

SORAINEN TAX CARD 2009

Baltic States and Belarus Tax Summary

Effective 1 January 2009



Estonia, Latvia, Lithuania and Belarus

ESTONIA

CORPORATE INCOME TAX

- Thanks to the European Court of Justice decisions in case of Burda GmbH (26 June 2008; No C-284/06) and in case of AA Oy (18 July 2008; No C-231/05) Estonian corporate income tax system is now believed to comply with the EU law.
- There is no tax on income or profits, but 21/79 applies to distribution of dividends, fringe benefits, gifts and to expenses not related to business activities. Tax rate is scheduled to gradually decrease to 18/82 by 2012.
- Tax is payable based on monthly declarations.
- Unlimited carry forward of losses and unlimited depreciation for tax purposes.
- Dividends (there is no participation requirement), interest (not exceeding market interest rate) and royalties (payments within EU and 25% participation) are not subject to withholding tax.
- Capital gains from sale of Estonian real estate or shares in and liquidation proceeds of "real estate companies" are subject to 21% non-resident tax.
- Liquidation proceeds, capital reduction payments and share buy-backs exceeding capital contributions are taxable at the company level.
- There are no thin capitalization rules, i.e. substantial debt financing with market rate interest is tax neutral.
- Taxation treaties – with 39 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost plus, profit split and transactional net margin.
- Liberal participation exemption for distribution of received dividends (10% shareholding required, if the dividends received are subject to tax abroad or are received from EU).

VALUE ADDED TAX

- Standard rate – 18%. Reduced rate – 9%.
- Registration general threshold – EEK 250,000 (~ EUR 16,000).

PROPERTY 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 21%, including capital gains. Rate scheduled to gradually decrease to 18% by 2012.
- Tax deductions allowed for interest related to acquisition of personal residence.

SOCIAL SECURITY CONTRIBUTIONS

- Employer pays social tax of 33% from gross salary.
- Employer pays unemployment contribution of 0.3% and withholds employee's unemployment contribution of 0.6% from gross salary. The rates are correspondingly 0.5% and 1% from 1 July 2009.

CUSTOMS & EXCISE

- Mainly based on the EU law with a transition period on excise tax on tobacco – up to 1 January 2010.

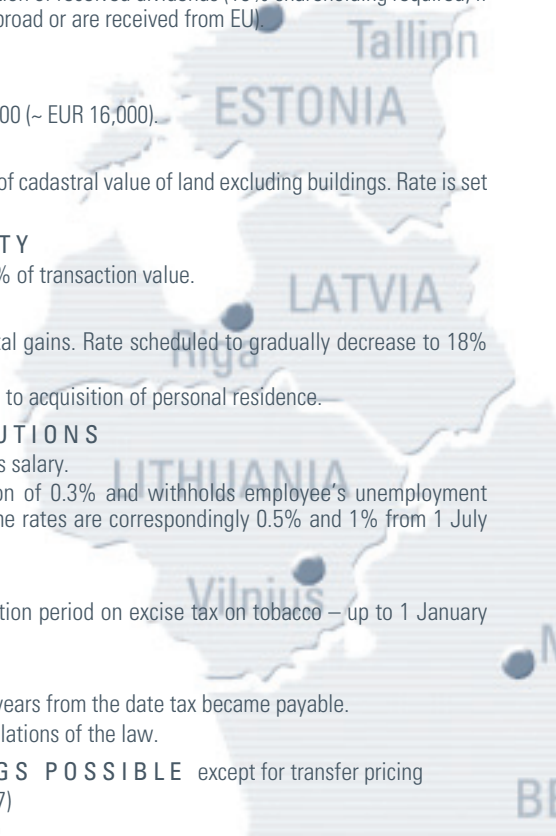
TAX AUDITS

- Tax audits can be performed going back 3 years from the date tax became payable.
- Limitation period 6 years for intentional violations of the law.

ADVANCE (BINDING) RULINGS POSSIBLE

 except for transfer pricing

- Fee for companies – EEK 12,000 (~ EUR 767)
- Fee for individuals – EEK 3,000 (~ EUR 192)



LATVIA

CORPORATE INCOME TAX

- Flat rate – 15%.
- Carry forward of losses for five years (8 years from 2010); transfer of losses within a group is possible.
- Accelerated depreciation (10% – 70%) of fixed assets using the declining-balance method, except for concessions, patents licenses and trademarks – with the straight-line method over 5 or 10 years. For a new registered patent or trademark and new production equipment – cost base is increased by 1.5 times.
- Withholding taxes: on dividends (0% – mostly to EU and Latvian residents; in other cases 10%), interest (0% – on payments to unrelated parties; for related parties 10% (5% as of 1 July 2009)), management and consulting fees (10%, can be reduced to 0% under a tax treaty), royalties (15% on literature or art; 5% in other cases), use of property located in Latvia (5%), sale price of real estate located in Latvia or shares in “real estate companies” (2%), payments to “Black list” jurisdictions (15%), though the SRS may grant relief; 0% for all payments to Lithuania.
- Notional interest deduction – on amounts of retained profits treated as loan equivalents.
- Thin capitalization rules: debt-to-equity ratio of 1:4 or 1.2 times short-term interest rate as provided by the Statistics Department – the “less favourable” of the two criteria applies.
- Taxation treaties with 45 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, and cost-plus.
- Taxable income may be reduced by gains from disposal of fixed assets, if the assets are substituted with similar new ones within 12 months.
- Liberal participation exemption for distribution of received dividends (0% shareholding required, if the dividends are received from EU; 25% participation elsewhere, except – no participation exemption, if received from ‘off-shores’).

VALUE ADDED TAX

- Standard rate – 21%. Reduced rate – 10%.
- Registration general threshold – LVL 10,000 (~ EUR 14,300).

PROPERTY TAX

- 1% of the cadastral value of land and buildings.

INCENTIVES TO INVEST

- In Special Economic Zones in Rezekne and Liepaja or Free Ports in Riga and Ventspils rebates can be obtained (after making investments in production for exports) on: property tax (80% to 100%), corporate income tax (80%), VAT (0%), extended loss-carry-forward period up to 10 years.
- A special tonnage tax – for Latvian shipping companies, and reliefs for sailors.

REAL ESTATE TRANSFER DUTY

- 2%; capped at LVL 30,000 (~ EUR 42,900). No material notary fees.

PERSONAL INCOME TAX

- General flat rate of 23%; 15% for the self-employed.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate – 9% of gross salary; employer rate – 24.09% on top of gross salary.

CUSTOMS & EXCISE

- Mainly based on the EU law; the minimum excise duty rates – reached.

NATURAL RESOURCES TAX

- Imposed on the use of natural resources, pollution and use of packaging materials.

TAX AUDITS

- Tax audits can be performed normally going back 3 years.

ADVANCE (BINDING) RULINGS POSSIBLE AT NO CHARGE

LITHUANIA

CORPORATE INCOME TAX

- Flat rate – 20%.
- Carry forward of losses are unlimited. Intra-group transfer of losses – not permitted.
- Fixed assets depreciated using straight-line method; for certain groups of fixed assets, the double-declining method may also be used.
- Withholding taxes: on dividends (0% – to foreign residents owning at least 10% shares for 12 months; in other cases – 20% tax), interest and royalties (10%; can be reduced by tax treaties), capital gains from sale and lease of Lithuanian real estate (20%), income from performing and sports activities (20%), annual bonuses to supervisory board members (20%); 0% for all payments to Latvia.
- Thin capitalization rules: debt-to-equity ratio 1:4. Interest-free loans not included in controlled debt.
- Taxation treaties with 47 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

- Standard rate – 19%. Reduced rate of 9% applicable only to books and non-periodic information publications.
- Registration general threshold – LTL 100,000 (~ EUR 29,000).

PROPERTY TAX

- Land tax: 1.5% of cadastral value of land.
- Real estate tax (on real estate other than land): 0.3% – 1% of cadastral value of real estate. The exact real estate tax rate is established by the respective municipality.

REAL ESTATE TRANSFER DUTY

- No duty applies; notary fees (% of transaction value) apply.

INCENTIVES TO INVEST

- Free Economic Zones (further FEZ) in Klaipeda and Kaunas.
- A company with investments of EUR 1 million or more operating in FEZ is exempted from corporate income tax for six years and pays 50% in 10 subsequent years.
- For entities running investment projects (the conditions of such projects are defined) the corporate income tax rate is reduced up to 50%.

PERSONAL INCOME TAX

- General flat rate – 15%, dividends are taxed at a rate of 20%.

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.

CUSTOMS & EXCISE

- Mainly based on the EU law with a transition period on excise tax on tobacco – up to 1 September 2009.

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 NOT POSSIBLE

BELARUS

CORPORATE INCOME TAX

- General flat rate of 24%.
- Withholding taxes on: dividends – 15%; royalties – 15%; interest – 10%; freight – 6%; other income (sale of real estate, shares, certain agency contracts, contractual penalties, management, audit, advertising, insurance services, etc.) – 15%.
- Carry forward of losses is not possible. Intra-group transfer of losses is permitted.
- Fixed assets can be depreciated according to one of 5 methods (straight-line, double-declining, accelerated, etc.) at the discretion of the company.
- Taxation treaties with 59 countries.

VALUE ADDED TAX

- Standard rate – 18%. Reduced rate – 10%.

PROPERTY TAX

- Land tax: a fixed amount is payable per hectare depending on the quality and location.
- Real estate tax: 1% of the cost of buildings; 2% – may apply to objects of incomplete construction.

INCENTIVES TO INVEST

- 6 FEZ. A company has to invest at least EUR 1 million. Certain taxes – at reduced rates; profit from own production are exempted from profit tax for 5 years.
- High Technology Park. Residents – exempted from almost all of taxes and duties.
- Beneficial tax regime if a business is operating in rural areas and small town centers.
- Simplified Taxation System. Companies that meet certain requirements on number of personnel and amount of gross revenues may pay a unified tax imposed on gross revenues. Considering the circumstances, tax rates are: 6%, 8% or 15%.

PERSONAL INCOME TAX

- General flat rate – 12%.
- Other rates apply to specific income: 15% – dividends and business income; 9% – income received from HTP residents under labour agreements.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate is 1% of gross salary; employer ~ 35-38% on top of the gross salary.

CUSTOMS & EXCISE

- Excise duties are imposed on both the importing and the manufacturing of a list of goods. Customs are imposed on import; a limited number of goods are subject to export duties.

NATURAL RESOURCES TAX

- Imposed on the use of natural resources, processing/transporting oil, waste, emissions and use of packaging materials.

TAX AUDITS

- Tax audits can be performed normally going back 3-5 years.

ADVANCE (BINDING) RULINGS NOT POSSIBLE

Tax and customs advice and optimisation, including, but not limited to:

- Advance ruling requests
- EU Regulations and Directives, based on commentaries obtained through the IBFD database
- Developing defence files to accompany business reorganizations
- Share vs. asset deals
- Managing the “effective tax rate”
- Market entry strategies
- Permanent establishment risks
- Input VAT deductibility optimisation
- Best use of tax benefits in special economic zones and free ports
- Withholding tax and other tax optimisation possibilities
- Tax and customs disputes and litigation at all levels (including complaints to the European Commission)
- Tax due diligences

Non-exclusive cooperation partner of World Tax Service (WTS) Alliance

Tax contact partners

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