

TAX PROFILE, BELARUS

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KEY FACTS

Main tax rates

- Corporate tax rate: 18%
- VAT standard rate: 20%
- Personal income tax top rate: 12%

Population/GDP

Population: 9.47 million

GDP: USD 29.874 billion (approx EUR 23.09 billion) (January-November 2011)

Currency

Belarusian ruble, abbreviated here to BYR. On 20 October 2011, the official rate of the BYR to foreign currencies became free-floating. As of 2 January 2012, the exchange rate of the BYR against the EUR was set at BYR 10,800 to EUR 1

Membership of economic groups

The Commonwealth of Independent States (CIS), the Eurasian Economic Community (EAEC), the Customs Union (Belarus, Kazakhstan and Russia)

Major industries

Machine building, metalworking, chemicals and petrochemicals, woodworking, textiles, agriculture and food production

Website of tax/finance authority

www.nalog.by – Ministry of Taxes and Duties

www.minfin.gov.by – Ministry of Finance

INTRODUCTION

In 1991, after the breakup of the Soviet Union, Belarus became an independent state. Like the majority of former states of the Soviet Union it faced problems in the transition to a market based economy. Such problems as inflation and disproportion in the economy negatively influenced the taxation system of Belarus. Though the Belarusian taxation system has been intensively reformed during the last couple of years, it is still considered complicated and characterised by frequent changes of tax legislation, excessive reporting, a high tax burden, and a rigid system of penal sanctions.

Belarus has a two tier taxation system; that is, state taxes and duties are paid throughout Belarus with local taxes and duties subject to payment in the regions. The main Belarusian taxes and duties are profit tax; value added tax; personal income tax; social security contributions; excise tax; immovable property tax; land tax; tax on extraction of natural resources, and environmental tax. Moreover, Belarusian law provides for a number of special tax regimes, in particular unified tax for

businesses subject to simplified taxation; taxation of commercial companies operating in towns with a population under 50,000; taxation of businesses operating in rural areas; taxation in Free Economic Zones; taxation of residents of the High Technology Park.

RECENT DEVELOPMENTS

Most of the recent developments in the taxation system of Belarus are evidenced by measures taken by the authorities on general simplification of the Belarusian tax system and reduction of the tax burden on companies.

The main changes are as follows:

- The general corporate tax rate was reduced from 24% to 18%.
- The mechanism of carry forward of losses was introduced. Generally, taxpayers may carry forward losses incurred in 2011 and subsequent tax periods for a period of ten years.
- Taxpayers may deduct up to 10% of the acquisition costs for buildings and up to 20% for other fixed assets for corporate income tax purposes as of the date when those assets were initially accounted for.
- The list of objects subject to real estate tax was supplemented with car-parking spaces.
- Transfer pricing rules came into force. For adjustment of the profit tax base the tax authorities may use comparable uncontrolled price, resale price, cost plus (the last two are supplementary methods).
- Thin capitalisation rules, expected to come into force on 1 January 2013, have been introduced.

CORPORATE TAXES

General outline

Profit tax is imposed on:

- gross profit;
- dividends and other similar income received from Belarusian companies.

Gross profit is the total profit from sale of goods (work, services), property rights and nonoperating income minus nonoperating expenses.

Profit from sale of goods (work, services) and property rights is the difference between revenues from sale (deducted on taxes on revenues) and expenses relating to production and sale of goods (works, services) and property rights deducted for tax purposes.

Nonoperating income includes: dividends received from abroad; income from liquidation of a company investee; income from withdrawal or expulsion from the shareholders of a company investee; income from sale of shares in authorised capital of a company investee; income from leasing property; interest on loans and deposits; fines, interest and other penalties paid for breach of contractual obligations; values of donated goods, works, services, other assets and property rights; positive exchange differences; and others. Nonoperating income is offset by nonoperating expenses and then included in taxable profit.

Deductible expenses relating to production and sale of goods (works, services) and property rights include cost of materials, fuel, energy, fixed and intangible assets, human resources, and other recorded expenses incurred in the process of production and sale. Starting from 1 January 2012, taxpayers can deduct up to 10% of the acquisition costs for buildings and up to 20% for other fixed assets for profit tax purposes as of the date when those assets were initially accounted for. If the

assets are sold within three years, the deduction becomes taxable.

Some expenses are connected with business activity but deducted for profit tax purposes only within limits determined by Belarusian law. Such expenses include, *inter alia*, payroll costs and costs of business trips.

Certain amounts of profit can be exempt from taxation, in particular profit expended on donations to state funded entities involved in public health, public education, social welfare, culture and sports up to a maximum of 10% of taxable profit.

The tax period for profit tax is one calendar year. The amount of profit tax due is determined as a progressive total from the beginning of the calendar year.

Tax is paid by quarterly advance payments within the tax period and based on the results of the tax period. Amounts of tax subject to payment by quarterly advance payments are calculated in either of the two methods provided by the Tax Code. Tax payable based on the results of the tax period is paid not later than on 22 March of the year following the tax period.

The tax period for profit tax on dividends charged by Belarusian companies is a calendar month. Tax is paid not later than on the 22nd of the month following the month in which the dividends accrued.

Corporate tax rates

The general profit tax rate is 18%. Dividends are taxed at a rate of 12%. Income from sale of shares in Belarusian companies is taxed at a 9% rate.

Certain decreased profit tax rates apply to specific taxpayers. In particular, a rate of 10% applies to companies producing laser optic equipment. Income of companies received from sale of high tech goods (work, services) that are self produced is taxed at a 10% rate, if such companies are included in the list of high tech organisations.

The profit of residents of Free Economic Zones from sale of self-produced goods (works, services) is exempt from profit tax for five years from the date of declaration of profit; afterwards – a tax rate reduced to 50% of the general profit tax rate should apply. To enjoy these benefits the goods produced (work, services) should be either exported from Belarus, or recognised as import-substituting goods, or sold to other residents of Free Economic Zones. To become a resident of a Free Economic Zone requires a minimum investment of EUR 1 million.

The income of companies situated and operating in small towns with a population under 50,000 received from sale of self produced goods (works, services) is exempt from profit tax for seven years from the date of incorporation.

Companies in rural areas are exempt from profit tax until 31 December 2012 if they produce goods (perform work, supply services) in those areas.

Moreover, residents of the High Technology Park (HTP) are exempt from profit tax. A company may become a resident of the HTP if its activity is related to analysis, development, and software support of information systems; data processing; fundamental and applied research, exploratory developments in the field of natural and engineering sciences; other types of business activity determined by the government.

Simplified taxation system (STS)

As an alternative to the general system of taxation, businesses may use the STS. Businesses subject to the STS pay a unified tax imposed on gross revenues. Gross revenues are considered to be revenues received during the taxation period as the result of sales of goods (works, services), property rights, and nonoperating income.

The STS can be used by companies that meet the established requirements on gross revenues within one calendar year and number of personnel. The requirements are as follows:

- gross revenues do not exceed BYR 3.4 billion (approx EUR 285,700) and the number of personnel is not more than 15 employees (these companies need not pay VAT); or
- gross revenues do not exceed BYR 12 billion (approx EUR 1.01 million) and the number of personnel is not more than 100 employees (these companies must pay VAT).

The following main tax rates under the STS apply:

- 7% – as to companies which do not pay VAT;
- 5% – as to companies which pay VAT;
- 2% – as to revenues from export of goods and services.

Capital gains taxes

There is no specific concept of capital gains tax. Capital gains are included in company taxable income.

Position of losses

Taxpayers are entitled to carry forward losses incurred in 2011 and subsequent tax periods for a period of ten years. Carry forward of losses is not possible with regard to:

- losses incurred as result of activities outside Belarus if a company is registered as a taxpayer in a foreign state with regard to those activities;
- losses incurred as a result of the tax period (periods; part of the tax period) when a Belarus company could apply CIT relief established for several tax periods.

Losses are split into three groups:

- losses due to transactions with securities;
- losses due to transactions with fixed assets; and
- other losses.

Losses from one of these groups may be set off against profits from the same group.

Group treatment

There is no group taxation in Belarus.

WITHHOLDING TAXES

Table 1 shows withholding tax rates applicable to dividends, interest, and royalties under tax treaties currently in force.

Position of resident companies

Companies incorporated under Belarusian law are treated as Belarusian tax residents. Income received by tax residents from sources in Belarus and abroad, as well as property of tax residents located both in Belarus and abroad, are fully taxed in Belarus.

Profit tax on dividends (12% rate) is withheld by companies which accrue dividends.

Position of nonresident companies

Nonresident companies which do not carry out activities through a Belarusian permanent establishment pay withholding tax on certain types of income received from sources in Belarus and taxes imposed on immovable property located in Belarus. Tax rates are set in the Tax Code and subject to application unless other rates are established in international tax treaties.

Nonresident companies that carry out activities through a Belarusian permanent establishment are subject to corporate income tax on income derived through permanent establishment. The taxable income of a permanent establishment is determined in the same manner as that of resident companies and is taxed at a rate of 18%.

DIVIDENDS, INTEREST AND ROYALTIES

Dividends

Unless otherwise provided by a tax treaty, the tax rate applied to dividends is 12%.

Interest

Unless otherwise provided by a tax treaty, the tax rate applied to interest is 10%.

Royalties

Unless otherwise provided by a tax treaty, the tax rate applied to royalties is 15%. Under Belarusian law, royalties include fees for the use or right to use property rights to copyright objects, objects of related rights, as well as payment for patents, trade marks, service marks, firm names, drawings, schemes, formulas, industrial designs, processes, or information relating to industrial, commercial, scientific knowledge (including knowhow), and payments for the use of property in Belarus or the right to use such property.

Other withholding taxes

Freight (charges connected with international shipping transactions and forwarding services) is taxed at a rate of 6%.

Income in the form of interest is taxed at the rate of 10%.

A 12% withholding tax rate applies to income from sale of shares in the authorised capital of Belarusian companies.

A 15% tax applies to income derived from:

- sale of goods under agency agreements;
- holding or participation in cultural and entertainment events, income from amusement facilities and wild beast shows;
- contractual fines and penalties;
- performing innovative works (including research and development work);
- granting of guarantees and/or suretyship;
- immovable property transferred in trust;
- granting of access to information complex, its tools (regimes), database;
- provision of disk space and/or communication channel for placing information on the server and server maintenance;
- sale of real estate located in Belarus;
- sale of part of an enterprise (asset complex) owned by a foreign company;
- sale or redemption of securities in Belarus (except shares in the authorised capital of Belarusian companies);
- supply of consulting, bookkeeping, audit, marketing, legal, and engineering services;

- supply of services relating to trust management of real estate;
- supply of courier services;
- supply of mediation services;
- supply of management services;
- supply of recruitment services;
- supply of training services;
- supply of services relating to safekeeping of property;
- supply of insurance, coinsurance, and reinsurance services;
- supply of advertising services;
- supply of services relating to installation, setup, examination, maintenance, measuring, testing of mechanisms, equipment, devices, accessories, facilities, intangible assets located in Belarus (except when supply of such services is a condition of sale and purchase agreements); and
- supply of services relating to forwarding and safekeeping of cargoes (except when services relate to obligatory forwarding and safekeeping of cargoes under the laws of the country in the territory of which the cargoes are transported and rendered by foreign companies the laws of whose countries establish requirements on obligatory forwarding and safekeeping).

INDIRECT TAXES

VAT/GST: main and reduced rates, exemptions

VAT is imposed on supply of the majority of goods (works, services) and property rights in Belarus, and on most imports to Belarus.

The standard VAT rate is 20%.

A lower rate of 10% applies to production of plant growing (except flowers and decorative plants), animal breeding (except fur farming), fish breeding and bee keeping; import or supply in Belarus of foodstuffs and goods for children in accordance with the list approved by the President. A 0% rate applies to exports of goods; tracking, loading, shipment and other services directly connected to sale of exported goods; exported transport services and exported works (services) on production from raw materials supplied by the customer. A 0.5% rate applies to imports from members of the Customs Union of diamonds and other precious stones for production needs.

Certain types of supply are exempt from VAT. In particular, VAT is not imposed on supply of certain pharmaceuticals and medical equipment, medical services, educational services, nonbanking financial and insurance services, housing and communal services supplied to individuals.

The tax period is a calendar year. The reporting period is a month or a quarter at the option of the taxpayer. A VAT return is filed by the 20th day of the month following the reporting period. VAT must be paid by the 22nd day of the month following the reporting period.

There is no special registration for VAT purposes in Belarus.

Other indirect taxes

Belarusian laws provide for excise duty.

Excise duty is imposed on:

- manufacture of excise goods;

- import of excisable goods to the customs territory of Belarus; and
- sale of excisable goods imported to Belarus.

The main categories of excisable goods include spirits, alcohol, beer, cider, tobacco, oil for diesel engines and carburettor engines, motor petrol, diesel and biodiesel oil, marine fuels, minibuses and automobiles.

Excise rates are established either in the form of a fixed amount for a physical unit of excisable goods (fixed rates) or as a percentage of the value of excisable goods or customs value increased by the amounts of customs duties payable (*ad valorem* rates).

PERSONAL TAXES

Domicile and residence requirements

Individuals are deemed tax residents of Belarus if they have actually stayed in Belarus for over 183 days during a calendar year. A stay includes both the actual length of the period during which an individual is physically present in Belarus, as well as any other period for which the individual leaves Belarus for business trips, holidays, or medical treatment abroad.

Belarusian citizens and foreign nationals who are recognised as tax residents are taxed in Belarus on their worldwide income received during a calendar year.

For tax purposes, a calendar year is the period from 1 January until 31 December.

Main rates and bands

Individuals pay personal income tax at a flat tax rate of 12%. Besides the 12% rate, other rates apply in specific cases.

A 15% rate applies to income received from private notary and private advocacy activities.

A 9% rate applies to income received by:

- individuals from residents of the HTP under labour agreements;
- individual entrepreneurs who are residents of the HTP; and
- individuals involved in implementing a registered business project in the sphere of high technologies from nonresidents of the HTP.

The individual income tax base is reduced by BYR 440,000 (approx EUR 41) if monthly income does not exceed BYR 2.680 million (approx EUR 244). Reduction of the tax base by BYR 123,000 (approx EUR 11) is provided for each dependent child under the age of 18. Some other reductions may apply to specific categories of individuals.

Dividends

Dividends received by individuals are taxed at a 12% rate.

Social security/national insurance payments

Social security contributions (SSC) to the Social Security Fund are paid by both employers and employees. Employees pay SSC at a rate of 1% on their remuneration. Contributions are withheld from remuneration by employers.

As to individuals who independently pay SSC (for example, individual entrepreneurs; private notaries; artists; citizens who perform works under contracts concluded with individuals; citizens employed by representative offices of international organisations in Belarus, diplomatic missions and consulates accredited in Belarus; and citizens who work abroad) a rate of 29% is applied.

TRANSFER PRICING AND ANTI AVOIDANCE RULES

Transfer pricing rules (documentation requirements, APAs, etc)

On 1 January 2012, transfer pricing rules came into force. In the course of a tax audit (except for in-office audit) the tax authorities are now entitled to check the correspondence of prices agreed by the parties in transactions to market prices and to adjust the tax base for profit tax. This check is possible with regard to the following transactions:

- sale of real estate when the transaction price is lower than the market price by 20%;
- export-import transaction(s) when the price of the transaction (the price of transactions with the same party) for a calendar year is higher than BYR 20 billion (approx EUR 1.8 million) and lower than the market price by 20%.

The tax authorities determine the profit tax base on the basis of the market price for identical goods. In the absence of information on the price for identical goods, the tax authorities are entitled to apply the following methods:

- comparable uncontrolled price method;
- resale price method; and
- cost plus method.

The comparable uncontrolled price method should be applied first. If the market price cannot be determined on the basis of this method, the resale price method should be used. If both these methods cannot be applied, the tax authorities must use the cost plus method.

Anti avoidance provisions

There are no general anti avoidance rules in Belarus.

However, Belarusian laws provide for offshore duty levied at a rate of 15%.

Objects of taxation are:

- Transfer of monetary funds by a resident of Belarus to a nonresident of Belarus registered in an offshore zone or to another company to which an offshore resident has obligations, or to a bank account opened in an offshore zone.
- Noncash settlement with a nonresident of Belarus registered in an offshore zone.
- Transfer of property rights or obligations due to substitution in commitments where the parties are a Belarusian resident and a nonresident registered in an offshore zone.

Offshore duty is not imposed on funds transferred by residents for the purpose of repaying credits, loans, or interest on loans granted by nonresidents or other funds obtained from nonresidents under legislation or agreement.

The list of offshore zones is approved by the President of Belarus. At present this list includes 52 offshore zones.

Thin capitalisation/other interest deductibility rules

Thin capitalisation rules, expected to come into force on 1 January 2013, have been introduced. Interest payable on a debt owed to a foreign parent company which directly or indirectly owns more than 20% of the shares in 1) a Belarusian subsidiary; or 2) a Belarusian company recognised as a related party of the foreign company, that exceeds the maximum allowable debt to equity ratio of 3:1 will not be deductible.

Controlled Foreign Company (CFC) rules

There are no special CFC rules in Belarus.

Tax treaties

At present, Belarus has 63 effective double tax treaties. To some of these Belarus became a successor of the former USSR.

The main trading partners of Belarus include Russia, the Ukraine, the Netherlands, Germany, Poland, Latvia, the United Kingdom, China, Venezuela, Brazil and Italy.

MISCELLANEOUS TAXES

Payroll taxes

There is no payroll tax in Belarus. As previously mentioned, employers must pay SSC to the Social Security Fund. The base for SSC is payroll in cash or in other forms charged in favour of employees. The general rate of SCC is 34%.

Moreover, employers pay obligatory insurance contributions to the state owned insurance company Belgosstrakh covering accidents at work or work related diseases.

The base is the same as for SSC. Insurance tariffs vary from approx 0.05% to approx 0.9%; a specific rate is established for each company by Belgosstrakh.

Taxes on capital

There is no capital tax or general wealth tax in Belarus.

Taxes on property

An individual immovable property tax is paid by owners of buildings. The annual tax rate is 0.1%. Tax is calculated by the tax authorities based on the assessed value of the real estate object. The tax authorities send an individual written notice to taxpayers by 1 August of the relevant year.

Corporate immovable property tax is imposed on the depreciated value of buildings and constructions including car-parking spaces owned or leased by companies. The annual tax rate is 1%. A 2% rate generally applies to incomplete construction projects where the terms of construction are exceeded.

Local authorities may increase or decrease the tax rate for certain categories of taxpayers (by two times at most).

Companies and individuals who own, use, or lease land in Belarus pay land tax. Except for a limited number of cases, the tax base is the cadastral value of land. Tax rates are set out in the Appendixes to the Tax Code.

OTHER TAXES

Besides the taxes and duties discussed above, Belarusian law provides for ecological tax; tax on extraction of natural resources; charge for granting permission to pass through foreign states by Belarus vehicles; stamp duty; consular charge; state duty; patent duty and local taxes. In addition to the unified tax under the STS (see above), a special tax regime applies to taxpayers of: unified tax on agricultural producers; tax on the gambling industry; tax on income from lotteries; tax on income from conduct of electronic interactive games; tax on income from handicrafts; tax on income from supply of services in the sphere of agroecotourism; single tax on individual entrepreneurs and other individuals.

Please see more details on some “other taxes” below.

Ecological tax and tax on extraction of natural resources

Ecological tax is imposed on volume of pollutant emissions; volume of waste water and pollutant discharges; volume of waste products subject to storage or burial and volume of ozone-depleting substances imported to Belarus.

Tax on extraction of natural resources is imposed on volume of certain extracted natural resources, in particular, oil, sand, water, chalk, clay, salt, gold.

Customs duty

Import duties are levied based on the type and origin of imported goods. Rates are normally determined as a percentage of the value of imported goods, or as a set amount of euros per unit or kilogram, or as a combination. Export duties are imposed only on a limited number of goods, for example fuels and timber.

Local taxes

Currently, the Tax Code establishes the following local taxes: duty on dog owners, resort levy and duty on gatherers.

Table 1 Tax treaty withholding rates

<i>Country</i>	<i>Dividends^a</i>		<i>Interest</i>	<i>Royalties</i>
	<i>Individuals, companies (%)</i>	<i>Qualifying companies^b (%)</i>		
Armenia	15	10 ^c	10	10
Austria	15	5	5	5
Azerbaijan	15	15	10	10
Bahrain	5	5	5	5
Belgium	15	5	10	5
Bulgaria	10	10	10	10
China	10	10	10	15
Croatia	15	5	10	10
Cyprus	15	5/10 ^d	5	5

^a Most tax treaties provide for exemption from tax of certain types of interest, for example interest paid to public bodies and institutions. These exemptions are not indicated in the table.

^b Unless otherwise indicated, the lower treaty rates apply if a nonresident company owns at least 25% of the capital in a Belarusian company.

^c The rate applies if a nonresident company owns at least 30% of the capital in a Belarusian company.

Czech Republic	10	10	5	10
Denmark	15	15	0	0
Egypt	15	15	10	15
Estonia	10	10	10	10
Finland	15	5	5	5
France	15	15	0/10	0
Germany	15	5 ^e	0/5	3/5
Hungary	15	5	5	5
India	15	10	10	15
Iran	15	10	5	5
Ireland	10	5	5	5
Israel	10	10	10	5/10
Italy	15	15	0	0
Japan	15	15	10	0/10
Kazakhstan	15	15	10	15
Korea Republic	15	5	10	5
KDPR	10	10	10	10
Kuwait	0/5 ^f	0/5 ^f	5	10
Kyrgyzstan	15	15	10	15
Latvia	10	10	10	10

^d The 5% rate applies if a nonresident (a company or an individual) has invested at least EUR 200,000 in the capital of a Belarusian company. The 10% rate applies if a nonresident directly or indirectly holds at least 25% of the capital in a Belarusian company.

^e The rate applies if a nonresident company owns at least 20% of the capital in a Belarusian company and the nonresident investment amounts to at least EUR 81,806.70.

^f The lower rate applies if a nonresident company is a government agency or a financial institution.

^g The 0% rate applies if: 1) a nonresident company owns at least 50% of the capital in a Belarusian company and the nonresident investment amounts to at least EUR 250,000; or 2) a nonresident company owns at least 25% of the capital in a Belarusian company and the nonresident investment is guaranteed and insured by the government of a contracting state. The 5% rate applies if a nonresident company owns at least 25% of the capital in a Belarusian company.

Lebanon	7.5	7.5	5	5
Lithuania	10	10	10	10
Macedonia	15	5	10	10
Malaysia	15	15	15	10/15
Moldova	15	15	10	15
Mongolia	10	10	10	10
Netherlands	15	0/5 ^g	5	3/5/10
Oman	5	5	5	10
Pakistan	15	10	10	15
Poland	15	10 ^h	10	0
Qatar	5	5	5	5
Romania	10	10	10	15
Russia	15	15	10	10
Saudi Arabia	5	5	5	10
Serbia	15	5	8	10
Slovakia	15	10	10	5/10
South Africa	15	5	5/10	5/10
Spain	18	18	0	0/5
Sweden	10	0/5 ⁱ	5	3/5/10
Switzerland	15	5	5/8	3/5/10

^h The rate applies if a nonresident company owns at least 30% of the capital in a Belarusian company.

ⁱ The 0% rate applies if a nonresident company owns 100% of the capital in a Belarusian company and the profits from which dividends are paid were derived from industrial or production activities, agriculture, forestry, fishery, or tourism. The 5% rate applies if a nonresident company owns at least 30% of the capital in a Belarusian company.

^j The 0% rate applies if dividends are paid to the state, its Central Bank, the Abu Dhabi Investment Authority, or any other company approved by the governments of the contracting states. The 5% rate applies if a non resident company owns at least USD 100,000 (approx EUR 7,363) in a Belarusian company.

Syria	15	15	10	18
Tajikistan	15	15	10	15
Thailand	10	10	10	15
Turkey	15	10	10	10
Turkmenistan	15	15	10	15
Ukraine	15	15	10	15
United Arab Emirates	10	0/5/10 ^j	5	5/10
United Kingdom	0	0	0	0
USA	– ^k	– ^k	– ^k	0
Uzbekistan	15	15	10	15
Venezuela	15	5	5	5/10
Vietnam	15	15	10	15

^k The domestic rate applies; there is no reduction under the treaty.