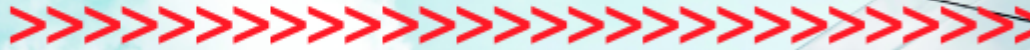


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Belarus

Simplified Taxation System in Belarus: Mechanism and Latest Trends

Belarusian companies and individual entrepreneurs are entitled to use a simplified taxation system provided they meet certain requirements established by Belarus law. Simplified taxation system is a remarkable opportunity to save on time for tax paper bureaucracy and increase tax savings. We prepared a brief overview of the simplified taxation system basics and touched upon new trends in restricting its use among taxpayers involved into e-commerce.

According to the Tax Code Belarusian companies and individual entrepreneurs are entitled to use simplified taxation system (hereinafter, "STS") provided they simultaneously comply with the below requirements during the first nine months of the year proceeding the year for which the transition to the STS is claimed:

- the average number of company employees is fewer than 100;
- cumulative gross revenue is not more than 10.3 billion Belarusian rubles (approx. 448,270 euros¹) for a company or 1.125 million rubles (approx. 48,960 euros) for an individual entrepreneur.

If a company or an individual entrepreneur has switched to the STS, it pays the tax at STS (hereinafter, "STS tax") that replaces payment of almost all applicable taxes, except e.g. import duties, state and stamp duties, social security contributions and certain other taxes and duties.

The STS tax rates may vary and amount:

- 5% of gross revenue for companies and individual entrepreneurs that are not going to pay VAT themselves or
- 3% of gross revenue for companies and individual entrepreneurs that are going to pay VAT; and
- 16% of non-operating income for companies and individual entrepreneurs that received any goods, services, assets or funds free of charge.

It is up to the taxpayer whether to choose the STS with payment of VAT or without. The decision is usually based on analyzing the structure of taxpayer's activity. If a taxpayer is actively involved into supplying goods, services (works) that are VATable under Belarus law, it is viable to use STS when paying VAT. Conversely, if a taxpayer is actively purchasing goods, services (works), it is viable to consider STS without paying VAT.

Although a taxpayer may meet the abovementioned requirements, it may be directly precluded from using the STS by the law, e.g. STS cannot be used by companies or individual entrepreneurs that are:

- manufacturing excisable goods;
- residents of the High Technologies Park, China-Belarus Industrial Park, free economic zones;
- realtors, banks, casinos, insurance companies, microfinance organizations etc.

Companies and individual entrepreneurs are not entitled to use STS if their cumulative gross revenue during the calendar year has exceeded 13.7 billion rubles (approx. 596,250 euros) for companies and 1.5 billion rubles (65,280 euros) for individual entrepreneurs.

Since January 1, 2016 the list of "excluded" taxpayers has been enlarged by the companies and individual entrepreneurs operating in the field of e-commerce.

Firstly, STS cannot be applied by companies and individual entrepreneurs that either:

- provide services connected to placement of information on the web concerning the sale of goods and the seller itself, when such information includes the domain name of the e-commerce website and/or hyperlinks to it, or
- provide the right to place information on the web concerning the sale of goods and the seller itself, when such information includes the domain name of the e-commerce website and/or hyperlinks to it.

In other words, STS cannot be used any longer by Internet resource owners (e.g. web site), or advertising agencies that are simply providing such services online. In our opinion, a mere placement of information on the goods and seller without possibility of redirection to the e-commerce site and/or their order online, i.e. having a shopping window, should not fall within the restrictions outlined.

These amendments had raised numerous questions towards their practical implementation and were given a broad interpretation by a letter from the Ministry of Taxes and Duties.² The Ministry clarified that the restrictions shall apply no matter which form of information placement (e.g. banners, advertisement articles) is used and apply, in particular, to placement of heavily used Yandex.Direct and GoogleAdSense advertisements. The fact that such an e-commerce site is not used or temporarily not used by the taxpayer is not important; the only thing that is important for the tax authorities is the fact that such a site is registered in the Trade Register of the Republic of Belarus. Publishing information on unregistered e-commerce sites should not lead to prohibition from availing oneself of the STS. Currently³, there are 11,100 e-commerce sites registered in Belarus.

Secondly, STS cannot be applied by companies and individual entrepreneurs that carry out retail trade online. The companies and individual entrepreneurs are referred to as carrying out retail trade online from the moment the data on such e-commerce sites are included in the Trade Register till the moment such data are excluded from the register.

Summing up, it should be noted that despite certain legislative initiatives aimed at limiting the use of STS

among taxpayers, the STS regime remains to be one of the most attractive for taxpayers.

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NOTES

¹ Hereinafter as of the National Bank of the Republic of Belarus rate 1 euro = 22,977 rubles on April 7, 2016.

² The Letter of the Ministry of Taxes and Duties of the Republic of Belarus "On Implementation of Certain Provisions on the Tax at the Simplified Taxation System" No. 2-3-16/233 of February 1, 2016.

³ As of March 2, 2016. The data are available at: http://www.mintorg.gov.by/index.php?option=com_docman&task=doc_download&gid=2413&Itemid= (Russian only)