

## TAX PROFILE, BELARUS

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### KEY FACTS

#### Main tax rates

- Corporate tax rate: 24%
- VAT standard rate: 20%
- Personal income tax top rate: 12%

#### Population/GDP

Population: 9.48 million

GDP: USD 49.2 billion (approx EUR 36.9 billion) (January-November 2010)

#### Currency

Belarusian ruble, abbreviated here to BYR. BYR is pegged to a currency basket, divided equally into US dollars, euros, and Russian rubles. The BYR value of the currency basket is set at BYR 1,054.68. During 2011 the BYR value of the basket can fluctuate plus/minus 8%. As of 3 January 2011, bilateral exchange rates were the following: BYR 3,000 per US dollar, BYR 3,999.3 per euro, and BYR 98.44 per Russian ruble

#### 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](http://www.nalog.by) – Ministry of Taxes and Duties

[www.minfin.gov.by](http://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, there are state taxes and duties paid throughout Belarus and local taxes and duties subject to payment in the respective 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

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.

As of 1 January 2011, the following main changes in the taxation system came into force:

- The main local taxes effective in 2010 (duty for development of territories and tax on services) were abolished.
- The list of objects subject to environmental tax was substantially reduced (four payments were abolished).
- Taxpayers may choose the reporting period with regard to payment of VAT: quarterly or monthly.

## 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; sums 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. 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 capital investment used for production and housing construction, including repayment of bank loans received for these purposes (in an amount not exceeding 50% of gross profit); profit expended on

donations to state funded entities involved in public health, public education, social welfare, culture and sports up to a maximum of 5% 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 24%. Dividends and income from sale of shares in Belarusian companies are taxed at a rate of 12%.

A profit tax rate of 10% applies to companies producing laser optic equipment. Income of companies received from the sale of high tech goods (work, services) that are self produced is taxed at a 12% rate, if such companies are included in the list of high tech organisations approved by the President of Belarus.

The rate of profit tax for residents of Free Economic Zones is reduced to 50% of the general profit tax rate; profits gained from realisation of self produced goods (work, services) are exempt from profit tax for five years from the date of declaration of profit. 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 Technologies 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 activities 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 1.1772 billion (approx EUR 294,351) and the number of personnel is not more than 15 employees (such companies need not pay VAT).
- Gross revenues do not exceed BYR 3.815 billion (approx EUR 953,917) and the number of personnel is not more than 100 employees (such companies must pay VAT).

The following main tax rates under the STS apply:

- 8% – as to companies which do not pay VAT;
- 6% – as to companies which pay VAT;
- 3% – with regard to revenues from export of goods.

### **Capital gains taxes**

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

### **Position of losses**

Under Belarusian law, losses cannot be carried forward or carried back. They must be treated in full in the year in which they are incurred.

### **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 provided 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 24%.

## **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%.

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

A 15% tax applies to income derived from:

- sale of goods under agency agreements;
- holding concerts, circuses, and other similar performances;
- contractual fines and penalties;
- performing innovative works (including research and development works);
- 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 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);
- 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 the 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.

Moreover, 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, tobacco, oil for diesel engines and carburettor engines, petrol, diesel oil, 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 their value (*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 business and private notaries' 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 292,000 (approx EUR 73) if monthly income does not exceed BYR 1,766 million (approx EUR 442). Reduction of the tax base by BYR 81,000 (approx EUR 20) 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)**

There are no transfer pricing rules in Belarus.

### **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**

There are no thin capitalisation rules in Belarus.

#### **Controlled Foreign Company (CFC) rules**

There are no special CFC rules in Belarus.

#### **Tax treaties**

At present, Belarus has 62 effective double tax treaties. To some of them 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, 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%; 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 assessed by tax authorities who 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 owned or leased by companies. The annual tax rate is 1%. A 2% rate applies to incomplete construction projects where the terms of construction are exceeded and the company is engaged in construction of other projects.

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**

As of 1 January 2011, the main local taxes effective in 2010 (duty for development of land and tax on services) were abolished.

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<sup>a</sup></i>		<i>Interest</i>	<i>Royalties</i>
	<i>Individuals, companies (%)</i>	<i>Qualifying companies<sup>b</sup> (%)</i>	<i>(%)</i>	<i>(%)</i>
Armenia	15	10 <sup>c</sup>	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

<sup>a</sup> 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.

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

<sup>c</sup> The rate applies if a nonresident company owns at least 30% of the capital in a Belarusian company.

Croatia	15	5	10	10
Cyprus	15	5/10 <sup>d</sup>	5	5
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 <sup>e</sup>	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 <sup>f</sup>	0/5 <sup>f</sup>	5	10

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<sup>d</sup> 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.

<sup>e</sup> 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.

<sup>f</sup> The lower rate applies if a nonresident company is a government agency or a financial institution.

<sup>g</sup> 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.

Kyrgyzstan	15	15	10	15
Latvia	10	10	10	10
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 <sup>g</sup>	5	3/5/10
Oman	5	5	5	10
Pakistan	15	10	10	15
Poland	15	10 <sup>h</sup>	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 <sup>i</sup>	5	3/5/10
Switzerland	15	5	5/8	3/5/10

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<sup>h</sup> The rate applies if a nonresident company owns at least 30% of the capital in a Belarusian company.

<sup>i</sup> 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.

<sup>j</sup> 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 <sup>j</sup>	5	5/10
United Kingdom	0	0	0	0
USA	– <sup>k</sup>	– <sup>k</sup>	– <sup>k</sup>	0
Uzbekistan	15	15	10	15
Venezuela	15	5	5	5/10
Vietnam	15	15	10	15

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<sup>k</sup> The domestic rate applies; there is no reduction under the treaty.