



SORAINEN

EUROPEAN LAW FIRM OF THE YEAR
Awarded by The Lawyer

TAXES IN A NUTSHELL 2016

for Estonia, Latvia, Lithuania and Belarus

Effective 1 March 2016



ESTONIA

CORPORATE INCOME TAX (CIT)

- European Court of Justice decisions in the cases of Test Claimants in the FII Group Litigation (C-446/04), Oy AA (C-231/05), and Burda GmbH (C-284/06) confirm that the Estonian CIT system complies with EU law.
- **Estonia provides a unique CIT system as resident companies do not pay tax on retained or reinvested earnings.** The tax obligation is deferred to the moment of distributing profits. CIT is levied at a gross rate of 20% on company profit distributions, dividends, gifts, fringe benefits, non-business expenditure and excessive capital reductions.
- Tax is payable based on monthly declarations.
- Unlimited carry forward of losses and unlimited depreciation for tax purposes.
- Dividends (no participation requirement), interest (not exceeding market interest rate) and royalties (payments within the EU and 25% participation) are not subject to withholding tax.
- Only capital gains derived by a non-resident from sale of Estonian real estate or shares in and liquidation proceeds of “real estate companies” are subject to 20% income tax.
- Liquidation proceeds, capital reduction payments, and share buy-backs exceeding capital contributions are taxable at the company level.
- No traditional thin capitalisation rules, ie substantial debt financing at market rate interest is tax neutral.
- Taxation treaties with 56 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost plus, profit split, transactional net margin or any other sufficiently substantiated method.
- Liberal participation exemption for distribution of dividends received (10% shareholding required, if dividends received are subject to tax abroad or are received from the EU).

VALUE ADDED TAX (VAT)

- Standard rate – 20%. Reduced rate – 9%.
- Registration general threshold – EUR 16,000.
- Reverse charge on internal supply applicable to real estate, scrap metal and gold transactions.

LAND TAX

- Rate of land tax ranges from 0.1% to 2.5% of cadastral value of land excluding buildings. Rate is set by municipalities by 31 January each year.

REAL ESTATE TRANSFER DUTY: Notarial and state duties may be up to 0.5% of transaction value.

PERSONAL INCOME TAX

- General flat rate of 20%, including capital gains.
- Tax deductions allowed for interest related to acquisition of personal residence.
- Dividends received from an Estonian company do not attract personal income tax.

SOCIAL SECURITY CONTRIBUTIONS

- Employer pays social tax of 33% from gross salary.
- Employer pays unemployment contribution of 0.8% and withholds employee’s unemployment contribution of 1.6% from gross salary.

CUSTOMS & EXCISE: Mainly based on EU law.

LOCAL TAXES: Insignificant local taxes, such as advertisement tax, apply.

TAX AUDITS

- Tax audits can be performed going back 3 years from the date tax becomes payable.
- Limitation period 5 years for intentional tax avoidance.

ADVANCE (BINDING) RULINGS POSSIBLE EXCEPT FOR PRICES IN TRANSFER PRICING

- Fee for companies – EUR 1,180.
- Fee for individuals – EUR 300.

LATVIA

CORPORATE INCOME TAX (CIT)

- Flat rate – 15%. Reduced rate on turnover applies to registered micro-enterprises (for income below EUR 7,000 – 9%, for income from EUR 7,000.01 to EUR 100,000 – 9% for the first 3 years after incorporation, later – 12%) instead of CIT and payroll taxes to employees. If thresholds are exceeded increased micro-enterprise tax rate is applied.
- **Capital gains on sale of shares in subsidiaries are exempt.**
- Carry forward of losses for an unlimited period.
- Accelerated depreciation (10-70%) of fixed assets using the declining-balance method, except for concessions, patent licenses and trade marks, using the straight-line method over 5 or 10 years. For a new registered patent or trade mark and new production equipment the cost base increases 1.5 times.
- Costs on R&D activities can be multiplied by 3 for CIT purposes. There are several limitations where costs are deemed R&D costs and a specific package of documentation should be prepared to apply this scheme.
- Withholding taxes on:
 - dividends – 0% to any jurisdiction except “off-shores”;
 - interest – 0% to any jurisdiction except “off-shores”;
 - royalties – 0% to any jurisdiction except “off-shores”;
 - management and consulting fees – 10%, can be reduced to 0% under tax treaties;
 - use of property located in Latvia – 5%;
 - sale price of real estate located in Latvia or shares in “real estate companies” – 2%, can be eliminated under some tax treaties and under the new Latvian holding regime;
 - payments to “Black list” “off-shore” jurisdictions – 15% to 30% – for certain payments the State Revenue Service may grant relief.
- Thin capitalisation rules: debt-to-equity ratio of 4:1 or 1.57 times short-term interest rate as provided by the Bank of Latvia; the “less favourable” of the two criteria applies. Exemption for credit institutions established in the EU/EEA or tax treaty country.
- Tax treaties with 57 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost-plus, transactional net margin method and profit split method. Threshold when transfer pricing documentation is mandatory: turnover over EUR 1.43 million and transaction with a related party – over EUR 14,300; advance pricing agreements also possible for transactions over EUR 1.43 million per annum (for a charge of EUR 7,114).
- Gains from disposal of fixed assets are not taxable if the assets are substituted by similar new ones within 12 months.
- Liberal participation exemption for inbound and EU/EEA dividends (no particular shareholding required).

VALUE ADDED TAX (VAT)

- Standard rate – 21%; reduced – 12%.
- Registration threshold EUR 50,000.
- PROPERTY TAX
- Municipality may set rate(s) between 0.2-3% of the cadastral value of land and buildings. If the municipality does not use the discretion to set a particular rate, a default rate – 1.5%.
- Residential property is taxed at 0.2% – for cadastral value not exceeding EUR 56,915, 0.4% – for cadastral value from EUR 56,915 to EUR 106,715, and 0.6% – for cadastral value exceeding EUR 106,715, unless the municipality has set a different rate.

INCENTIVES TO INVEST

- **No CIT payable up to 25% of the amount invested (minimum investment – EUR 10 million) in specified industries. The incentive must be applied for and granted by 2020, investments must be made in 5 years as of acceptance by the government, and tax savings must be claimed within 16 years.**
- In Special Economic Zones or Free Ports, tax rebates can be obtained (after investing in production for exports) on: property tax (80-100%), CIT (80%), VAT (0%).
- A special tonnage tax for Latvian shipping companies and tax reliefs for sailors.

REAL ESTATE TRANSFER DUTY

- 2% of the cadastral value of real estate. 1%, if invested in share capital. No duty in case of reorganisation. No material notary fees.

PERSONAL INCOME TAX

- General flat rate of 23% also includes the self-employed.
- A 10% tax applies to dividends, interest and rental income and 15% – to capital gains.
- Stock option exemption scheme introduced as of 2013.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate: 10.5% of gross salary; employer rate 23.59% on top of gross salary. Annual salary exceeding EUR 48,600 is not subject to social security contributions.

SOLIDARITY TAX

- Annual salary exceeding EUR 48,600 is subject to solidarity tax. Employee rate: 10.5% of gross salary exceeding EUR 48 600; employer rate 23.59% of employee’s gross salary exceeding EUR 48 600.

NATURAL RESOURCES TAX: Imposed on use of natural resources, pollution, and use of packaging materials.

TAX AUDITS: Can be performed normally going back 3 years, except for transfer pricing (transactions with related entities outside Latvia) – 5 years.

ADVANCE (BINDING) RULINGS POSSIBLE AT NO CHARGE

LITHUANIA

CORPORATE INCOME TAX (CIT)

- General flat rate – 15%. Reduced rate of 5% applies to small companies (annual income not exceeding EUR 300,000); no more than 10 employees; shareholders in a small company own no more than 50% shares in other companies).
- Unlimited carry forward of losses (losses from transfer of securities and derivative financial instruments may be carried forward for 5 years). Intra-group transfer of losses permitted (subject to specific requirements).
- Losses carried forward cannot exceed 70% of an entity's profit received during a fiscal year. This restriction does not apply to legal entities entitled to apply the reduced corporate tax rate of 5%.
- Fixed assets depreciated using straight-line method; for certain groups of fixed assets, the double-declining method may also be used; production method is used in very limited cases.
- Withholding taxes: on dividends (0% if paid to foreign residents owning at least 10% shares for 12 months; in other cases – 15%), interest (0% if paid to the European Economic Area, or to a country with which Lithuania has an effective tax treaty; in other cases – 10%), royalties (0% if paid to a company resident in the EU and qualifying under the EU Interest and Royalties Directive, in other cases – 10%), capital gains from sale and lease of Lithuanian real estate (15%), income from performing and sports activities (15%), annual bonuses to supervisory board members (15%); 0% for all payments to Latvia.
- Thin capitalisation rules: debt-to-equity ratio 4:1. Interest-free loans not included in controlled debt.
- Taxation treaties with 53 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price and cost-plus, transaction net margin and profit split methods (the last two are supplementary methods).

VALUE ADDED TAX (VAT)

- Standard rate – 21%. Reduced rate of 9% applies to heating energy, hot and cold water intended for heating residential premises (applies until 31 December, 2016), as well as on books, periodical and non-periodical press and passenger transportation (on scheduled routes) services, which apply indefinitely. A reduced rate of 9% is also applicable to accommodation at hotels and other special accommodation services. Reduced rate of 5% applies to fully or partially compensated pharmaceuticals and means of medical aid, as well as on technical assistance equipment for disabled individuals, which applies indefinitely.
- General VAT payer registration threshold – EUR 45,000.

PROPERTY TAX

- Land tax: 0.01-4% of the market value of the land. Exact rate(s) of land tax are set by municipalities.
- Real estate tax (on real estate other than land): 0.3-3% of the market value of real estate. Exact real estate tax rate(s) are set by municipalities. Individuals owning residential real estate with a total value exceeding EUR 220,000 (or exceeding EUR 286,000, if individuals have three or more children or a disabled child) are taxed at 0.5% real estate tax on the excess.

INCENTIVES TO INVEST

- Free Economic Zones (FEZ) in Klaipėda, Kaunas, Marijampolė, Panevėžys, Šiauliai, Kėdainiai and Akmenė. A company with investments of EUR 1 million or more operating in FEZ is exempt from CIT for 6 years and enjoys a 50% reduction of CIT in the next 10 years.
- For entities running investment projects (under defined conditions) taxable profit is reduced by up to 50%.

REAL ESTATE TRANSFER DUTY

- No transfer duty; notary fees apply (0.45% of transaction value, but no less than EUR 28.96 and no more than EUR 5,792.40 or EUR 14,481 in case of transfer of multiple objects).

PERSONAL INCOME TAX

- General flat rate – 15%; reduced 5% applies to certain activities carried out by self-employed individuals.
- Dividends taxed at a rate of 15%.

COMPULSORY HEALTH INSURANCE CONTRIBUTIONS: Employee rate – 6% withheld from gross salary; for employer 3% on top of gross salary.

SOCIAL SECURITY CONTRIBUTIONS: Employee rate – 3% withheld from gross salary; for employer 27.98% on top of gross salary.

NATURAL RESOURCES TAX: Imposed on use of natural resources, pollution, and use of packaging materials.

TAX AUDITS: Tax audits can be performed going back 5 years.

ADVANCE (BINDING) RULINGS: Binding tax rulings and advance transfer pricing agreements available at no charge.

BELARUS

CORPORATE INCOME TAX (CIT)

- General flat rate – 18%; dividends – 12%; banks and insurance companies – 25 %.
- Withholding taxes on income of foreign legal entities from Belarusian sources: dividends and income from sale of shares – 12%; royalties – 15%; interest – 10%; freight forwarding services – 6%; other income (eg, sale of real estate, securities, services (eg, consulting, audit, management, insurance, advertising), agency contracts, contractual penalties) – 15%.
- Losses can be carried forward for 10 years.
- Fixed assets can be depreciated according to 1 of 3 methods at the discretion of the company: straight-line method, reducing balance method (direct or indirect sum-of-years' digits or declining balance method) or productive method.
- Taxation treaties in force with 67 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost plus, transactional net margin profit (the last three are supplementary methods) and profit split method as a method of last resort.
- Thin capitalisation rules: debt-to-equity ratio 1:3 (1:1 – for Belarusian companies which produce excisable goods).

VALUE ADDED TAX (VAT)

- Standard rate – 20%. Reduced rates – 0%, 10%, 9.09%, 16.67%.
- No special registration for VAT purposes.
- Delay for 90 days in VAT recovery for goods imported from non-Eurasian Economic Union countries and sold without any change.

PROPERTY TAX

- Land tax: by default, tax base is cadastral value of land. Rates vary significantly depending on the functional use of land.
- Real estate tax: general tax rate – 1% of the residual value of real estate (buildings, constructions, car parking spaces); 2% may apply to objects of incomplete construction. For individuals – 0.1% and 0.2% (tax is calculated by tax authorities based on the assessed value of the real estate object).
- Local Councils of Deputies may increase or decrease the tax rate for certain categories of taxpayers but by no more than 2.5 times. Local Councils of Deputies may increase the tax rate for certain real estate tax objects but by no more than ten times.

INCENTIVES TO INVEST

- Six Free Economic Zones. A company has to invest at least EUR 1 million. Exemption from some taxes and duties, certain taxes at reduced rates.
- **High Technology Park. Residents – exempt from almost all taxes and duties.**
- China-Belarus Industrial Park. Residents – a wide range of tax benefits.
- Beneficial tax regime if a production business is operating in rural areas and small town centres.
- Simplified Taxation System. Companies whose personnel number under 100 and individual entrepreneurs, whose gross revenues are below maximum thresholds established separately for legal entities and individual entrepreneurs may pay a unified tax imposed on gross revenue. The tax rates are: 3% with payment of VAT or 5% without payment of VAT. A special 16% rate applies to certain items of non-operating income.

PERSONAL INCOME TAX

- General flat rate – 13% (including dividends).
- Other rates apply to specific income: 16% on income from entrepreneurial, private notarial and advocacy activities; 9% on income received from High Technology Park residents under labour agreements; 4% on income in the form of gains (returned entries that did not play) received from Belarusian legal entities that organise gambling games.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate is 1% of gross salary; for employer – generally 34% on top of gross salary.

CUSTOMS & EXCISE

- Excise duties are imposed on both import and manufacture of a list of goods. Customs are imposed on imports to the customs territory of the Eurasian Economic Union; a limited number of goods are subject to export duties.

ECOLOGICAL TAX AND NATURAL RESOURCES TAX

- Ecological tax is imposed on volume of waste, emissions, waste-water discharges.
- Natural resources tax is imposed on volume of used natural resources (eg, water, oil, sand, clay, salt).

TAX AUDITS: Tax audits are normally performed in respect of all periods of activity not covered by a previous tax audit.

ADVANCE (BINDING) RULINGS NOT POSSIBLE

SORAINEN offers expertise in all key tax and customs areas in the Baltic States and Belarus, including:

- tax and customs advice and optimisation:
 - advance ruling requests;
 - transfer pricing compliance;
 - local and cross-border mergers;
 - managing the “effective tax rate”;
 - market entry strategies and structuring, focusing on the new Baltic holding opportunities;
 - permanent establishment risks;
 - input VAT deductibility optimisation;
 - special economic zones and free ports;
- tax and customs disputes at all levels;
- tax due diligence and local tax compliance reviews.

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