation difference arising from the restructuring must be included in the taxable base in line with the tax law. On the other hand, the company may depreciate assets from their fair value and must not continue with the tax depreciation of assets from their tax residual value. In addition, the amortization of goodwill may, under certain conditions, be tax deductible.

REAL ESTATE TAX

In general, real estate tax is applied to companies and individuals owning land and buildings. The tax is based on the area of the land and building, the number of floors of a building, usage and location.

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There is considerable flexibility for local authorities in the setting of these rates of tax.

REAL ESTATE TRANSFER TAX AND OTHER TRANSFER TAXES AND DUTIES

There is no real estate tax or any significant stamp or other duties on the transfer of land or buildings. Acquisition of shares in Slovak companies is not subject to any transfer tax or significant stamp duties.

VALUE ADDED TAX

General provisions for real estate

The Slovak VAT Act stipulates that the supply of a construction or a part thereof, including the supply of building land on which the structure is constructed, should be VAT exempt provided that the supply is performed five years of the date of:

- approval of the construction for use, permitting the first use of the construction for the designated purpose, or five years of the date of commencement of the first use of that construction, whichever comes first,
- approval for use, permitting the change of purpose of use of the construction, which took place as a result of the performed construction works, provided the costs of those construction works amount to at least 40 % of the value of the construction prior to the commencement of the construction works;
- approval for use, permitting the use of the construction after the performance of the construction works resulting in a material change of the conditions of current use of the construction; material change of the conditions of current use of the construction shall mean spending costs on construction works in an amount of at least 40 % of the value of the construction prior to the commencement of the construction works.

The VAT payer who supplies a construction or part thereof that satisfies the conditions for VAT exemption as mentioned above may opt for not exempting the supply of (part of) the construction from VAT.

In general, rental of real estate or parts thereof is exempt from VAT (there are certain exemptions), but the supplier may opt to charge VAT if the supply is made to a taxable person.

The VAT payer who acquires immovable property with the intention to use the property for both business and non-business purposes is only entitled to deduct the proportional part of the input VAT in the amount that corresponds with the scope of the business use of the respective property.

The Slovak VAT Act contains provisions for capital goods scheme purposes, according to which the VAT payer is obliged to pursue for VAT purposes the change of use (for business/ non-business purposes as well as for exempt/ non-exempt use) of immovable property (construction, building lands, flats, commercial premises, construction superstructures, extensions and reconstructions, flats and commercial premises requiring a building permit) for a period of 20 years and to adjust the input VAT deducted accordingly.

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VAT grouping

VAT grouping was introduced in Slovakia with effect from 1 January 2010.

A VAT group is defined as a group of taxable persons whose seat(s), places of business or establishment is in the territory of Slovakia and which are connected financially, economically and organizationally. Members of a VAT group act as one taxable entity under one assigned VAT ID number.

The tax authorities should register the VAT group with effect from 1 January of the calendar year following the year in which the application for registration was submitted, if the respective application has been filed by 31 October of the current calendar year.

Should the application for VAT group registration be filed after 31 October of the current year, the tax authorities will register the group with effect from 1 January of the second year following the calendar year in which the application for the registration of the VAT group was filed.

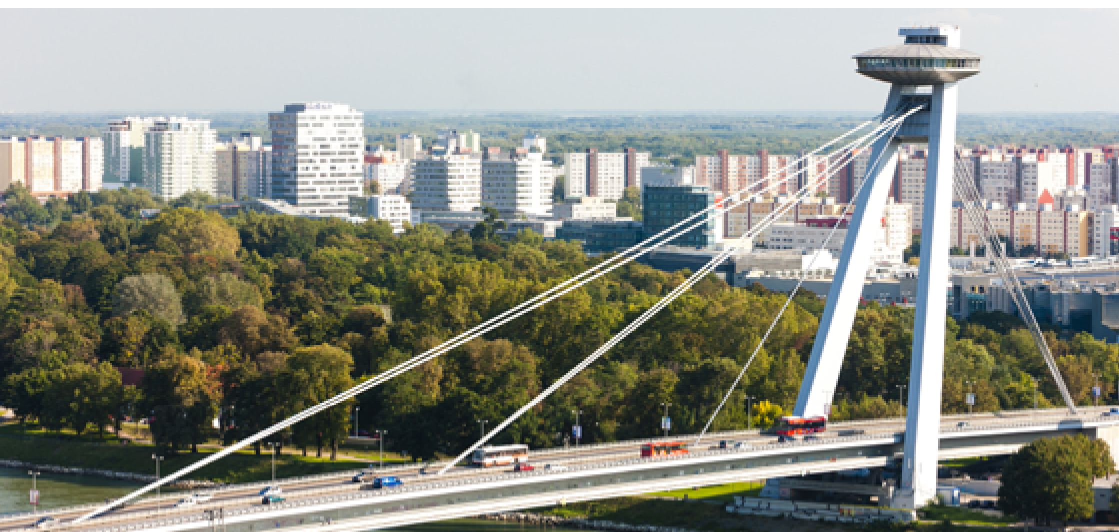
From 1 January 2014, a new member may join the existing VAT group anytime during the calendar year.

VAT grouping can positively affect the cash flow of companies in a VAT group since VAT is not charged on transactions between VAT group members.

VAT refund

If a company is established in another EU Member State, it can submit an electronic claim for VAT refunds under EU Directive 2008/9/EC. A non-EU business can also recover VAT under the principles of the 13th EU VAT Directive.

Under both of these provisions, there are strict time limits for making claims. Applications must be submitted within 6 months following the end of the calendar year in which the VAT was charged or



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paid to non-EU businesses and within 9 months in the case of payments to EU entities.

Alternatively, for EU entities, a shorter period is allowed if at least 3 calendar months are involved, and VAT incurred during this period amounts to at least EUR 400.

The tax authorities determine whether the claim is to be paid for EU business within 4 months of receipt of the application, or if additional information is requested, with a period of up to 8 months, or for non-EU entities within 6 months.

VAT payers with seats in Slovakia and foreign entities who do not fulfill the conditions for refunding of VAT under the EU Directive 2008/9/EC or the 13th EU VAT Directive, and which are VAT registered in Slovakia, may apply for a refund of VAT incurred via the filing of VAT returns.

Generally, the refunding by way of VAT returns takes approximately 90 days if the supplier is a monthly VAT payer.

The VAT excessive deduction is not remitted immediately after filing of the above VAT return but is available for offset against the VAT liability declared in the following VAT period. The excessive VAT deduction that cannot be offset against the VAT liability in the following period should be refunded within 30 days of filing the VAT return for the following period.

However, an accelerated VAT remittance procedure is available for persons registered for VAT in Slovakia, under which a VAT refund is possible within 30 days of the deadline for filing the VAT return for the respective period. This is subject to certain conditions, e.g. the taxable period being a calendar month, registration for VAT purposes for at least 12 months before claiming the excess VAT deduction, and underpayments up to EUR 1,000 towards the State Budget or towards social/health insurance institutions during 6 calendar months before the end of the calendar month in which the excess VAT deduction arose. VAT payers who comply with these conditions must mark this in the respective VAT return.

Slovak Act on Value Added Tax - general rule for determining the place of supply of services

General rules on "place of taxation" stipulate that the place of supply of services to a taxable person (so-called business to business services) is the place where the customer is established; and the place of supply of service to a person other than a taxable person (so-called business to consumer services) is in the Member State of the service supplier.

Exceptions to the general rule apply for specific services, e.g. the place of supply of services connected with immovable property, including the services of estate agents and of related experts, accommodation services, the granting of rights to use immovable property and services for the preparation and coordination of construction work, such as the services of architects and of persons providing on-site supervision, should be the place where the immovable property is located.

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TRANSFER PRICING

Pursuant to the provisions of the Income Tax Act, a price and conditions agreed between related parties (both foreign and domestic) should reflect the price and conditions that would have been agreed between unrelated parties engaged in the same or similar transactions under the same or similar circumstances (i.e. fair market price/conditions). If the agreed price or conditions for transaction between related parties is different from the fair market price or fair market conditions and this difference leads to a decrease of the tax base or increase of the tax loss, the tax base must be adjusted by this difference. Related parties are generally defined as economically or personally connected individuals or legal entities.

Economic connection is understood to be participation of more than 25% in share capital or voting rights. Personal connection is understood to include participation in the management or control of the other person.

Based on transfer pricing principles, the transfer price should reflect the risks borne and functions performed by parties involved in the transaction. In principle, any method recognized by the OECD could be used for price determination (e.g. cost plus, resale minus, comparable uncontrolled price). If the price charged for goods or for a service significantly differs from prices charged in similar transactions between independent companies, the tax authorities may challenge the transaction. Transfer pricing documentation requirements have been effective since 2009. The Ministry of Finance issues guidelines on transfer pricing documentation rules. The significant changes were made in 2018 in respect of criteria determining type of documentation as well as the content of each type of documentation. Transfer pricing documentation must be provided to the tax authorities within 15 days of their request.

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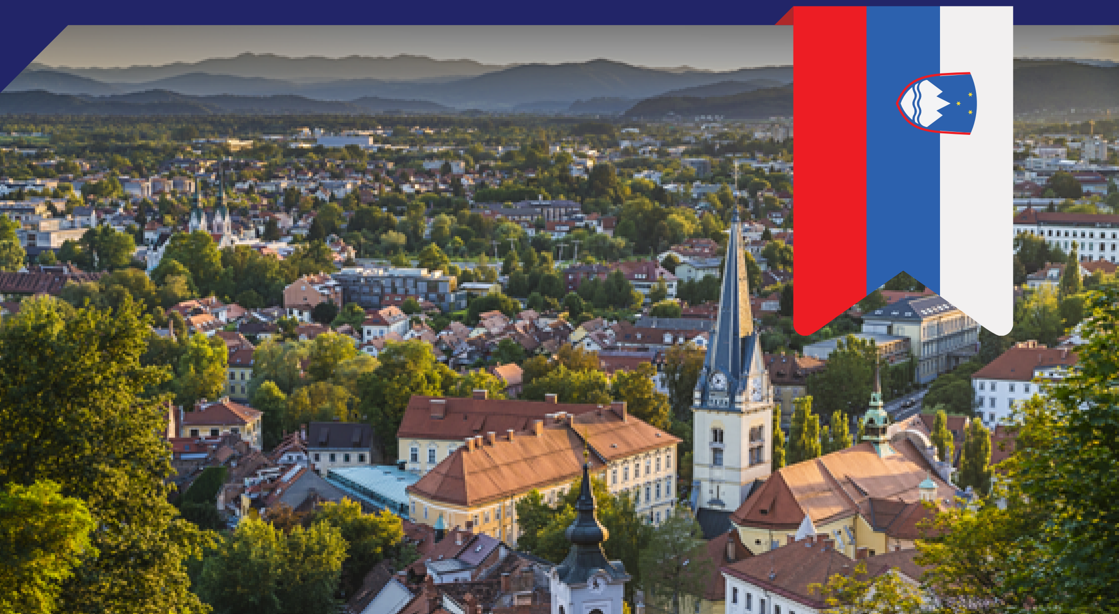
Slovenia



GENERAL

At the transactions with the real estate, a standard value added tax (VAT) rate of 22% is applicable in Slovenia, whereas a reduced rate of 9.5% may also be applied in some cases.

The sale of building land and the sale of new buildings and land (i.e. the supply of the real estate before the first use or within 2 years from first use), is subject to VAT. However, the sale of buildings or parts thereof, and of the land on which they stand (occupied for longer than 2 years), is VAT exempt; consequently, 2% real estate transfer tax (RETT) is payable.

Notwithstanding the above, the seller/the lessor of the real estate (taxable person) and the buyer/lessee (taxable person having the right to full deduction of VAT) can agree to charge VAT on the sale/lease of the real estate.

The reduced 9.5% VAT rate on the sale of residential property applies only if the property meets the criteria of a social housing program. If the area of a house or apartment exceeds a certain area in square meters then the standard VAT rate applies. Details are provided under the "Value added tax" section below.

CORPORATE INCOME TAX

Resident companies are taxed on their worldwide income. According to the Corporate Income Tax Act (henceforth the Slovene CIT Act), revenues and expenditure disclosed in companies' profit and loss accounts are adjusted for tax purposes.

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The corporate income tax (CIT) rate is currently 19%.

Investment funds subject to tax under the Slovene CIT Act, which are established in accordance with an act regulating investment funds and fund management companies, shall pay CIT for the tax period at a rate of 0% of the tax base, provided that at least 90% of the operating profit generated in the preceding tax period has been distributed by 30 November of the tax period in question.

Capital gains

Capital gains realized on the disposal of shares are included in the tax base and are subject to CIT. However, under certain conditions (i.e. if the taxpayer holds at least 8% of the share capital for a minimum period of 6 months and employs one employee on a full time basis), 47.5% of the capital gain may be exempt from taxation. Fifty percent (50%) of capital losses are treated as non-deductible expenses, if realized from the alienation of shares and if the above-mentioned conditions are met.

Tax depreciation

Based on the Slovene CIT Act, depreciation and amortization may not exceed the level arrived at using the straight-line depreciation method and the maximum annual depreciation rates prescribed by the CIT Act. If the calculated depreciation exceeds the amount that would be calculated, the excess amount of depreciation shall be recognized as an expense in subsequent tax periods, so that for tax purposes depreciation is calculated until final depreciation, disposal or derecognition of tangible fixed assets, intangible assets and investment property.

Examples of maximum depreciation rates are:

- 3% for buildings and investment property;
- 6% for parts of building projects, including parts of investment property;
- 20% for equipment, vehicles and machinery;
- 50% for computers, hardware and software;
- 33.3% for R&D equipment and its parts;
- 10% for other investments.

Tax losses

Tax losses may be carried forward for an indefinite period and may be used for the reduction of the taxpayer's positive CIT base, but only up to 50% of that taxpayer's CIT base for the current tax period. Tax losses from the current and previous years may not be carried forward if the direct or indirect ownership of capital or voting rights of the taxpayer changes by at least 50%, and where:

- the taxpayer, before the changes of ownership, did not carry out the business activity for 2 years; or
- the taxpayer essentially changed its business activities in the last 2 years before or after the change of ownership, unless the change of business activities is necessary for the

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continuation of employment or due to business restructuring.

Thin capitalization

Except in the case of loan recipients that are banks or insurance providers, the interest paid on loans (loans received from a shareholder who at any time during the tax period directly or indirectly owns at least 25% of the shares in the equity capital, or the voting rights of the taxpayer) will not be recognized as an expense, if at any time during the tax period the loans exceed the prescribed debt/equity ratio of 4:1. However, if the taxpayer can prove that the excess loan could also be granted by a non-related entity under the same or similar circumstances, then thin capitalization rules do not apply.

WITHHOLDING TAX

The general withholding tax (WHT) rate is 15% and is applicable for payments of dividends, interest, royalties, lease payments for immovable property located in Slovenia, on payments for the performances of artists and sportsmen, in all those cases provided that the payment is made to another person, and for payments for certain services to an entity resident in a country listed on the "black list" which is published by the Slovene Ministry of Finance.

Slovenia applies the EC Parent-Subsidiary Directive and Interest and Royalties Directive which reduce WHT to 0% when this income is paid to EU resident companies. If none of the aforementioned Directives apply, there is also a possibility to apply the relevant double tax treaty between Slovenia and the respective country.

Dividends

No withholding tax is levied on any payments made by a Slovenian company to another Slovenian company which communicates

its tax identification number to the payer (the procedure normally followed).

Under the Slovene CIT Act, which lays down the provisions of the EC Parent- Subsidiary Directive, dividends are exempt from withholding tax if the recipient is an EU company listed in the Directive and subject to corporate income tax, and which directly holds at least 10% of the capital or voting rights of the paying company.

A continuous minimum holding period of 2 years is required. If the 2-year holding period has not yet elapsed, the exemption can be directly applied if the recipient lodges a bank guarantee.

Notwithstanding the conditions above, dividends are exempt from withholding tax if the recipient is an EU or EEA company that is unable to offset the Slovenian withholding tax because it benefits from a participation exemption regime in its country of residence. In such cases, any withholding tax already paid may also be refunded.

Interest and royalties According to the Slovene CIT Act, which lays down the provisions of the EC Interest and Royalties Directive, interest and royalty payments made by resident companies are generally exempt from withholding tax, provided that at the time of the payment:

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- the payments are made to the beneficial owner, which is a company registered in an EU member state;
- the payer and the beneficial owner are related such that a) the payer directly participates in the beneficial owner's capital by not less than 25%, or b) the beneficial owner directly participates in the payer's capital by not less than 25%, or c) the same company directly participates in the payer's and the beneficial owner's capital by not less than 25%, where participation between the companies of the EU member states is concerned;
- the duration of the minimum participation is not less than 24 months.

However, an exemption from withholding tax shall only apply to the amount of the payments that are at arm's length.

For the above-mentioned withholding tax exemption, a special application must be submitted to the Slovene Tax Authorities. If the conditions are fulfilled, the tax authorities have to pre-approve the application of that WHT exemption.

REAL ESTATE TRANSFER TAX

The transfer of the real estate or establishing and transferring the right of superficies is subject to real estate transfer tax (RETT).

If VAT is charged on the transaction with the real estate, RETT is not imposed (i.e. for supplies of building land or new immovable property – buildings and land supplied before the first use or within 2 years after the first use, etc.).

The taxable person is the seller of the real estate, unless otherwise agreed. In establishing the right of superficies, the taxable person is the owner who first acquired the right to the superficies, while in transferring the right of superficies, the taxable person is the owner who transfers the right to the superficies.

The tax rate of RETT is 2%. The tax base is the selling price of the real estate. In establishing or transferring the right of superficies, the tax base is the realized payment equaling the market value of the right of superficies.

TAX ON CIVIL LAW TRANSACTIONS (TRANSFER TAX)

Slovenia does not impose a special tax on civil law transactions.

VALUE ADDED TAX

General provisions regarding the real estate

According to Article 44 of the Slovene VAT Act, the sale of land (except building land) and of buildings or parts thereof, and of the land on which they stand (occupied for longer than 2 years), is VAT exempt.

The sale of building land and the sale of new buildings and land (i.e. the supply of the real estate before the first use or within 2 years from first use), is subject to VAT.

However, the taxpayers have the option to choose that the transaction

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is subject to VAT if special conditions according to Article 45 of the Slovene VAT Act and Article 78 of the Rules on the implementation of the VAT Act are fulfilled, i.e.:

- the buyer/lessee of the immovable property has to have the right to full deduction of input VAT;
- both, the seller/lessor and the buyer/lessee of the immovable property have to agree to charge VAT at the prescribed rate the respective transaction.

The agreement should be concluded in a written form and should contain the expressed will of the seller/lessor and the buyer/lessee that the transaction is subject to VAT.

Additionally, in the written agreement also the VAT ID numbers of the seller/lessor and the buyer/lessee should be stated and the identification data of the respective real estate.

Usually this agreement is included in the respective sales/lease contracts. The agreement should be presented to the Slovene TA upon their demand.

If the supply of immovable property is subject to VAT (according to Article 45 of the Slovene VAT Act), the VAT is payable by the buyer/lessee based on the local reverse charge mechanism according to Article 76a of the Slovene VAT Act). In this case, the seller/lessor is obliged to report every taxable transaction to the Slovene Tax authorities on a monthly basis in a special report (i.e. PD-O Report).

The standard VAT rate in Slovenia is 22% and the reduced rate is 9.5%.

The leasing of an office and certain rental space is, in general, also VAT exempt (except for accommodation in hotels, the lease of garages and parking areas, the lease of permanently installed machinery and equipment and the lease of safes). However, the taxpayers have the option to choose that the transaction is subject to VAT if special conditions according to Article 45 of the Slovene VAT Act and Article 78 of the Rules on the implementation of the VAT Act are fulfilled (please see above).

Place of the supply of services

Generally, the place of supply of services to a taxpayer registered for VAT purposes in another EU country or third country is the place where the recipient of services has established his business. However, in cases where the supply of services is made to a person other than a taxpayer, the place of supply of services is where the service provider has its seat.

In cases of services related to the real estate, the place of supply of services is where the real estate is situated.

Refund of the VAT surplus via VAT return

The VAT surplus reported in the Slovene VAT returns is refunded to tax payer's bank account in 21 days after the date of filing of the VAT return.

Foreign VAT refund under VIII Directive and XIII Directive

VAT refund claims for VAT paid in Slovenia for EU established tax payers (under the VIII Directive) must be filed electronically

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with the local tax authority in the country where the tax payer has its seat.

VAT refund claims for VAT paid in Slovenia for non-EU established tax payers (under the XIII Directive) must be filed electronically in Slovenia via Slovene e-taxes portal. A Slovene tax number for foreign tax payer and its legal representative and the access to the Slovene e-Taxes must be obtained in advance. The VAT refund claim in Slovenia can also be filed by an authorized person on basis of the POA.

For more information on real estate services in Slovenia, please contact:

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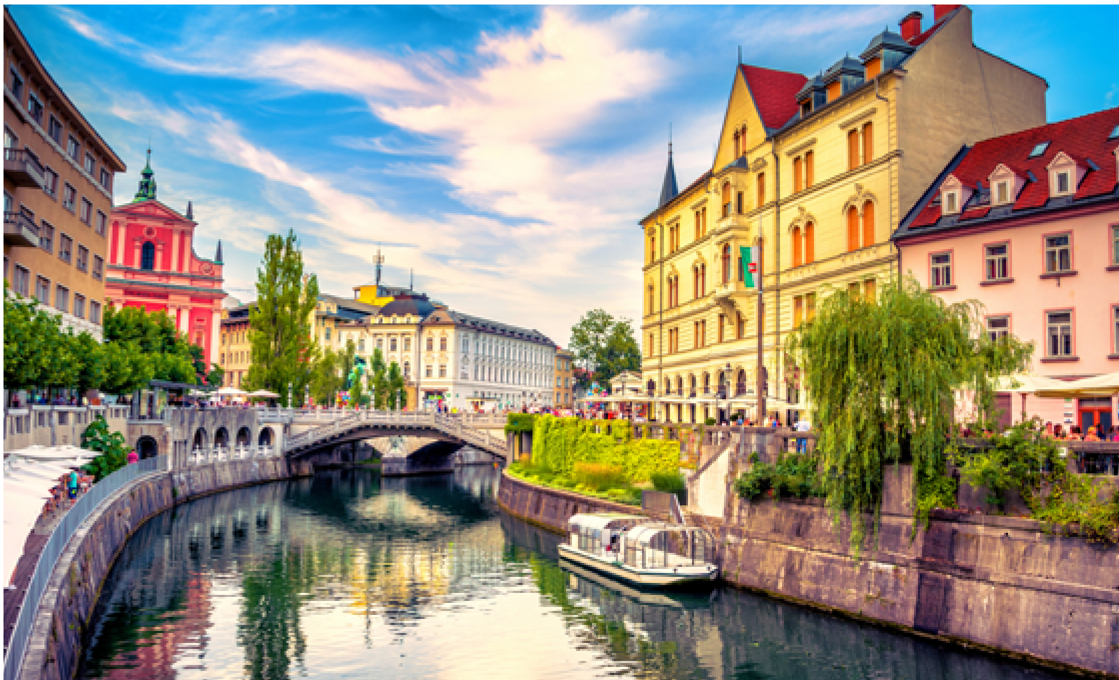

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