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Doing business in Russia 2013

Tax & Legal

This guide is designed as a basic reference guide to Russia's tax and legal environment for businesses interested in doing business in Russia.

Law and practice continue to evolve in Russia, and whilst all reasonable care has been taken to ensure that this guide provides a practical explanation of the current rules, readers are urged to obtain up to date formal advice before undertaking any action.

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"We are going forward in all spheres:
in the economy, in the implementation
of large projects, in innovations
and in humanitarian cooperation."

Dmitry Medvedev

Introduction

In these fast-changing economic conditions, one can hardly predict with confidence what is likely to occur in the next 2-3 years, let alone longer periods of time.

We all accept that the primary function of the tax system is to act as a fiscal instrument aimed at raising revenue for the government to fund public expenditure. However, the stimulating and regulating functions of the tax system have begun to manifest themselves more and more in Russia in recent years. Acting as an instrument of fiscal policy, taxes in Russia now have a significant effect on macro-economic processes and the business climate.

Almost all of the expected legislative changes focus on the harmonisation and unification of the provisions of Russian and international legislation. Russia, which intends to establish itself as a major player in the global economic community, is faced with the necessity to find ways of modernising and increasing the efficiency of the economy, attracting investment and fostering innovation. This situation makes it virtually impossible to go against global trends and ignore the experience of foreign businesses.

This Guide covers the main features and last changes in Russian tax legislation.

We hope that this Guide is of use and interest to you.

Taxation

The main profit tax rate — 20% — is one of the lowest amongst the major economies.

Tax and other incentives are becoming more common, for example with the establishment of additional Special Economic Zones and the Skolkovo Innovation Centre. Many of the incentives are aimed at promoting innovation and the modernisation of industry.

The tax system, however, remains inflexible and poorly administered. The transfer pricing rules have at last been changed to come into line with OECD principles, and a limited form of tax consolidation has been introduced, but a more fundamental overhaul of the tax system is long overdue.

Strategic industries

As expected, the law which limits foreign investment in strategic industries has been relaxed, increasing the investment limit in companies with subsoil activity from 10% to 25%, removing restrictions where the investor is an international financial institution (such as the EBRD) and resolving a number of anomalies. To date, the government commission charged with applying the law has approved around 95% of applications.

Finance & investment

2012 did not see any significant recovery in the number of Initial Public Offerings, while the government's own plans to raise up to USD 50 billion from the sale of state shareholdings are on hold until market conditions improve. The government did, however, establish the Russian Direct Investment Fund — a USD 10 billion sovereign fund that aims to attract new foreign investors into target sectors by co-investing an amount up to that put in by the investor.

Legal framework

The legal framework continues to develop with the growth of legal precedent and thus legal certainty, along with measures to discourage corruption and update company law. However, certain parts of the judiciary are seen to lack independence and Russia ranks only 111th out of 183 economies monitored by the World Bank in terms of investor protection, well below the other BRIC economies, including China. That said, the vast majority of tax litigation is decided in favour of the taxpayer, and in February 2012 Vladimir Putin announced a package of measures aimed at improving the legal environment for business.

Expatriate staff

The introduction of a simplified process for obtaining work permits for "highly qualified specialists" — tested by reference to remuneration, not skills — has been a great success, with approximately 15,000 permits granted in 2011, and 24,579 permits in 2012. The advantages of this route have been strongly underlined by the introduction of pension contributions of up to 32% on foreign employees who do not hold such work permits. Meanwhile, new expatriate staff arrivals continue to be taxed on their household belongings at EUR 4 per kilo, a Customs Union oversight from July 2010 which has still not been fixed.

Conclusions

Russia remains a country with huge potential for foreign investors. As indicated above, virtually every sector of the economy, whether state or privately controlled, requires massive investment. Businesses in the technology and innovation sphere are particularly welcome.

The challenge for foreign investors is to determine whether the opportunities are attractive enough to outweigh the well-known market risks and uncertainties beginning to emerge in the political landscape. Looking back over the past two decades, however, few of the major investors into Russia have had much cause to regret, despite the many challenges. Faced with continuing economic stagnation in many of the world's more developed markets, an increasing number of companies may decide that the growth prospects in Russia are worth pursuing.

The following overview of taxes and related legislation is based on the law in effect on 1 January 2013.

The US dollar equivalent of ruble amounts is based on the exchange rate on 1 March 2013, approximately RUB 30:USD 1.

Further information about doing business in Russia can be found at **www.deloitte.com/ru/insights/dbir**.

Types of business presence

Russian legislation provides for foreign companies to have different types of business presence in Russia. These are:

- Branches and Representative Offices;
- Legal Entities; and
- Joint Activity Agreements, also known as Simple Partnerships.

This chapter includes a brief description of each of these forms.

Branches and representative offices

According to the Russian Civil Code, both branches and representative offices are referred to as subdivisions of a foreign legal entity (FLE) that are located at a place other than that of the legal entity's head office. Branches and representative offices may be allocated property by the legal entity that has created them and act on the basis of regulations approved by that legal entity.

The difference between a branch and a representative office lies in the nature of the activities they are entitled to perform. A representative office can only represent the interests of the legal entity and this normally limits its activities to those of a non-commercial nature, such as marketing or the gathering of information. A branch, in contrast, can perform all or part of the legal entity's functions, including (but not limited to) representation. Nevertheless, some representative offices are known to engage in commercial activities and have never been challenged by the authorities, provided they have duly completed their accounting in relation to Russian tax.

An important practical difference between a branch and a representative office relates to aspects of migration. A representative office is not entitled to hire employees under the simplified migration regime for highly qualified specialists. Please refer to the chapter entitled "Employment" for further details.

Because of the wide scope of their powers, branches are considered to engage in commercial activities for taxation purposes and are thus subject to profits tax. The limited scope of activities that can be performed by representative offices would not normally expose them to profits tax, but some offices do in fact engage in commercial activities, including the negotiation and signing of contracts. In such cases, the office would become liable to profits taxation in the same way as a branch is.

Registration process

It is a legal requirement for representative offices and branches to be accredited by the appropriate government organisation. For branches, this organisation is the State Registration Chamber of the Russian Ministry of Justice. For representative offices, the organisation differs depending on the nature of the head office's activities, but it is typically either the State Registration Chamber of the Russian Ministry of Justice or the Russian Chamber of Commerce and Industry. Regardless of the state body involved, representative offices must also be added to the State Register of Accredited Foreign Representative Offices held by the State Registration Chamber.

The registration process for both branches and representative offices thus involves the following stages:

- Accreditation and incorporation into the State Register of Accredited Foreign Representative Offices/Branches
- Approval of the design of the organisation's stamp
- Registration with the tax authorities (regardless of whether the activities are taxable or not)
- Registration with the State Statistics Committee
- Registration with social funds

The entire process typically takes from four to six weeks from the date that the documents are submitted to the state authorities.

Legal entities

The two most common types of legal entity under Russian corporate law are joint stock companies, which may be either "open" or "closed", and limited liability companies. These are regulated by the law on joint stock companies (the JSC Law) and the law on limited liability companies (the LLC Law), respectively. Only JSCs are able to issue shares, which therefore renders them subject to Russian law on securities and the regulations imposed by the Federal Service for Financial Markets (FSFM).

Neither the shareholders of JSCs nor the participants in LLCs are liable for the obligations of the company, and they bear the risk of losses only to the extent of the value of their contributions (i.e. a limited liability).

However, there are situations in which a parent company may be held liable for the obligations of its subsidiary: a parent company which has the right to give directions that are binding on its subsidiary is jointly liable with the subsidiary for transactions concluded by the latter when following such directions. This liability exists regardless of whether the form of the commercial legal entity is an LLC or a JSC. A similar concept applies in the event of the insolvency of a subsidiary, whether it is an LLC or a JSC. If the parent company determined the subsidiary's actions in the knowledge that this would result in its subsequent insolvency, the parent company bears the liability for the subsidiary's debts if the subsidiary's property is insufficient to cover its liabilities.

A Russian company cannot be owned 100% by another corporate entity (wherever it is incorporated) where that owner is itself owned 100% by another shareholder. In other words, a 100% holding company of a Russian company must have more than one shareholder or participant.

Open joint stock company — OJSC
(Otkrytoe aktsyonernoye obshchestvo or OAO)
An OJSC may have an unlimited number of shareholders. Subject to elaborate disclosure requirements, an OJSC is the only form of legal entity whose shares may be openly traded; similar to a western "public" company. The minimum charter capital is set at RUB 100,000 (approximately USD 3,300). Additional obligations are imposed on OJSCs that have more than a certain number of shareholders.

Closed joint stock company — CJSC
(Zakrytoe aktsyonernoye obshchestvo or ZAO)
The most common type of joint stock company, a CJSC, is limited to a maximum of 50 shareholders. There is no obligation for accounts to be published.

A CJSC is often the structure preferred by minority partners in a joint venture, as the JSC Law grants greater rights for minority shareholders than the LLC Law.

The main features of a CJSC are the following:
- Shares are only distributed among its founders or another predetermined group of persons
- A CJSC may not conduct an open subscription of shares to an unlimited group of persons.
- The number of shareholders cannot exceed 50. If the number of shareholders is greater than 50, it should be reorganised as an OJSC within one year
- The minimum charter capital of a CJSC may not be less than RUB 10,000 (approximately USD 330).
- Shareholders enjoy pre-emptive rights over any shares offered for sale by a withdrawing shareholder.

Limited liability company — LLC
(Obshchestvo s ogranichennoi otvetstvennostyu or OOO)
An LLC is the most flexible type of company with the least burdensome statutory obligations.

It tends to be the entity of choice for wholly-owned subsidiaries, including those owned by foreign investors.

The equity participation of the owners is determined by their capital contribution. An LLC's capital is divided into "units" (technically not shares, thus falling outside the scope of Russian law on securities).

The main features of an LLC are the following:
- An LLC does not issue shares
- An LLC's "participants" contribute to its charter capital, although financing is also possible in the form of contributions to the company's property
- The minimum charter capital of an LLC may not be less than RUB 10,000 (approximately USD 330).
- Participants enjoy pre-emptive rights over any participatory units offered for sale by a withdrawing participant.
- The number of participants may not exceed 50.

A comprehensive law aimed at improving the legal status and regulation of LLCs, along with their participants, came into effect from 1 July 2009. In particular, the law stipulates that the sole founding document of a company is its Charter, thus eliminating ambiguities caused through the use of Foundation Agreements. The law also precludes withdrawal from an LLC unless it is provided for in the Charter;

the basis for transferring shares to the charter capital is stipulated and the procedure for disposing such shares is established. The notarisation of sales of participation and the maintenance of a register of participants and their holdings is also required.

LLCs founded before 1 July 2009 must bring their founding documents in line with the law and register changes with the state tax authorities. No time limit for this is prescribed by the law, although, in practice, it must be done by the next time changes to the founding documents are registered

Registration process

The registration procedure for legal entities comprises the following stages:

- State and tax registration
- Approval of the design of the company's stamp
- Registration with the State Statistics Committee
- Registration with social funds

Due to the bureaucratic nature of registration, the entire process typically takes three to four weeks from the date that the documents are personally submitted to the registration authorities by a duly authorised director of the founder. If that individual cannot submit the documents personally, the certificates issued by the state and tax authorities will be sent by regular post to the address of the new Russian company. Given the unreliability of the postal service in Russia, delivery cannot be guaranteed.

In addition, joint stock companies are required to register their share issue with the FSFM, which increases the time required for registration by one to two months.

Antimonopoly approval

In some cases, depending on the assets or sales revenue of the founder(s), the prior approval of the Federal Antimonopoly Service may be required before a Russian company can be established. A preliminary approval from this body normally takes about two months to be given.

Simple partnership or joint activity agreement (JAA)

Foreign companies are entitled to participate in a JAA with a local partner. A JAA is not a legal entity in itself but represents the pooling of assets for conducting a common business. One of the partners is usually appointed as the party responsible for bookkeeping and statutory reporting.

Accounting environment

Overview

Several major changes have been made to Russian standards, starting from 2013. Federal Law No. 402-FZ "On Accounting" came into effect on 1 January 2013, affecting most Russian businesses. This Law represents a fundamental improvement of the organisational process of accounting in Russia. It applies not only to Russian legal entities, but also to foreign companies with a representative office or branch in Russia.

The Law shall apply to the following entities:

- Commercial and non-commercial organisations
- Governmental authorities, local authorities, state and local non-budgetary funds
- RF Central Bank
- Individual entrepreneurs, lawyers, notaries and others engaged in private practice
- Subdivisions and representative offices located on the territory of RF.

This Law shall apply in regard to the maintenance of budgetary records of assets and obligations of the RF, constituent entities of the RF and municipalities and operations which cause those assets and obligations to change, and in regard to the preparation of budgetary statements.

The Law shall also apply in regard to maintenance by a fiduciary of the accounting records of assets transferred to him/her for fiduciary management and related objects of accounting, and in regard to the maintenance, including by one of the legal entities participating in a simple partnership agreement, of accounting records of the common assets of the partners and related objects of accounting.

Finally, the Law shall apply in regard to the maintenance of accounting records during the process of the performance of a production sharing agreement, except where otherwise established by Federal Law #225-FZ of 30 December 1995 “On Production Sharing Agreements”.

Organisation of accounting

Due to old legislation, Russian companies typically have two positions: the CEO (or General Director) and the Chief Accountant. In practice, one individual could perform both roles.

The new Federal Law will prohibit this practice. Accordingly, Russian companies will need a second person to act as an accountant, or they will need to engage an outside expert (which may be an individual or a company) to perform this service.

Small and medium-sized businesses are exempt from this rule and may continue to have one person perform both roles. To qualify as a small or medium-sized business, a company must meet a number of requirements, including the following: (a) foreign ownership may not exceed 25%, and (b) ownership by other companies that are not themselves small or medium-sized businesses may not exceed 25%. Due to these requirements, we expect that many of companies may not qualify for the exemption.

Requirements for Chief Accountants

The new Federal Law imposes certain minimum qualifications for persons serving as Chief Accountants of open joint-stock companies, insurance companies, pension funds, management companies of mutual funds, and listed companies.

The qualifications are as follows:

- A university degree
- At least three years of experience in accounting or auditing within the last five years or, where a person holds a degree in a field other than accounting or audit, at least five years of such experience within the last seven years
- No past convictions for business-related crimes

These rules do not apply to Chief Accountants who have been employed since before 1 January 2013, but will apply to all new hires.

The new Federal Law does not apply in relation to persons who are in charge of maintaining accounting records as of the date of entry into force of this Federal Law.

Primary documents, accounting registers

As of 2013, the format for forms required by legislation can be chosen. However, when changing forms, one has to make sure that all current information is still available on the new form. This sounds good in theory; however, in practice it might be difficult to implement.

The newly-created forms must contain mandatory requisites. The Federal Law enables organisations to develop their own registers subject to approval by the management and fixation in the accounting policy.

Financial statement package

The new Law and corresponding amendments to the Russian Tax Code will now require only annual accounting statements, which must be sent to both the Federal Tax Service and the Federal Statistics Service. It is expected that the requirements for the contents of the reports will also change; however, new reporting guidelines have not yet been approved.

A copy of prepared annual accounting (financial) statements should be submitted no later than three months after the end of the accounting period.

Regulation of local accounting

Accounting regulation documents shall include:

- Federal standards
- Sectoral standards
- Accounting recommendations
- Entities' standards.

Accounting recommendations shall be applied on a voluntary basis.

They may be adopted in regard of the procedure for the application of federal and sectoral standards, standard forms of accounting documents other than those established by the federal and sectoral standards, organisational forms for the maintenance of accounting records, the organisation of the accounting departments of economic entities, methods for the maintenance of accounting records, the procedure for organising and exercising internal control over their activities and over the maintenance of accounting records, and the procedure for the development of standards by such entities.

The need for and procedure for the development, approval, amendment and rescission of standards of an economic entity shall be established by the entity itself.

In the document hierarchy of accounting regulations, the standards shall rank as recommendations and shall not conflict with the federal and sectoral standards.

Accounting is the generation of documented and systematised information concerning objects provided for in this Federal Law in accordance with the requirements established by this Federal Law and the preparation of accounting (financial) statements on the basis of that information.

Federal Law 402-FZ fixes its goals of action — establishing the accounting standard requirements, including accounting (financial) statements and creation of the legal mechanics of accounting

Requirements for financial statements

Accounting (financial) statements must give a fair representation of an economic entity's financial position as of a specified reporting date and of its financial performance and cash flows for an accounting period such as is needed by a user of those statements to adopt an economic decision.

In the future, only the CEO should sign all of these documents. It should be noted that the legal responsibility for accounting stays with the person in charge of accounting.

Reorganisation and liquidation of a company

The Law establishes certain specific matters of financial statements if a legal entity is reorganised or liquidated. In particular, the Law clearly requires the most recent financial statements to be drafted by the liquidation commission (the liquidator) in the event of liquidation.

Taxation of foreign presences

A foreign legal entity (FLE) that conducts business activities in Russia through a "separate division", a term which includes representative offices, branches, construction sites and other places of business, for a period exceeding 30 days in a calendar year, is required to register with the Russian tax authorities within 30 days of the commencement of such activities. This is regardless of whether the activities are taxable or not. If the FLE operates in more than one location, it must register separately in each of the locations that it is present in. Each real estate project or construction site must also be registered separately.

Although the taxation of a separate division of an FLE is similar to the taxation of a Russian legal entity, there are a number of differences that can make this an attractive form of doing business in Russia.

Profit tax

FLEs are liable for profits tax on their business income only if their business activities create a permanent establishment (PE). If no PE exists, foreign entities are exempt from Russian profits tax.

An FLE receiving income from a source in Russia not connected with the activities of a PE is subject to withholding tax as described in the chapter entitled "Russian-sourced income of foreign companies". "Passive" income, such as dividends, interest and royalties, are the most common types of Russian-sourced non-business income.

The Tax Code defines the term "permanent establishment" as a branch ("filial"), representative office, division, bureau, office, agency or any other separate fixed place of activity, through which a foreign company regularly engages in business activities in Russia. The term is used exclusively for tax purposes and does not affect the legal status of an entity. The following areas of activity are expressly listed as giving rise to the creation of a PE:

- Exploration for, or extraction of, natural resources
- Construction, installation, assembly, adjustment, maintenance and operation of machinery and equipment, including gambling equipment
- Sales from warehouses owned or rented by a foreign legal entity in Russia
- Provision of services or performance of any other activity, apart from "preparatory and auxiliary" activities or activities explicitly defined as not creating a PE

A foreign legal entity may also be considered as having a PE if it conducts the activities listed above through a dependent agent. A dependent agent represents an FLE in Russia under a contract, acts on its behalf, and has and regularly exercises the right to sign contracts on behalf of the FLE, or negotiates significant terms on its behalf.

Russian tax law specifically stipulates that the gathering and distribution of information, marketing, advertising, market research and the import and export of goods by a foreign company should not themselves lead to the creation of a PE.

Russia's double tax treaties, which prevail over Russian domestic law, also include a definition of a PE. Thus, if an FLE qualifies as a resident of a country with which Russia has a tax treaty in force, then the definition of a PE in that treaty will prevail. A list of countries with which Russia has a double tax treaty is provided in the Appendix on pages 80-83.

Profit tax base calculation

PEs and Russian legal entities use similar rules for determining taxable profits and for calculating taxes due. The rules on filing tax returns and maintaining tax registers are also similar.

The only major difference between a foreign entity with a PE and a Russian legal entity relates to the monthly advance payment of profits tax. PEs are exempt from this requirement and are thus not obliged to remit profits tax on a monthly basis.

Generally, PEs should calculate their profits tax using the direct method (i.e. gross income net of allowable deductions) to arrive at their taxable income. However, when a foreign entity has a PE because it conducts preparatory and auxiliary activities in Russia in favour of third parties on a free-of-charge basis, the PE will be deemed to have taxable income equal to 20% of the expenses of the PE.

In addition, Russian tax law allows an FLE to allocate income and expenses to its Russian PE. In particular, where all income from activities in Russia earned through a PE is received by the head office of the FLE, the income of the Russian PE is determined through reference to the FLE's accounting policy. Moreover, in cases set out in double tax treaties, Russian tax law also allows a deduction by the PE of overhead expenses incurred by the head office but relating to the PE, e.g. management and administrative costs. The tax authorities may require documentary support and justification of any amounts allocated.

Nevertheless, the allocation of income and expenses between an FLE and its Russian PE should take into account the functions carried out in Russia, the assets used and the commercial risks borne.

Russia does not impose a "branch profits" tax on profits repatriated by a PE to its head office.

Property tax

The Tax Code establishes certain conditions regarding the application of property tax to FLEs, which are summarised below:

- An FLE that carries out activities in Russia through a PE is liable to corporate property tax on both the movable and immovable property of the PE in accordance with the corporate property tax rules applicable to Russian legal entities (refer to the chapter entitled "Property tax")
- An FLE whose activities do not constitute a PE pays property tax only on its immovable property located in Russia. Thus, an FLE owning movable property located in Russia that is not attributable to a PE of the FLE in Russia is not liable to corporate property tax on that movable property

There are some differences in the taxation of immovable property depending on whether it is owned by a foreign legal entity or a Russian legal entity. The immovable property tax base of an FLE without a PE in Russia, or which does not relate to the PE of an FLE in Russia, is determined based on the inventory value of the property (as determined by the relevant state body) rather than the average annual value.

The tax base for the year is the inventory value as of 1 January, with quarterly advance tax payments based on one-quarter of the inventory value multiplied by the applicable tax rate.

Russian-sourced income of foreign companies

As with other jurisdictions, the Russian-sourced income of a foreign entity that is not attributable to a permanent establishment (PE) may be subject to withholding tax at source. The responsibility for withholding the tax lies with the tax agent — the Russian entity or foreign legal entity (FLE) with a registered PE — making the payment to the FLE that does not have a Russian PE. Failure to withhold tax may lead to fines of up to 20% of the tax, while a delay in payment may lead to late payment interest.

Withholding tax is applied to the following types of Russian-sourced income:

- Dividends
- Income relating to the distribution of profit or property, including distributions on liquidation
- Interest on debt instruments, including profit-sharing debt and convertible bonds
- Royalties
- Income from the sale of shares (participatory rights) of a Russian corporation if more than 50% of its assets consist of immovable property located in Russia, or from the sale of financial instruments that are derived from such shares (excluding most sales on a foreign stock exchange)
- Income from the sale of immovable property located in Russia
- Income from leases and sub-leases of property used in Russia (including sea- and aircraft)
- Income from international freight, including demurrage and other payments relating to freight
- Fines and penalties due by Russian parties for breaking contractual obligations
- Other similar types of income

Income generated from the sale of goods, the performance of work and the provision of services in Russia are not subject to Russian withholding tax, provided that the activity does not lead to the creation of a Russian PE. Withholding tax is applicable regardless of the form of payment and includes payments in kind or by means of a mutual offset of liabilities between the seller and the buyer. With respect to income from the sale of shares or immovable property, related expenses may be deducted when determining the tax obligations of the FLE, provided that the tax agent receives documents supporting the expenses before payment is made.

The applicable withholding tax rate varies according to the type of income, as shown in Table 1.

The issuer of securities must act as the tax agent regarding the payment of interest and dividends to a FLE, and if the issuer fails to withhold the relevant tax, responsibility lies with the broker, asset manager, nominal holder or other agent to the transaction.

The broker, asset manager, etc., is also the responsible tax agent with respect to withholding tax on a capital gain derived by an FLE from the disposal of securities.

A tax agent is not obliged to withhold tax in the following circumstances:

- The tax agent has received a notification from the taxpayer that the income relates to a PE of the taxpayer in Russia, and the taxpayer has provided a notarised copy of its tax registration certificate, issued no earlier than the previous tax period

- The income is exempt from tax under a production sharing agreement
- The relevant double tax treaty provides for an exemption from withholding income tax

To claim the benefit of a double tax treaty when Russian-sourced income is being paid, the foreign legal entity must provide written confirmation to the payer of the fact that it is a tax resident of that foreign country. The written confirmation must be provided prior to the payment date. It must also be certified by an appropriately competent foreign body and apostilled. Lastly, the Russian tax authorities may also require a legalised Russian translation of the confirmation.

If a confirmation is not provided prior to payment and the foreign company is subjected to a withholding rate greater than that provided for by the treaty, it is possible to claim a refund within the three year period following the end of the tax period in which the payment was made. In principle, after receiving the proper documentation, the Russian tax authorities should refund any excess tax within one month of the date of the application. However, in practice this process is usually significantly delayed.

Special provisions allow banks to bypass the residence confirmation requirement for inter-bank transactions, provided that the residence of the foreign bank in a treaty jurisdiction can be confirmed by reference to a public information source.

Withholding tax rates for treaty countries

The main treaty tax rates for Russian-sourced income are shown in the Appendix on pages 80-83.

Table 1

%	Type of income
10	Income from international freight and the rental of property involved in international shipping, and income from leasing and sub-leasing sea- and aircraft
15	Dividends received by foreign companies from Russian legal entities, as well as interest on state and municipal bonds
20	Royalties, interest (other than interest received from state and municipal bonds, as well as Eurobonds issued before 1 January 2014), income from leasing and sub-leasing property used in Russia, distribution of profit or property to foreign companies, including proceeds from liquidation, and other similar income of an FLE without a PE in Russia
20	Profit from the sale of shares (or share derivatives) in a Russian entity, where more than 50% of the company's assets consist of immovable property located in Russia, or from the sale of immovable property located in Russia, provided that the income recipient submits documents supporting the deductibility of the expenses to the tax agent prior to his or her payment of the proceeds. In the absence of the correct documentation, etc., 20% is applied to the sale proceeds

Profit tax

Taxpayers

Profit tax applies to both Russian and foreign legal entities carrying out activities in Russia through a permanent establishment or receiving income from Russian sources.

A Russian legal entity must be registered with the office of the tax inspectorate corresponding to the location of the company's registered address, as well as at the offices corresponding to any branch or subdivision of the entity. The company is liable to pay profit tax in respect of each of these locations. Please refer to the chapters entitled "Taxation of foreign presences" and "Russian-sourced income of foreign companies" for details about the taxation of FLEs and the chapter entitled "Tax Incentives" for information on profit tax reductions and exemptions.

From 2012, the Tax Code introduced consolidation for profit tax purposes for taxpayer groups if all the qualifying participants taken together meet the following minimum requirements in relation to the preceding calendar year:

- Total taxes paid of 10 billion rubles (approximately USD 330 million)
- Total revenue of 100 billion rubles (approximately USD 3.3 billion)
- Total value of assets (at year end) of 300 billion rubles (approximately USD 10 billion)

Tax rate

The maximum profit tax rate is 20%, comprising:

- 2%, payable to the Federal budget
- 18%, payable to the Regional budget

Regional governments have the right to reduce their portion of profit tax by up to 4.5%. Please refer to the chapter entitled "Tax incentives" for further details.

Tax base

The tax base is defined as total income received by a taxpayer less related expenses and allowable deductions.

Income includes sales income, i.e. total proceeds from the sale of goods, work, services and property rights and non-sales income. Income received in a foreign currency must be converted into rubles using the official exchange rate set by the Central Bank of Russia (CBR) as at the date of income recognition.

Non-sales income includes goods, work, services and property rights received free-of-charge, based on market value, except in the case of property received by a Russian company from its parent or subsidiary where the parent owns more than 50% of the subsidiary. This exemption is lost if the property (other than cash) is transferred to a third party within one year. Non-taxable income, of which the legislation provides an exhaustive list, also includes property and property rights received as a contribution to a company's charter capital, leasehold improvements made by a lessee to the lessor's property, and interest received on overpaid tax.

Deductible expenses are subdivided into sales expenses (related to the core business activity of a taxpayer) and non-sales expenses.

Income from the sale of unquoted shares and participation in Russian companies, and of quoted shares in high-technology Russian companies, acquired after 1 January 2011 and held for at least 5 years, are exempt from profit tax.

Assets and liabilities denominated in foreign currency must be converted into rubles. The revaluation profit or loss is included in non-sales income/expenses on the earliest of: the last day of the reporting (tax) period or the date of disposal/settlement.

Recognition of income and expenses

There are two alternative methods for recognising income and expenses, depending on the level of income. The accrual basis must be used by taxpayers with an average income exceeding RUB 1 million (approximately USD 33,000) per quarter for the previous four quarters, while taxpayers falling short of this threshold may choose between the accrual or cash basis.

General criteria for deducting expenses

Expenses are considered deductible for profit tax purposes if they meet three general criteria: the expenses must be incurred in the course of a taxpayer's income generating activity, be economically justifiable and supported by relevant documentation. They must not be listed as one of the specifically non-deductible expenses provided in the law. Additional deductibility criteria applying to certain types of expenses are noted below.

In practice, the tax authorities apply the general criteria very strictly, and may challenge any expense which is not directly related to the generation of income. Expenditure which indirectly benefits or promotes the growth of the business may not be considered "economically justified". Documentary requirements are also exacting, and include both documents specified by legislation (agreement, act, invoice and VAT invoice) and other supporting materials.

For overseas expenses, the documentation must be prepared in accordance with the common business practices of the country where the expenses were incurred, although this does not guarantee deductibility.

Depreciation

Depreciable property is property, both tangible and intangible, which is used for income-generating activities and has the following characteristics:

- A useful life of at least 12 months
- A value of no less than RUB 40,000 (approximately USD 1,300)

If the property does not meet those criteria, it is treated as an expense and should be included in the cost of sales, assuming that general deductibility criteria are met. Land cannot be depreciated.

All depreciable fixed assets fall within one of ten groups described in Table 2 on page 25, and the taxpayer should determine the useful life of its fixed assets based on this classification. The useful life of an intangible asset is based on the utilisation period stated in any agreement or the validity period in the case of a patent. In any other case, it is 10 years (excluding such intangible assets as exclusive rights for software, trademark, know-how etc. with a minimum period of two years).

Leasehold improvements undertaken at the expense of a lessee, and with the lessor's approval, can be depreciated by the lessee over the useful life of the relevant assets for the period of the lease agreement.

Two methods of calculating depreciation expenses are available — the straight-line method and the reducing balance method. The straight-line method must be used for buildings, other constructions and transmission devices that fall within depreciation groups 8-10, while either method may be used for other fixed assets. The method chosen should be stated in the taxpayer's tax accounting policy and can be changed from the straight-line method to the reducing balance method from 1 January of the next tax year, and once every five years in the reverse case.

Under the straight-line method, the monthly depreciation is calculated as:

$$\frac{1}{\text{useful life in months}} \times \text{historic cost of the asset}$$

Under the reducing balance method, the monthly depreciation is calculated as:

Net book value of asset group x depreciation rate (%)

The net book value, on which the monthly depreciation is based, thus reduces every month. The depreciation rates shown in Table 2 on page 25 are, in certain cases, adjusted by coefficients, for example:

- For fixed assets which are used in a demanding environment, belong to residents in Special Economic Zones, or are designated as energy-efficient, up to twice the normal rate is applied
- For leased property and fixed assets which are used only for scientific and technical purposes, up to three times the normal rate is applied

Taxpayers are entitled to deduct a one-time depreciation allowance of 10% (30% for asset groups 3-7) of the historic cost of fixed assets purchased or capital improvements made. The regular depreciation expense is then computed on the reduced tax base. If a fixed asset was sold to a related party in less than five years from the moment at which the allowance was deducted, this allowance should be restored via its inclusion into the non-sales income of the taxpayer.

A depreciation charge can be deducted when calculating the profit tax liability, starting from the first day of the month following the month when an asset is put into operation.

Goodwill

Goodwill arising on the acquisition of a "property complex" — essentially, a bundle of assets which has a collective purpose, such as a production plant — may be recorded as an asset and written off on a straight-line basis over the course of five years. The amount of goodwill recognised is the excess of the price paid over the net asset value of the company. If the price paid is lower than the net asset value, the buyer recognises the difference as income at the moment when the property rights are registered.

Expenses subject to limitation

The following types of expenses may be deducted for profit tax purposes within certain limits:

Advertising

Expenses on advertising, including in the press, on radio and television, outdoor advertising, printing brochures and catalogues and participating in exhibitions are not subject to any limitation. Other categories of advertising expenditure may be deducted for profit tax purposes up to an amount equivalent to 1% of a taxpayer's sales revenue (net of VAT).

Entertainment

Expenses incurred on hosting clients during negotiations and those attending board meetings are deductible up to 4% of a taxpayer's total payroll cost in the reporting period.

Insurance

Obligatory property insurance premiums are deductible within certain limits. Voluntary insurance premiums are only deductible if specifically provided by the tax legislation.

R&D

The Tax Code contains a complete list of R&D expenses which are deductible. Costs for certain types of R&D are fully deductible in the period when the R&D activity (or its separate stages) was completed and/or the act of acceptance signed, irrespective of the result. For some types of expenditure listed in a special Order of the Government, the deduction is 150% in the period when the cost is incurred.

Interest

The general rule is that interest charged at a rate more than 20% above the average rate charged on comparable loans made in the same quarter is non-deductible. In the absence of comparable data, or at the taxpayer's request, the maximum rates are as follows:

- For ruble loans, the Central Bank of Russia (CBR) refinancing rate at the date when the loan is advanced, multiplied by 1.8
- For foreign currency loans, the CBR refinancing rate on the date the loan is advanced, multiplied by 0.8

Interest on foreign controlled debt is further restricted — see below.

Thin capitalization

The thin capitalisation rules restrict the deducibility of interest charged on "foreign controlled debt". The rules apply to loans (and other debts):

- To a Russian company from a foreign entity which owns, directly or indirectly, more than 20% of the Russian company's share capital
- From a Russian company which is an affiliate of a foreign entity to another Russian company where the foreign entity owns, directly or indirectly, more than 20% of the recipient's share capital
- Guaranteed or otherwise secured by a foreign entity that owns, directly or indirectly, more than 20% of the Russian company that received the loan, or by a Russian affiliate of the foreign entity

The deductibility of interest is restricted to the extent that the controlled debt exceeds net assets by more than three times, or 12.5 times in the case of banks and leasing companies. Interest on excess debt is non-deductible and treated as a dividend subject to withholding tax. In the event that the taxpayer has negative net assets, the whole amount of interest accrued on the controlled debt will be non-deductible and treated as a dividend.

Reserves

A taxpayer may create certain types of reserves, including reserves for warranty repairs, repairs of fixed assets, R&D and for doubtful debts, subject to certain rules. In principle, a taxpayer may transfer the following tax-deductible amounts to a doubtful debt reserve: 50% of the invoice value for debts outstanding for a period of 45-90 days and 100% of the invoice value when that period is exceeded.

The total reserve for doubtful debts as at the end of the reporting (tax) period may not exceed 10% of revenue for the period. Special rules apply to banks and licensed dealers in securities.

Table 2

Depreciation group	Useful life (years)	Types of fixed assets	Monthly depreciation rate for the reducing balance method (%)
1	1 – 2	Metal-working and woodworking tools/machines; oil & gas production equipment; construction hand tools; medical tools; etc.	14.3
2	2 – 3	Drilling machines; construction power tools; computers and peripheral equipment; etc.	8.8
3	3 – 5	Elevators; forestry tractors; automobiles etc.	5.6
4	5 – 7	Office furniture; television equipment; clocks; light trucks (0.5-5 ton capacity); gas pipelines; certain non-residential real estate; etc.	3.8
5	7 – 10	Oil/gas collecting systems; fibreoptic communication systems; musical instruments; heavy trucks; certain non-residential real estate; etc.	2.7
6	10 – 15	Railway transport structures; certain residential real estate; etc.	1.8
7	15 – 20	Bridges; ductworks; refrigerators; certain non-residential real estate; etc.	1.3
8	20 – 25	Blast furnaces; river and lake passenger vessels; certain non-residential real estate; etc.	1.0*
9	25 – 30	Runways; nuclear reactors; oil & gas tanks; certain non-residential real estate; etc.	0.8*
10	> 30	Escalators; forest shelter belts; subway cars; certain residential and non-residential real estate; etc.	0.7*

* Except for buildings, constructions and transmission devices for which the straight-line depreciation method should be used

Loss carry forward

Losses incurred by a taxpayer may be carried forward for up to ten years following the period in which the loss was incurred. Losses on certain types of activity (e.g. securities, financial instruments) are determined and carried forward separately and may in future be offset only against profit from the same activity.

Taxation of dividends

Dividends are taxed as follows:

- 9% — at source — for dividends paid by one Russian company to another (unless the 0% rate below applies). In determining the tax base, the paying company should deduct the amount of dividends received in the same and preceding tax periods
- 15% — at source — for dividends paid by Russian companies to foreign companies
- 9% for dividends paid by foreign companies to Russian companies (unless the 0% rate below applies). Where a double tax treaty applies, a credit for any withholding tax suffered can be claimed against this liability
- 0% for dividends paid by either a Russian or foreign company to a Russian company, provided that the Russian company has owned no less than 50% of the company for at least 365 consecutive days. Dividends from foreign companies registered in certain "low tax" jurisdictions are excluded from this rule

Tax administration

The tax period for profit tax is the calendar year. The annual profit tax return is due by 28 March of the following year.

Taxpayers may choose to pay tax either on a monthly or a quarterly basis, provided it is applied consistently throughout the tax year. If the monthly basis applies, the tax return must be filed and the tax paid by the 28th day of the following month. If the quarterly basis applies, monthly payments are made based on one third of the previous quarter's liability, while a tax return must be filed, and the balance of taxes should be paid by the 28th day of the calendar month following the reporting quarter. In each case, the cumulative profits and payments to date are taken into account when filing each monthly or quarterly return and making the appropriate tax payment.

Certain types of taxpayer, including foreign companies using the quarterly basis, are exempted from the obligation to make monthly payments.

Tax agents paying income, including dividends, to foreign companies must withhold tax each time income is paid. The tax must be remitted to the budget within one day of the payment date.

Interest applies to late paid tax.

Tax incentives

In recent years, few tax incentives have been available in Russia, but that is now changing, partly due to the Russian government's current modernisation agenda.

Regional incentives

Regional authorities have the right to reduce their regional allocation of profits tax of 18% to 13.5% (a minimum overall tax rate of 15.5%, including the 2% Federal portion) and provide exemption from property tax chargeable at the maximum rate of 2.2% of a property's net book value. Other incentives and grants are also available in a variety of regions (e.g. land tax incentives and subsidies for interest on loans). Such exemptions are normally conditional on specific investment criteria in the region being met. Movable property recorded in statutory books as fixed assets starting from 1 January 2013 is not subject to property tax, therefore regional incentives might bring benefits only in the event of significant investments being made in immovable property or sufficient taxable profits during the period that the incentives are applied (usually the first three to eight years).

The St. Petersburg, Leningrad and Moscow regions, among many others, offer incentives of this kind, however the city of Moscow has not offered incentives that are as extensive as in other areas.

Special Economic Zones

The legal framework for Special Economic Zones (SEZs) provides for broader tax and other concessions. The 26 zones currently established have geographical boundaries and are of four types: Industrial, Innovation, Tourism and Port & Logistic. All are created for a period of 49 years. Although they were slow to take off originally, the infrastructure of many of the Industrial and Innovation SEZs is well advanced and more than 300 investors, including foreign investors, are nowinvolved.

The potential benefits include a customs-free zone, accelerated depreciation, reduced social contributions and a guarantee against unfavorable changes in tax law. Reduced rates of profits tax also apply, depending on the regional authority and type of zone, but before 2012 the overall rate could not be less than 15.5%. From 2012, the minimum rate is 2% (the Federal portion of the tax), and 0% in the case of Innovation and Tourist SEZs.

Kaliningrad and Magadan have separate SEZ regimes, under which different concessions apply. The Kaliningrad region provides for 0% profits and property tax rates for SEZ residents for the first six years.

Skolkovo

The Skolkovo Innovation Centre is a site close to Moscow which aims to attract R&D activity in a number of specific technical fields. All participants are exempt from profits tax, property tax and VAT, while social security contributions are reduced. In the majority of cases, therefore, the total tax burden will be limited to 14% social contributions on salaries paid (only for the part of remuneration not exceeding a cap of RUB 568 thousand per person). Exemptions expire 10 years after becoming a participant or once a revenue/profit threshold is reached.

Social insurance concessions

Reduced rates of social insurance contributions ranging from 14% to 28% (compared to the 30% standard rate) on annual earnings up to a cap of RUB 568 thousand per person, and an exemption for earnings exceeding this cap, may apply to Russian companies/individual entrepreneurs ("IEs") that meet one or more of the following criteria:

- They operate in software development (more than 30 employees)
- They operate in engineering (more than 100 employees)
- The taxpayer is a resident of an Innovation or Tourism SEZ
- They operate in the production and publication of mass media
- They operate in agricultural production
- The taxpayer is in the production and social spheres applying the simplified taxation regime

Imported equipment

There is an import VAT exemption for "technological equipment that has no equivalent produced in Russia", according to a government-approved list. The equipment listed generally also qualifies for a 0% rate of customs import duty. The exemption from customs import duty for certain equipment imported as an in-kind charter capital contribution remains in effect.

150%-profits tax deduction

Companies conducting eligible R&D activities can apply for a 150% super-deduction of respective costs (including labour costs, contractor expenses, depreciation of equipment, and certain other expenses) to reduce their profits tax. Such a deduction can be made even if their R&D activities fail to produce a new product or new service, etc. The list of eligible R&D activities provides a wide range of opportunities for making a claim for a 150%-profits tax deduction in any industry, including high-tech, retail, banking, manufacturing and others.

Other incentives

- Export-oriented software developers may apply an immediate profits tax deduction for computer equipment
- Accelerated depreciation is available for certain leased assets; assets used for research and development; assets used in multi-shift in challenging conditions; or assets with a high energy-efficiency rating
- The profits tax rate for priority medical and educational activities meeting certain criteria is 0%. The same applies to certain agricultural producers until the end of 2012
- Other forms of federal and regional support, including interest subsidies, investment tax credits and grants, may be available for certain investment projects

Value added tax

Taxpayers

VAT applies to companies (including representative offices and branches of foreign companies), entrepreneurs and any person importing goods into the Russian Federation. The rules applying to goods imported from other member states of the Customs Union are covered below.

Companies and entrepreneurs may apply for exemption from VAT if their aggregate revenues for three consecutive months, excluding VAT, are below RUB 2 million (approximately USD 65,000). In addition, businesses which apply certain special tax regimes, such as the simplified tax system (available only to relatively small businesses) and the unified agricultural tax regime are outside the scope of VAT unless they import goods into Russia.

VAT registration

Russian legislation does not provide for separate VAT registration. Therefore, when foreign companies with a presence in Russia register with the Russian tax authorities, they register for all taxes, including VAT.

Taxable supplies

VAT is charged on the majority of sales of goods, work and services supplied in Russia, including those supplied free-of-charge. VAT is also imposed on most imports into Russia. The transfer of property rights and certain self-supplies, such as the internal consumption of goods and services produced by a taxpayer where the associated costs are not deductible for profit tax purposes, as well as construction for own use, are also subject to VAT.

Place of supply rules

These rules are used to determine whether or not goods, work or services are supplied in Russia and are thus subject to Russian VAT. Goods are treated as being sold in Russia if they are located in Russia and are not being transported, or are located in Russia at the moment of dispatch.

For these purposes, "Russia" includes offshore platforms and other installations on the Russian continental shelf and exclusive economic zone.

Work and services are generally deemed to be supplied at the place of business of the supplier unless another form of special treatment is applicable. In particular, special treatment applies to the following:

- Services relating to immovable property and movable property which are deemed to be supplied where the property is located
- Cultural, sports, arts, educational or tourism services which are deemed to be supplied at the location where the services are performed
- Transportation, freight and associated services which are deemed to be supplied in Russia if the point of departure or destination is located in Russia, and provided that these services are supplied by Russian entities or entrepreneurs
- Leases of movable property, except for motor vehicles; provision of personnel, provided that they work at the place of business of the service buyer; consulting, legal, accounting, audit, engineering, advertising, marketing, information-processing, research and development, and software development, modification and adaptation services, the transfer of rights to intellectual property. These services are deemed to be supplied at the place of business of the buyer
- Certain work and services relating to the geological study, exploration and production of hydrocarbons on the Russian continental shelf and exclusive economic zone are deemed to be supplied in Russia.

The place of business is defined as the place where the company is registered. If the company does not have state registration, the place of business is the location of the company's management and executive body, the place indicated in the company's incorporation documents as its place of business, or where the company's permanent establishment is located (if the services are connected with the activity of that establishment).

If goods, work or services are deemed to be supplied outside Russia in accordance with the above rules, they are outside the scope of Russian VAT.

VAT rates

There are three main rates of VAT depending on the nature of the supply.

The 0% rate applies, in particular, to the sale of goods exported outside the Russian Federation. The 0% rate also applies to a list of services which includes, in particular:

- Transportation of passengers and baggage where either the point of departure or destination is outside Russia
- International transportation of goods, where either the point of departure or destination is located outside Russia, including certain freight forwarding services
- Certain pipeline transportation services with respect to exported and/or imported goods, as well as certain services relating to the arrangement of pipeline transportation
- Certain cross border railway transportation services and services relating to such transportation, including some types of provision of railway rolling stock and/or containers
- Certain services rendered at sea and river ports relating to the transshipment and storage of goods moved across the Russian border as well as certain services rendered by inland waterway transportation companies with respect to exported goods
- Processing services rendered with respect to goods placed under the customs processing regime
- Transportation of exported or imported goods by sea vessels and mixed navigation vessels performed on the basis of time charter agreements.

In order to confirm the 0% rate, a set of documents is prescribed for each type of service.

The 10% rate applies to certain foods, children's goods, medical and pharmaceutical products, and certain books and periodicals.

The 18% rate applies to all other taxable sales of goods, work and services.

There are also computed VAT rates (10/110 and 18/118) applied to certain transactions such as the receipt of advance payments and other payments connected with settlements for supplies, as well as to certain types of transfer of property rights.

VAT exemptions

Activities which are exempt from VAT include, in particular:

- Lease of office space and accommodation to accredited foreign representative offices and foreign individuals
- Medical services and the sale of certain medical equipment
- Banking and insurance services
- Sales of "FITTS" (financial instruments of term transaction — broadly, financial derivatives)
- Stock lending (including interest) and "repo" transactions
- Interest on monetary loans

- Warranty services, including the cost of spare parts
- Gambling
- Licensing or assignment of certain intellectual property rights
- Assignment of claims arising from loan agreements
- Sale of land and residential buildings and premises or any interest in such property
- Certain research and development activity

The free-of-charge supply of goods for advertising purposes is exempt from VAT, provided that the total acquisition or production cost does not exceed RUB 100 per unit (approximately USD 3).

The import of certain types of equipment is exempt from VAT, in particular "technological equipment which has no equivalent produced in Russia" according to a government approved list, and certain medical equipment. Special VAT exemptions apply to the organisation and conduct of the 2014 Winter Olympic Games in Sochi and to participants in the Skolkovo Innovation Centre

Revenue earned from the supply of international telecommunication services to foreign customers is not subject to VAT.

Taxable base

VAT liability generally arises on the earlier of the following two dates:

- The date of shipment or transfer of goods, work, services and property rights
- The date of payment or partial payment for a future shipment of goods, performance of work, provision of services or transfer of property rights.

No VAT applies to advances or partial payments received for future supplies of most zero-rated goods, work and services; for future supplies of goods, work and services with a production cycle exceeding six months; or for future VAT-exempt supplies. Taxpayers receiving advances or partial payments for the future shipment of goods, supply of work or services, or transfer of property rights, should calculate their VAT base twice. The calculation must be first performed when the prepayments are received and again when the goods are dispatched, work or services performed or property rights transferred. Thus, VAT accounted for on prepayments may subsequently be offset against the full amount of VAT due after dispatch, etc. On the date of the shipment of goods, performance of work or services or transfer of property rights, VAT should be applied to the full transaction price (excluding VAT).

Manufacturing and trading companies calculate their taxable base as the sales price of goods sold, including excise tax (if applicable). For agents and entities selling on a commission basis, the taxable base is defined as the commission or fee income. For import purposes, the taxable base is determined as the customs value plus import duties and excise tax (if applicable). Construction work carried out using a company's own workforce is also subject to tax based on the expenditure incurred.

In addition, various other payments are subject to VAT. These include funds received in addition to sales revenues and relating to VATable sales, as well as interest (or discounts) on promissory notes received as consideration for VATable supplies, and interest on trade loans with rates in excess of rates set by the RF Central Bank. Certain insurance premiums are also subject to VAT.

Input tax and rules for offset

The VAT payable to authorities is determined as the difference between the VAT accountable on transactions subject to VAT, including those subject to the 10% or 0% rates ("output VAT"), and the VAT incurred on purchases subject to VAT ("input VAT").

A "credit", "offset" or "recovery" is thus generally obtained for input VAT incurred.

Taxpayers are entitled to claim an offset of VAT without having paid their suppliers. Confirmation of actual payment of VAT is required in order to claim an offset of VAT paid upon the import of goods into Russia, VAT accounted for by tax agents, as well as VAT on business trips and entertainment costs.

Taxpayers are entitled to claim an input credit for the amount of tax included in advance payments made to suppliers, provided that a VAT invoice is obtained from the supplier and the advance payment is provided for contractually. The input credit should be reversed by the customer when the right to VAT recovery on the purchases arises, or when the advance payment is returned.

VAT invoiced by contractors for capital construction and installation work may generally be offset when that work is booked in the accounts, rather than when the entire construction project has been completed. VAT incurred on construction for own use may be offset in the same tax period that it is charged.

Input VAT incurred on purchases of fixed assets can be offset when the assets are booked in the accounts. Input VAT incurred on non-production expenses cannot generally be offset. VAT incurred on business travel and entertainment can only be offset within set limits.

Input VAT cannot generally be offset when incurred on exempt activities, and should instead be capitalised, i.e. included as part of the cost of the goods, work, services and/or property rights purchased. VAT incurred on purchases made in connection with the sale of goods, work and services deemed to be made outside the Russian Federation cannot be offset and must also be capitalised.

VAT incurred on purchases and expenses which relate to both VATable and non-VATable activities must be apportioned. Only the part which is deemed to relate to VATable activities may be offset as input VAT. The part which is deemed to relate to non-VATable activities must be capitalised.

Taxpayers must maintain separate accounting records for VATable and non-VATable operations. Failure to do so may result in the disallowance of VAT, either as an offset or as a deduction for profit tax purposes.

There is no requirement for separate accounting records for periods when the total expenditure on purchase, production and/or supply of non-VATable goods, work, services and property rights does not exceed 5% of the total expenditure. Subject to the above condition, taxpayers have the right to offset the full amount of input VAT invoiced by suppliers in the relevant tax periods.

Input VAT relating to zero-rated supplies should also be separately accounted for. Input VAT relating to a zero-rated supply can be claimed when the tax point for the supply occurs, i.e. generally on the last day of the tax period in which all documents required to support the zero VAT rate have been collected. To substantiate the claim for the recovery of export-related input VAT, exporters are generally required to collect and submit to the tax authorities the following documents: contracts, customs declarations and shipment documentation confirming the export of goods outside Russia.

Foreign entities that are not registered in Russia for tax purposes have the right to offset input VAT paid to their suppliers in Russia only when they have registered with the tax authorities. Tax registration usually gives rise to other tax implications, such as the risk of creating a permanent establishment for profit tax purposes.

In some cases, input VAT offset in previous periods should be reversed partially or in full. These cases include in-kind equity contributions to the charter capital of a legal entity, situations where a taxpayer starts using assets (the input VAT on which has been previously offset) for non-VATable or zero-rated transactions, situations where supplies are funded by advance payments, and situations where taxpayers receive federal subsidies to cover the VAT-inclusive cost of goods, work or services or to cover VAT due on the import of goods.

Any excess of input VAT over output VAT should be reimbursed to the taxpayer by the tax authorities or offset against the taxpayer's future VAT or other federal tax liabilities. Generally, VAT reimbursement or offset should only be made after the tax authorities have undertaken a "desk audit" (please refer to the chapter entitled "Tax administration") and confirm the legitimacy of the input VAT claimed. If no violations are identified in the course of this tax audit, the excess of input VAT over output VAT should either be offset against the taxpayer's current VAT and other federal tax liabilities or refunded in cash after the taxpayer has submitted a written application. If the VAT reimbursement is denied, there are special rules and procedures for taxpayers and the tax authorities to follow in order to resolve the dispute.

The following categories of taxpayers may apply for an accelerated VAT refund procedure:

- Corporate taxpayers whose aggregate liability for VAT, excise duties, profit tax and mineral extraction tax for the three calendar years prior to the year in which the refund application is made is not less than RUB 10 billion (approximately USD 324 million) and the entity was incorporated at least three years prior to the date the refund application is made

- Taxpayers that submit a bank guarantee from a bank approved by the Ministry of Finance.

The period for obtaining a VAT reimbursement under the new procedure has been reduced to 11 working days starting from the day the application is filed with the tax authorities. Desk audits may still be conducted.

VAT invoices

A VAT invoice serves as the basis for the offset of input tax invoiced by suppliers.

The Tax Code requires that certain specific information is shown on a VAT invoice. In particular, VAT invoices must be issued in Russian and must bear the original signatures of both the head of the company and the company's chief accountant.

In addition, electronic VAT invoicing is permitted in Russia. Sales and purchase ledgers and journals of VAT invoices may also be maintained in electronic format. In practice, electronic VAT invoicing is currently very rarely applied.

Errors in VAT invoices which do not relate to the identification of the supplier, buyer, costs of goods, work, services or property rights supplied, as well as the VAT rate and amount, are not grounds for denying a VAT recovery, thus formalising the approach already applied by most arbitration courts.

From 1 October 2011, "amending VAT invoices" were introduced. These should be issued by a supplier to the buyer when there is a change in the value of goods, work or services supplied or property rights transferred, including a change in the price or adjustment to the quantity etc. supplied. Where the value of the supply increases, the supplier must account for the additional VAT, while the buyer is entitled to offset VAT based on the amending VAT invoice. If there is a decrease, the reverse applies.

Reverse charge

If foreign companies that are not tax registered in Russia supply goods, work or services in Russia and these supplies are deemed to be made in Russia according to the place of supply rules, the remittance of VAT is made through a withholding mechanism. The tax-registered buyer of these goods, work and services is required to act as a tax agent, i.e. to withhold VAT from the amount payable to the foreign supplier and remit that tax to the tax authorities.

The rate of withholding is 18/118 of the gross invoice, equal to 18% of the net payment. Having withheld and paid the VAT to the tax authorities, a Russian buyer can then offset this VAT against its output VAT under the general rules for offsetting input VAT. In practice, this mechanism operates in a similar way to the European "reverse charge", although in Russia withholding VAT is only recoverable to the extent that it has been actually paid by the tax agent to the tax authorities.

Commissioners and agents that are tax registered in Russia and supply goods, work, services or property rights in Russia on behalf of their unregistered foreign principals and participate in settlements should account for Russian VAT as tax agents. Russian VAT should be added by commissioners to the net value of the goods at the appropriate

VAT rate and remitted to the Russian tax authorities. Commissioners do not have the right to claim the offset of VAT paid on behalf of foreign principals.

Payments and filings

The VAT reporting period is the calendar quarter. A VAT return should be submitted and the tax should generally be paid in three equal installments by the 20th day of each of the three consecutive months following the reporting quarter.

VAT withheld from payments to foreign legal entities for work or services rendered in Russia should be remitted to the tax authorities at the same time as the payments are made.

Customs Union

There are special rules applying to transactions involving taxpayers of the member states of the Customs Union (Russia, Belarus and Kazakhstan).

Goods exported from one member state of the Customs Union that are destined for another are subject to the 0% rate, subject to confirmation by a specific list of documents.

The tax base for imported goods is defined, and the import VAT rates must be the same as those applicable to domestic transactions within the importing member state. VAT must generally be payable by the 20th day of the month in which the imported goods are booked in the importer's accounts.

The place of supply of work and services is also subject to confirmation by a specific list of documents. Unlike the usual Russian place of supply rule noted earlier in this chapter, design services are deemed to be supplied at the place of activity of the recipient of the service.

Property tax

Property tax is a regional tax, thus its application is governed by regional regulations, as well as the Tax Code.

Taxpayers

The following entities are subject to property tax:

- Russian entities
- Foreign entities that act through permanent establishments in Russia or own immovable property in Russia
- Separate subdivisions of Russian legal entities that have separate balance sheets.

Tax base

Property tax is levied on both movable and immovable property. However, movable property put into operation after 1 January 2013 is excluded from the property tax base. Property subject to tax comprises "Fixed Assets" and "Profitable Investments in Property" as classified under Russian Accounting Standards, and property provided for temporary use, in trust, contributed under a simple partnership (joint activity) agreement, or received under a concession agreement. Land, water and other natural resources are not subject to property tax.

The tax base is the average annual residual value of taxable property (i.e. cost less depreciation), calculated in accordance with Russian accounting principles. The average annual value is calculated by taking the sum of the residual values of the relevant property on the first day of each month of the tax period and the last day of the tax period divided by the number of months in the tax period plus one. For details on how property tax applies to FLEs, please refer to the chapter entitled "Taxation of foreign presences".

The property of religious organisations and various types of public organisation is tax exempt.

Tax rates

The maximum rate of tax according to the Tax Code is 2.2%, and this is the rate currently imposed in the majority of Russia's regions, including Moscow and St. Petersburg. However, a reduction or exemption is offered by some regional authorities, often conditional on investment in the region.

Tax payments

The tax period is a calendar year. Nevertheless, advance tax payments must be calculated and paid based on the results of each calendar quarter. Advance payments are computed by multiplying the average net book value of taxable property for the reporting period by one quarter of the applicable tax rate. The total amount of tax due for a tax period is determined by multiplying the tax base for the tax period by the tax rate for the entire period less the advance payments remitted for each quarter to date.

Taxpayers must file quarterly tax returns no later than 30 days after the reporting period. Annual tax returns should be filed no later than 30 March following the reporting period. Regional authorities have the power to amend tax payment deadlines. Some authorities exempt certain categories of taxpayer from quarterly advance payments. Interest applies to the late payment of tax.

Property located in other regions

When an entity owns taxable immovable property located in a region other than the region in which it is registered, for example in a subdivision with a separate balance sheet, it is required to pay tax to the budget at each property location. The tax rates and the filing and payment procedures are governed in accordance with the law of that particular region.

Other taxes

Land tax

Land tax is a local tax, thus its application is governed by local regulations, as well as the Tax Code.

Taxpayers

Land tax applies to legal entities and individuals who own land or have a permanent right to its use. Legal entities and individuals who use land free of charge or under lease agreements are not subject to land tax.

Tax base

The tax base is the cadastral value of the land as determined on 1 January of the reporting year.

The cadastral value for a specific plot is determined in accordance with the Russian Land Code. In the case of joint ownership, the tax base is determined for each taxpayer's share of the land. The tax base of land formed during a tax period is the cadastral value on the date of its cadastral registration.

Tax allowances

Religious, historical or cultural sites, land forming part of the forest estate or the water resource stock, and land used by the state are exempt from land tax.

Tax rates

Local authorities set the land tax rate. Under the Tax Code, these rates may not exceed the following limits:

- 0.3% of the cadastral value of land which is either (i) used for agricultural purposes, (ii) occupied by residential properties or utilities, or (iii) acquired for private farming
- 1.5% of the cadastral value of other land

In Moscow, the following tax rates are applicable: 0.3% for agricultural land, 0.1% for land used for residential purposes, 0.025% for land used for private farming, and 1.5% for land used for any other purposes.

Tax calculation, payments and filing

Although the tax period for land tax is a calendar year, most taxpayers must make advance tax payments on a calendar quarterly basis. Individual taxpayers, however, do not have to make advance payments unless they are entrepreneurs. Also, regional authorities can exempt certain other categories of taxpayers from remitting quarterly advance payments.

The amount of advance tax payable is derived by multiplying one quarter of the applicable tax rate by the cadastral value of the land subject to taxation, as determined on 1 January of the current tax period. Legal entities and individual entrepreneurs must file an annual tax return (and pay the balance of tax) no later than 1 February of the following year.

Regional authorities have the right to amend the deadlines for tax payments, including advance payments, but individuals need not pay the tax any earlier than 1 November of the following year. In Moscow, legal entities and entrepreneurs must pay the land tax no later than 1 February, and individuals no later than 1 December, of the following year.

Transport tax

Transport tax is a regional tax, thus its application is governed by regional regulations, as well as the Tax Code. A region may only impose this tax if its legislation contains transport tax provisions in line with the Tax Code.

Taxpayers

Entities and individuals who are registered owners of "transport vehicles" are subject to transport tax. Transport vehicles are not limited to cars, motorcycles, motor scooters or buses, but rather include other transport vehicles, including aircraft, helicopters, yachts, snowmobiles, etc. However, aircraft, ships and river vessels owned by companies whose main activity is the transport of passengers or freight are exempt, as are vehicles used in agricultural production.

Tax base and rates

The tax base for transport vehicles subject to transport tax depends on the type of the vehicle. The tax rates are set out in the Tax Code, with those for motorised transport vehicles ranging from RUB 1 to 50 (approximately USD 0.03 to 1.50) per unit of horsepower. Regional authorities have the authority to increase or reduce these rates by a multiple of no more than 10 for certain types of motorised transport vehicles.

Tax payments and filing

Although the tax period for transport tax is a calendar year, most legal entities must make advance tax payments on a calendar quarterly basis. Regional authorities can exempt certain categories of taxpayers from advance tax payments.

The amount of advance tax payable is calculated by multiplying the tax base by one quarter of the applicable tax rate for the current tax period. Filing and payment deadlines are set by the regional authorities. Legal entities must file an annual tax return (and pay the balance of tax) no later than 1 February of the following year.

Individual taxpayers are required to pay transport tax annually on the basis of notifications issued by the tax authorities in the location where the transport vehicle is registered, but no earlier than 1 November of the following year.

State duty

The Tax Code provides an exhaustive list of state duties. The main items applicable to legal entities include:

- Initiation of court action
- State registration of a legal entity, and the accreditation of branches and representative offices of a foreign legal entity
- State registration of issues of shares, including certain securities placed through subscription
- State registration of a mutual investment fund
- Receipt of a license to conduct certain activities
- Provision of services by notaries
- Vehicle registration

Other

A 1% levy applies to computers, mobile phones and other recording equipment, along with recording media. The tax base is broadly equal to the customs value for imported equipment, or the manufacturer's sale price.

Investors should note that additional taxes, levies and fees may exist depending on the region.

These include, for example, license fees for the use of sub-soil resources, pollution levies and timber duties.

Customs duties

World Trade Organization (WTO)

In August 2012, Russia became a full member of the World Trade Organisation (WTO). From that point onwards, Russia must follow WTO rules as well as the terms and conditions of accession as agreed during negotiations.

Russia's undertakings as well as exemptions are contained in the Report of the Working Party on the Accession of Russia to the WTO and the Protocol to the WTO Establishment Agreement (Marrakesh Agreement).

Overall, Russia has committed to:

- Undertakings in relation to goods, e.g. changes to customs duty rates to permitting access to the services market in Russia
- Undertakings in the area of non-tariff regulations (e.g. the application of sanitary and phytosanitary norms in accordance with WTO agreements; and the abolishment or simplification of procedures for licensing imports)
- Undertakings relating to the protection of IP rights

Overview

A Customs Union between Russia, Belarus and Kazakhstan has been in operation since 2010. The member states have adopted a common classification for goods — the Harmonised System of the Customs Union (based on the International Harmonised System) — and common import customs duty rates — the Unified Customs Tariff — for goods imported from third countries.

Import customs duties are levied based on the classification code and the country of origin of the goods being imported. Import customs duty rates are normally expressed as a percentage of the value of the imported goods, known as "ad valorem" duties. However, they may also be expressed as a set monetary amount per unit or kilogramme — "specific" duties. Finally, they may be expressed as the greater or the sum of the two — "combined" duties. Several "ad valorem" rates of import customs duties are available in Russia — in the majority of cases, they are 5%, 10% and 15%. Certain goods are exempt from import customs duties. The rate of the import customs duty depends on the exact nature of the goods being imported. Goods are classified according to the Harmonized System of the Customs Union into ninety-seven groups.

After Russia's accession to the WTO the import customs duty rates with respect to different types of goods were reduced or changed (for example, for seed oil, fats and oils; chemicals; motor cars; pharmaceutical products; and medical equipment). The average applied tariff will generally be 7.6%. The subsequent reduction of import customs duty rates is planned.

Basic import customs duty rates are not constant and may vary depending on the country of origin of the goods, the type of goods and occasionally on other factors. Countries are classified into five groups for the purposes of applying import duty rates, as shown in Table 3.

Import VAT and excise tax (if applicable) are also levied on goods imported into Russia.

Table 3

Group	Import duty rate
Most favoured countries	Basic rate of duty applies
Developing countries	75% of basic rate applies
Less developed countries	Exempt from import duties
CIS countries	Exempt from import duties
Non-favoured nations	Double the basic rate

Exemptions

There is an import VAT exemption for "technological equipment that has no equivalent produced in Russia" according to a government-approved list. The listed equipment generally also qualifies for a 0% rate of customs import duty.

The general rule is for each shipment to be considered on a standalone basis and so, when technological equipment comprises more than one shipment, a special procedure may be applied to classify the equipment under the tariff code applicable to the assembled whole, with the import VAT and customs duty rates determined accordingly.

Export customs duties

Export customs duties are currently levied on some goods and on raw materials, e.g. oil, metals, and timber. After Russia's accession to the WTO the export customs duty rates for many categories of goods were changed.

Special customs procedures

There are a number of customs procedures (regimes) that provide for either a full or partial exemption from import customs duties and VAT. For example, full relief may be granted on goods that are imported into Russia to be processed and that are subsequently exported (inward processing customs procedure).

Goods may also be imported using a temporary import procedure. As the name suggests, this procedure allows for either a full or partial exemption from import duties and VAT for certain goods that are temporarily imported into Russia. Once the specified time period (usually two years) has expired, the goods must either be exported from Russia or a different customs procedure must be applied.

The customs-free zone procedure may be applied within certain Special Economic Zones, resulting in an exemption from import customs duties and taxes on imported raw materials, components, etc., until the processed products are moved out of the zone. Moreover, goods produced in Special Economic Zones from foreign goods may be exempt from customs and import VAT provided that a certain level of the criteria for product localisation is met. The required level of localisation varies according to the type of goods and type of operation.

Taxation of individuals

Personal income tax

Taxpayers

Both Russian tax resident and non-resident individuals are subject to Russian income tax. Neither the individual's domicile nor citizenship is relevant.

Russian tax residency is established if an individual is physically present in Russia for at least 183 calendar days during a 12-month rolling period. This 12-month period is not interrupted by brief trips outside Russia (i.e. lasting less than six months) for the purposes of medical treatment or study. A final determination of an individual's tax residency status is made based on whether 183 or more days have been spent in Russia in the calendar year.

Individuals are taxed according to their status as follows: tax residents are taxed on their worldwide income, while tax non-residents are taxed only on their Russian-sourced income, irrespective of the nature of the income received.

Income tax rates

Different tax rates apply to residents and non-residents.

Residents

There are three different personal income tax rates that may apply to income earned by an individual who is a Russian tax resident.

- A 13% rate applies to most types of income, i.e. other than income subject to an alternative rate
- A 9% rate applies primarily to dividends received from Russian or foreign corporations
- A 35% rate applies to certain prizes, interest that exceeds specific limits on bank deposits, and income deemed to be received from low-interest loans (except loans used to acquire real estate)

Non-residents

A 30% rate applies to non-residents on all types of Russian-sourced income. Passive income (e.g. investment income) is Russian-sourced if it is due/paid from a source located in Russia. Earned income (e.g. from employment) is Russian-sourced if the duties for which it is received are performed in Russia. Dividends paid by Russian organisations to non-residents are taxed at a 15% rate, which is withheld at the source.

Highly-qualified specialists

As described in the chapter entitled "Employment", Russian immigration law stipulates a special beneficial regime that applies to 'highly-qualified' foreign employees. An employee qualifies as a 'Highly-Qualified Specialist' if he or she stays in Russia on the basis of a work visa and work permit, receives a salary/remuneration that is no less than RUB 2 million per annum (approximately USD 66,400) or lower in certain cases, is employed under a Russian employment contract and if he or she has particular experience or skills.

Highly-qualified specialists are eligible for the standard personal income tax rate of 13% on remuneration from their employment even before they become Russian tax residents. Employers of highly-qualified specialists are obliged to register these individuals with the Russian tax authorities.

Taxable income

Taxable income is defined as gross income less allowable deductions and exemptions. For personal income tax purposes, gross income is defined as any economic gain in cash or in-kind that is actually or constructively received by a taxpayer and that is subject to the taxpayer's discretionary disposal.

Taxable income includes, but is not limited to, the following:

- Compensation for employment and hired services, in cash or in-kind
- "Imputed income," such as any benefit from low-interest loans or discounted goods, labour or services and securities
- Payments made by an employer on behalf of an individual employee
- Payments made by an employer on behalf of an individual employee for:
  (i) utilities and communal services;
  (ii) periodicals and subscriptions;
  (iii) meals
- Housing costs paid by an employer for the benefit of an employee
- The value of property transferred by an employer to an employee, net of any price paid by the employee
- Payments over and above the statutory limits for various state benefits, work related damages, redundancy payments and reimbursable transportation and business trip expenses
- Voluntary pension premiums paid by an employer on behalf of its employees to foreign plans that are not licensed in Russia

- Certain voluntary medical insurance premiums paid by an employer on behalf of its employees to foreign plans may be treated as taxable
- Gifts made to an employee, in cash or in-kind, exceeding RUB 4,000 (approximately USD 135) per year
- The proceeds, or in some cases the gain, from the sale of certain types of property
- The fair market value of property received upon the liquidation of an enterprise, less the total amount of charter capital contributions made by the individual
- The fair market value of certain property distributed during the liquidation of an enterprise as a result of privatisation
- Pension income payable to individuals from private retirement pension funds in certain circumstances
- Certain gifts received from individuals

Deductions and exemptions

The 13% tax rate applies to taxable income after the following four types of deduction:

- Standard tax deductions
- Social tax deductions
- Property deductions
- Professional tax deductions

These deductions are not available to non-residents.

Standard deductions

Parents and guardians receive a standard deduction of RUB 1,400 in respect of their first and second children and RUB 3,000 in respect of their third (or more) and disabled children (approximately USD 47 and USD 100 respectively) for each month that cumulative income during the calendar year to date does not exceed RUB 280,000 (approximately USD 9,300).

Standard monthly deductions of RUB 500 or RUB 3,000 (approximately USD 17 and USD 100 respectively) are also applied for certain categories of disabled and disadvantaged taxpayer.

Social deductions

A social deduction of up to RUB 120,000 (approximately USD 4,000) may be claimed for:

- Payments for the education of the taxpayer at a licensed educational institution
- Payments for medical expenses made to a Russian medical institution for the benefit of a taxpayer and his or her immediate family, including premiums paid for the voluntary individual insurance of a taxpayer and his or her immediate family
- Contributions made to licensed Russian non- state pension funds for the benefit of the taxpayer or his or her spouse, parents and disabled children
- Contributions made under pension insurance contracts with licensed Russian insurance companies for the benefit of the taxpayer or his or her spouse, parents and disabled children

In addition to the limitation of RUB 120,000, the following deductions are available:

- Payments for the education of the taxpayer's children up to the age of 24 at licensed educational institutions, subject to an annual limitation of RUB 50,000 (approximately USD 1,700) for each child
- Charitable donations (in cash only) to charitable organisations; scientific, cultural, educational, health or social security organisations that are partially or wholly financed from federal, regional or local budgets; and to religious organisations, but limited to 25% of the taxpayer's total income taxable at 13%
- Costs of "expensive" medical treatment (as defined) for the benefit of a taxpayer and his or her family

In practice, the time and effort required to assemble the necessary supporting documentation to substantiate any claim may outweigh the potential benefit.

Property deductions

There are three types of property-related tax deduction: on the sale of property (including residential real estate); on the purchase of residential property; and for losses on transactions involving marketable securities and "FITTS" (financial instruments of term transactions — broadly, financial derivatives).

For sales of property, the amount of the deduction available will depend on the type of property and the holding period. For property owned for three years or more, other than securities, the income is exempt (see below).

The following applies when the ownership period is less than three years:

- The deduction from the proceeds made from the sale of residential real estate is the greater of: RUB 1 million (approximately USD 33,300) or the documented cost of the property
- The deduction from the proceeds made from the sale of other property, except securities, is the greater of: RUB 250,000 (approximately USD 8,300) or the documented cost of the property

Sales of securities, units in investment funds and FITTs are subject to special rules. Broadly speaking, the taxable income would be the proceeds from the sale(s) less the documented costs.

When a taxpayer purchases, or participates in the construction of, residential property (including the underlying plot of land), a one-time deduction of up to RUB 2 million (approximately USD 66,700) is allowed in the year of the acquisition for the expenditure incurred. Interest on a loan used to finance the expenditure, or to refinance a loan taken out for that purpose, is also deductible without limitation. Any part of the deduction not fully used in a calendar year may be carried forward indefinitely.

Where the taxpayer is an employee of a Russian company, residential property deductions on purchases may be claimed through the payroll. In all other cases, including other property transactions, deductions must be claimed via an annual individual income tax return. Again, special rules apply to transactions with securities and FITTs.

Professional deductions

Professional deductions are generally granted to individuals who are engaged in commercial activities as individual entrepreneurs. Qualifying expenses are those which directly enable an individual to derive his or her income from those commercial activities.

The deductibility of professional expenses is subject to various limitations similar to those provided for legal entities. The expenses claimed must either be fully supported by proper documentation or a deduction limited to 20% of the taxpayer's commercial income can be claimed instead. There are also deductions that apply specifically to the income of a writer.

Exemptions

Income that is not taxable includes the following:

- The reimbursement of certain expenses incurred for business trips and supported by documentation
- Certain cash and in-kind distributions in accordance with legislation, e.g. per diems, special uniform, footwear, etc.
- Gifts received from an employer with a total value of up to RUB 4,000 (approximately USD 133) per year
- Employment severance payments (other than for unused vacation) up to a cap, for managers and chief accountants, of three times their average monthly salary for the preceding year (or six times in certain parts of Russia)
- Foreign currency compensation paid to certain state employees working abroad
- The value of additional shares or replacement shares issued as a result of the statutory revaluation of fixed assets and foreign currency items. This includes the value of shares issued as a result of a merger or reorganisation
- Interest and other receipts from Russian federal and regional bonds and other securities
- Income received from the sale of residential and other property (other than securities) owned for three years or more
- Bank interest within limits. For interest on ruble deposits, the rate should not exceed the refinancing rate of the Central Bank of Russia plus five percentage points. For interest on foreign currency deposits, the rate should not exceed 9% per annum
- State allowances, including maternity leave and unemployment benefits
- State pensions and private pensions in certain cases
- Some types of state and private individual insurance payments
- Certain property received as a gift or through inheritance

Treaty relief

Russia has signed a number of bilateral double tax treaties which offer protection against individuals' income being taxed in two or more countries.

The provisions of these and other international treaties signed by Russia generally override Russian domestic law. In practice, however, the Russian tax authorities often deny the benefit of a treaty claim despite the submission of extensive documentary proof of tax residency in the other treaty state.

Assessment and collection procedures

Tax returns

Individuals must calculate their income tax liability and file income tax returns in the prescribed format if:

- Income was received from an individual
- Income was received from sources outside Russia (in the case of a Russian tax resident)
- Income tax was not withheld at source
- Income was received from gambling
- Income was received from the sale of property, with certain exceptions

Individual entrepreneurs and private notaries must also file personal tax returns

Filing procedures

Where tax has been withheld in full at source by a tax agent, individual taxpayers do not need to file a tax return. However, a tax return will be required if the taxpayer is applying for a tax deduction or has other sources of income subject to a filing obligation.

An individual who is required to file an income tax return must do so no later than 30 April of the year following the tax year. The return should be filed with the tax inspectorate handling the individual's place of registration. The return must include all income received by the taxpayer during the tax year, listed by item, source, monthly amount and date.

If a foreign national leaves Russia prior to the end of the calendar year, he must file a departure tax return covering the income received up until the date of departure. The return must be filed no later than one month prior to departure.

Even when income is exempt under a double tax treaty, Russian legislation requires the relevant claim and supporting documents to be filed.

The total amount of tax due based on a tax return must be paid no later than 15 July of the following tax year. Or, in the case of departure/repatriation, within 15 days after the tax return is submitted. Interest is charged on tax paid after the due date.

Overpaid tax may either be reimbursed by the tax authorities (usually a difficult and time-consuming procedure) or by an individual's tax agent. Taxoverwithheld by an employer due to a change in an employee's tax residency status from non-resident to resident should strictly be refunded by the tax authorities based on an annual tax return. However, if an employer is aware of a change in an employee's tax residency status within a calendar year, it is permissible to credit the overwithheld tax amount against future tax withholdings during the current calendar year. At the year end, any excess overwithheld tax should be refunded by the tax authorities based on an annual tax return.

The penalty for the late filing of a tax return is 5% of the outstanding tax liability for each full or partial month, but no more than 30% of the outstanding tax liability and no less than RUB 1,000 (approximately USD 33).

Tax withholding

The most common type of income payment subject to withholding is salary/remuneration paid to the employees of tax agents. Income tax computed and withheld by an employer must be remitted to the budget according to one of the following schedules:

- No later than the day on which the payroll amounts are transferred to the employees' bank accounts
- No later than the day of the actual receipt of the payroll amounts by the employer from a bank, where such a payment is made in cash
- The day following the day of the cash payment
- The day following the day of the tax withholding if the income was paid in-kind or is imputed income

Ultimately, it is the individual taxpayer who is solely responsible for meeting his or her income tax obligations. The law specifically prohibits an employee's income tax obligation to be met from funds belonging to another party. If an employer pays tax on behalf of its employee, this may not be treated as the fulfillment of the individual's tax obligations.

Social insurance contributions

Overview

Social contributions are payable in respect of individuals engaged under employment or civil contracts, to the following three funds:

- State Pension Fund
- Social Insurance Fund
- Federal Obligatory Medical Insurance Fund

The State Pension Fund and Social Insurance Fund are responsible for the administration of contributions.

The obligation to pay insurance contributions falls wholly on the employer, irrespective of an individual's tax status. Although this obligation extends beyond Russian employers to include foreign companies, there is no mechanism for foreign companies to pay insurance contributions in the absence of a Russian representative office or branch. Failure to pay insurance contributions may result in penalties.

From 1 January 2012, pension contributions are due in respect of most foreign employees, other than those holding a Highly-Qualified Specialist work permit.

Rates

The base for calculating insurance contributions is calculated separately for each employee.

From 1 January 2012, earnings above an annually adjusted cap are subject to additional Pension Fund contributions of 10%. Earnings up to this cap are subject to an overall rate of 30%. The rates, caps and maximum contribution liabilities for each employee are shown in Table 4 below.

Decreased contribution rates of 14-28% apply to certain limited categories of taxpayer (broadly, in the IT, social and agricultural spheres) with the same cap. The additional pension contribution of 10% does not apply to such categories of taxpayer.

From 1 January 2012, Russian employers (including foreign companies with a registered presence in Russia) are required to pay pension contributions, including the additional 10%, for remuneration paid to foreign employees who are temporarily staying in Russia and working under an employment contract concluded for more than 6 months. Nevertheless, foreign employees are not eligible to claim any pension or other payment (for example, on leaving Russia) relating to contributions paid.

Foreign employees working in Russia on the basis of a Highly-Qualified Specialist work permit are excluded from the requirement to make pension contributions.

Table 4

	2012	2013
State Pension Fund	22% + 10% of remuneration exceeding cap	22% + 10% of remuneration exceeding cap
Social Insurance Fund	2.9% of remuneration up to cap	2.9% of remuneration up to cap
Federal Obligatory Medical Insurance Fund	5.1% of remuneration up to cap	5.1% of remuneration up to cap
Total	**30% + 10% of remuneration exceeding cap**	**30% + 10% of remuneration exceeding cap**
Cap in RUB / USD 000s	512 / 17.1	568 /18.9
Maximum liability per employee in RUB/USD 000s	153.6 / 5.1 + 10% of remuneration exceeding cap	170.4 / 5.7 + 10% of remuneration exceeding cap

From 1 January 2013, the earnings of separate categories of individuals, depending on the activities performed during their work (for instance, underground work, exploration activities, etc.), are subject to additional payments to the Pension Fund at special rates (up to 4% for 2013) without any cap.

Obligatory Accident Insurance contributions are calculated and payable separately from the above insurance contributions. The rates vary from 0.2% to 8.5% of an individual's gross income, depending on the degree of inherent risk in their occupation. Each industry falls under one of 22 categories of risk. Each company is assigned a rate based on the relevant industry.

The rate applicable to office personnel is typically 0.2-0.4%.

Base for calculating insurance contributions

The base for insurance contributions is calculated based on the remuneration received by individuals in cash or in-kind under employment or civil contracts.

The following are examples of payments which are not subject to insurance contributions:

- As mentioned above, payments to foreign nationals working in Russia on the basis of a Highly-Qualified Specialist work permit (Obligatory Accident Insurance is still payable, however)
- Payments connected to the transfer of property rights or any other proprietary rights apart from authors' agreements
- Payments relating to the use of property such as residential real estate or car rental
- State allowances, including maternity leave, unemployment benefits and sick leave

- Redundancy payments within certain limits, excluding compensation for unused vacation time
- Business travel expenses within the statutory framework
- Professional training expenses
- Amounts provided by an employer to employees to cover their payment of interest on mortgage loans
- Material aid of up to RUB 4,000 (approximately USD 133) provided during a calendar year by an employer to certain employees
- Certain insurance contributions

Payments and reporting

The calculation period for insurance contributions is the calendar year, and the reporting period is each calendar quarter.

Reports should be submitted to the authorities by the following dates:

- By the 15th day of the second month following the reporting period — for reporting to the State Pension Fund and Federal Obligatory Medical Insurance Funds
- By the 15th day of the month following the reporting period — for reporting to the Social Insurance Fund

Insurance contributions are payable on a monthly basis no later than the 15th day of the following month. Obligatory Accident Insurance contributions are also payable on a monthly basis. The due date usually corresponds to the date the bank receives the salary funds, but should not be later than the 15th day of the following month.

Employment

Overview

Russian employment law applies to all employment relationships in Russia, including those involving Russian nationals, foreign nationals, stateless persons, international organisations, and Russian and foreign legal entities.

An employment relationship is defined in the Russian Labour Code as the personal performance of an employment function by an individual in return for remuneration. Employment relationships are distinguished from civil law service agreements. If a civil law service agreement includes aspects that can be construed as an employment relationship, the mandatory provisions of Russian employment law will apply.

There is no legal concept of 'secondment' under Russian civil and labour legislation, and although not specifically restricted by law, the authorities may question the motives of the parties entering into secondment arrangements and request detailed information.

Employment contract

As a general rule, an employment relationship is based on a contract concluded between an employer and an employee. An employment contract must contain certain obligatory provisions set out in the Labor Code, which are essentially designed to protect the rights of employees.

The general power to sign an employment contract lies with the General Director of the employer.

Employment contracts with the employees of branches and representative offices of foreign companies are usually signed by the head of that branch or representative office acting under a power of attorney granted by the foreign head office.

Duration of employment contracts

Employment contracts may be concluded for either an indefinite or fixed term, although fixed term agreements are only permitted in specific situations that are provided for in the Labour Code.

An employment contract is deemed to be concluded for an indefinite term if no time period is indicated in the agreement. Employees are entitled to conclude employment contracts with several different employers.

Probation

The probationary period under a contract cannot exceed three months. For company heads and their deputies, chief accountants and their deputies, and heads of branches, representative offices and other subdivisions of legal entities, a longer probation period may be established but should not in any event exceed six months. Certain categories of employee, for example mothers with children under 18 months old, must not be subject to a probationary period.

Salary and bonus payment

The monthly salary of an employee may not be set below the minimum wage established by Federal law (currently RUB 5,205 or approximately USD 174), although higher limits may apply at a Regional level.

Salaries must be paid locally in monetary form, in rubles, and in no fewer than two monthly instalments on dates established by the employer's internal polices and the employment contract.

Working hours and time off

Regular working hours may not exceed 40 hours per week. Overtime work should not exceed four hours in two consecutive days and is limited to 120 hours per year. Minimum annual paid vacation is 28 calendar days. An employee is entitled to receive pay during periods of sickness, and the employer is compensated for this with a reduction in its social insurance liability.

Women are entitled to paid maternity leave of 70 calendar days both prior to, and after, giving birth.

In addition, women are entitled to leave until the child reaches the age of three years (unpaid for the second 18 months) and during this period the employee is entitled to resume her job.

Payment during periods of sickness and maternity leave is calculated on the basis of the employee's average salary.

Procedure for termination of employment contracts

An employment contract can be terminated at any time by the mutual agreement of the parties, and with written notice of two weeks by the employee alone. The specific grounds for termination by an employer are listed in the Labour Code and some of these are described below.

In the event that an employment is terminated due to staff redundancy or the liquidation of the employing company, the employee must be personally notified in writing at least two months in advance.

In the event of staff redundancy, the employer must offer the employee another position that corresponds with that employee's qualifications, assuming a vacancy exists.

If an employment is terminated due to the employee's unsuitability for the job, this must be confirmed by an internal review committee formed specifically for this purpose. However, this option should be approached with caution since it is often successfully contested in court.

If an employee is unsuitable for his or her employment due to the employee's poor health, the employer should transfer that employee (subject to his or her consent) to another position within the company that is more suitable in terms of the employee’s health requirements. If the employee rejects the transfer, or if there is no such position available, the employment agreement can be terminated.

During the probation period, employment can be terminated due to an employee's unsatisfactory performance. Three days' written notice, describing the nature of the unsatisfactory performance, must be given. The employee has the right to challenge this decision in court. The employee is also entitled to terminate the contract during the probationary period by providing written notice of three days.

Liability for violation of the Labor Code

Violations of the Labour Code are subject to the following:

- A RUB 30,000-50,000 (approximately USD 1,000-1,700) fine for a legal entity
- A RUB 1,000-5,000 (approximately USD 33-167) fine for the company's officials
- Suspension of the activities of the legal entity for a period of up to 90 days

Violations of employment legislation by a company official who has been previously penalised for similar offences may result in suspension for a period ranging from one to three years.

Work visas and work permits

Before a foreign national can work in Russia as an employee, both a work visa and a work permit must be obtained. A work visa differs from a business visa in that a work visa allows a foreign national to be employed in Russia for one year (or up to three in the case of Highly Qualified Specialists — see below), while a business visa merely confers the right to visit for business purposes. Work permits for foreign employees are issued through the employer by the Federal Migration Service (FMS).

In Moscow and some other regions, the procedure for obtaining a work visa is different for a Russian company and for a branch or representative office of a foreign company. A Russian company must be registered with the FMS in order to invite foreign nationals and a work visa can be issued only after the work permit is received. This contrasts with a branch or representative office, which can obtain a work permit and work visa simultaneously, due to the fact that the latter is processed by the relevant accreditation authority.

Work permits — normal procedure

A Russian company, or the branch or representative office of a foreign company can employ a foreign national only if:

- The employer has obtained a permit to employ foreign nationals
- In the case of "visa nationals" (i.e. foreign nationals requiring a visa), the employer has obtained an individual work permit for the employee ("visa-free" nationals are covered below)

The requirement to obtain a work permit does not apply to certain categories of foreign employee, for example, employees of foreign equipment manufacturers who are performing installation services in Russia, journalists, etc.

The work permit process for a visa national is often bureaucratic and time-consuming, including the following stages:

- A quota for employing foreign nationals (although some work positions, such as the head of a representative office, fall outside the quota requirement)
- Confirmation from a local Employment Centre
- Permission from the FMS
- Individual work permits for each foreign national

In addition, the employer should notify the state authorities (the tax authorities within ten days and the State Labour Inspectorate and Employment Centre within one month) of the conclusion of an employment agreement with a visa national.

There is a simplified system for issuing work permits to visa-free nationals, under which the employee personally applies for a work permit and the employer's obligations are limited to notifying the local FMS body, tax authorities and Employment Centre.

A further bureaucratic requirement is that foreign nationals must be registered with the migration authorities within 7 working days of arrival in Russia (or arrival at a new location within Russia for a stay of more than 7 days). Employers risk heavy fines in the event of default. Deregistration is done by the FMS when the foreign national crosses the Russian border, or registers in a new location in Russia.

Work permits — highly-qualified specialists (HQS)

There is a simplified system for HQS. HQS are defined as foreign nationals with experience, skills or achievements in a particular area who receive remuneration from their local employment of no less than RUB 2 million per annum (approximately USD 67,000), and half of that amount for certain scientists and teachers. No lower limit applies to foreign nationals working in the Skolkovo Innovation Centre.

Eligible employers include Russian legal entities, registered branches (but generally not representative offices) of foreign legal entities, health and educational

institutions (except religious institutions) and other organisations dealing with innovations, R&D, high-tech etc.

The benefits of the HQS procedure include:

- No quota restrictions
- Maximum of 14 working days for the approval/ rejection of an application
- Work permit validity of up to 3 years (and possible extension for a further 3 years)
- Work permit may be valid in more than one region of Russia
- Eligible dependents include children's and parents' spouses, grandparents and grandchildren
- Exemption from the registration requirement on arrival in Russia for a visit of up to 90 days (or up to 30 days at another location(s) within Russia)

The employer of the HQS has various obligations to notify the relevant tax authority concerning the employment and granting or annulment of the work permit, and the FMS of the individual's tax registration; quarterly remuneration; unpaid leave of more than one calendar month a year; and termination of employment.

Liability for violating the immigration legislation

There are significant fines for violating immigration law. Where the employer lacks the necessary permission to employ foreign nationals and employs them without a work permit or fails to notify the FMS, tax authorities or Employment Centre of the employment, the employer risks fines of up to RUB 800,000 (approximately USD 27,000), or the suspension of its activities for up to 90 days. The employer's officials face fines of up to RUB 50,000 (approximately USD 1,700).

The foreign national can also be fined up to RUB 5,000 (approximately USD 170), depending on the type of offence, and may be deported.

Secondment

Work permits are not available for foreign nationals working under secondment arrangements. The FMS has stated that this is due to the absence of any reference to such arrangements in Russian legislation. For a work permit application to be processed, only employment contracts concluded directly between an employee and a local employer (Russian company, branch or representative office) are considered.

Currency control

Overview

The national currency of the Russian Federation (RF) is the ruble. Historically, strict currency control regulations had been used to protect the ruble against devaluation and discourage "capital flight". Later, the Central Bank of Russia (CBR) and the federal government began a programme of currency liberalisation, with the most significant amendments introduced during 2007.

Legal definitions

Several key terms must be defined when describing the Russian currency environment.

Russian currency is defined as the CBR banknotes and coins in circulation, cash legal tender within Russia, including banknotes and coins withdrawn from circulation but still exchangeable, and ruble funds in Russian bank accounts. Foreign currency is defined as foreign banknotes, treasury notes and coins in circulation, and cash legally tendered within the territory of the issuing foreign country (or group of foreign countries), including banknotes and coins withdrawn from circulation but still exchangeable. Foreign currency also includes funds in bank accounts denominated in a foreign currency and international monetary or payment units.

Internal securities are defined as securities issued in Russia that either have a nominal value denominated in Russian rubles or that certify the right to receive Russian currency. External securities are securities that do not qualify as internal ones.

Residents are defined as: (i) individual citizens of the RF, except those who are considered to have been living permanently abroad for more than one year, including those who live abroad on the basis of residency permits or who temporarily stay abroad for no less than one year on the basis of a work visa or student visa valid for at least one year, or by a set of such visas with an aggregate validity term of at least one year; (ii) foreigners and individuals without citizenship who live permanently in the RF on the basis of residency permits; (iii) legal entities duly registered under Russian law; (iv) branches and representative offices of Russian legal entities situated abroad; (v) diplomatic representatives, consular offices and other official representatives of the RF located outside the RF, as well as permanent representations of the RF under international or intergovernmental organisations; and (vi) the RF, and regions and municipal units of the RF.

Non-residents are defined as (i) individuals who are not defined as residents; (ii) legal entities and other organisations registered under the legislation of a foreign country and located outside the RF; (iii) organisations (that are not legal entities) registered under the legislation of a foreign country and located outside the RF; (iv) diplomatic representatives, consular offices and permanent representative offices of foreign countries under international and intergovernmental organisations accredited in the RF; (v) international and intergovernmental organisations, their branches and permanent representative offices in the RF; (vi) branches and representative offices, standalone or autonomous subdivisions of foreign legal entities or other foreign organisations located in the RF.

Authorised banks are RF-incorporated credit institutions that are licensed by the CBR to carry out foreign currency transactions and CBR-licensed Russian branches of foreign credit institutions that are also entitled to carry out foreign currency transactions.

Currency transactions are acquisitions, exchanges, payments and imports/exports that involve currency valuables, rubles or internal securities.

Regulations on currency operations

Between residents

With some exceptions, payments between residents can only be made in rubles. One important exception is that residents may borrow from, and repay, authorised banks in a foreign currency.

Between non-residents

Non-residents have the right to open and operate both foreign currency and ruble bank accounts in an authorised bank. Non-residents are permitted to make payments between themselves in a foreign currency without restriction, but ruble payments in Russia may only take place through bank accounts opened with authorised banks. Transactions involving internal securities between non-residents are permitted but subject to compliance with Russian anti-monopoly and financial market legislation.

Between a resident and a non-resident

The general rule is that there are no restrictions on currency operations between residents and non-residents.

Currency restrictions

Transaction passports

The CBR continues to monitor currency transactions involving loans, the import or export of goods and the provision of services and intellectual property between residents and non-residents through the obligatory use of transaction passports. This involves filing documentation relating to the transaction with the bank.

Foreign bank accounts

Residents are required to notify the local tax authorities of the opening or closing of an account in a bank located outside the RF. Resident Russian legal entities must supply reports showing the movement of funds to and from their foreign bank accounts.

Importing and exporting foreign currency

Residents and non-residents may import foreign currency into Russia without restriction, although both resident and non-resident individuals must file a written customs declaration when importing foreign (or Russian) currency in cash, travellers' cheques, or internal or external securities when the value exceeds USD 10,000.

Resident and non-resident individuals may export foreign currency up to USD 10,000 without submitting a customs declaration and above USD 10,000 with a declaration. Exports over USD 10,000 are permitted up to the amount indicated in the relevant customs declaration or another relevant document evidencing the original import or transfer into the RF or acquisition in the RF.

Repatriation of foreign currency

Residents engaged in international trade or commercial activities must repatriate all rubles and foreign currency received from such activities into their Russian bank accounts, subject to certain exceptions.

Liability for infringements

Administrative liability

The most severe administrative fines apply to the breach of repatriation requirements and for undertaking illegal currency operations, ranging from 75% to 100% of the amount of the relevant operation(s).

Recently-adopted changes to the RF Code of Administrative Offences specify what qualifies as an illegal currency operation. Currency operations made by residents using foreign bank accounts that are not provided for by currency legislation are illegal and entail the aforementioned liability.

Criminal liability

Criminal liability may apply to residents failing to repatriate foreign currency exceeding RUB 30 million (approximately USD 1 million) to the RF. This violation may result in the imprisonment of the head of the legal entity for up to three years.

Transfer pricing

Overview

After many years of discussion, new transfer pricing rules came into effect in 2012. The new rules are substantially based on the OECD Transfer Pricing Guidelines and it is likely therefore that both taxpayers and the tax authorities will rely on the practice and experience of countries with transfer pricing regimes based on similar principles. Comparing them to the old rules, the following key changes have been introduced:

- An extended definition of related parties
- An amended list of controlled transactions
- The introduction of a requirement to prepare and retain TP documentation
- The opportunity for the largest taxpayers to enter into an advance pricing agreement with the tax authorities (in 2012, the Federal Tax Service concluded such agreements with two major Russian oil and gas companies)
- The introduction of "corresponding adjustments"
- The introduction of a separate transfer pricing audit and a penalty (please refer to the chapter entitled "Tax Administration" for further details)

Related Parties

There are 11 categories of related party, with ownership of more than 25% being one of the main criteria for being recognised as such. A court can recognise parties as being related on grounds which are not specified in the law, while taxpayers likewise may claim to be affiliated on other grounds.

Transfer Pricing Methods

The permitted transfer pricing methods are based upon the following:

1) Comparable uncontrolled price
2) Resale-minus
3) Cost-plus
4) Comparable profitability
5) Profit-split

The law stipulates detailed guidelines on how to apply each method. Comparable uncontrolled price (CUP) remains the primary method and may be applied where information concerning at least one comparable transaction is available. In some cases, however, the resale-minus method is given priority over the CUP method, for example, where goods are acquired through a controlled transaction and are resold without being processed as a transaction with an unrelated party. The application of two or more methods combined is also permitted.

Controlled Transactions

Transfer pricing controls may be applied to a single transaction or to a group of similar transactions belonging to the following types:

Cross-border transactions

- with related parties, including supply arrangements with third-party intermediaries
- with goods traded on commodity markets, e.g. crude oil or metals (the list of such goods is published by the Ministry of Industry and Trade, and those

with offshore residents of certain "low tax" jurisdictions, if the transaction amount exceeds RUB 60 million (approximately USD 2 million). The parties in this case do not need to be related.

Domestic related party transactions

- if the transactions between two related parties in 2012 exceed RUB 3 billion (approximately USD 100 million; with the threshold decreasing to RUB 2 billion in 2013 and RUB 1 billion from 2014)
- if the transactions between two related parties in a calendar year exceed RUB 60 million and one of the following applies:
  - Mineral Extraction Tax is being paid at the ad valorem rate by one of the parties
  - one of the parties is exempt from, or pays profits tax at a rate of 0%
  - one of the parties is a resident of a special economic zone
- if transactions between two related parties in a calendar year exceed RUB 100 million (approximately USD 3.3 million) in value and one of the parties pays unified tax on imputed income or unified agricultural tax

Transfer pricing rules do not apply to transactions between companies that are members of a consolidated group of taxpayers. Several groups of this type were created by some of the largest Russian companies in 2012.

Sources of information

The information required to determine market price/ profitability should be obtained from publicly available sources, for example, domestic and foreign stock and commodity exchanges, customs data relating to Russian overseas trade and other domestic or foreign sources of information.

The law specifically stipulates that, for the purposes of determining the profitability range, the accounting and statistical data of foreign organisations may be used only if Russian sources do not exist or are unavailable.

Transfer Pricing Documentation

Companies must retain specific transfer pricing documentation if the total amount of revenue from all controlled transactions with the same counterparty in 2012 exceed RUB 100 million (approximately USD 3.3 million, with the threshold falling to RUB 80 million in 2013. No limitation applies from 2014). Furthermore, such companies must file a notification with the tax authorities concerning their controlled transactions during a calendar year no later than the 20 May of the following year.

The tax authorities may request transfer pricing documentation relating to a taxpayer's controlled transactions during a calendar year no earlier than 1 June of the following year. A taxpayer is obliged to file documentation with the tax authorities within 30 days pf a request being received from the tax authorities.

All documentation should be prepared in Russian.

Tax administration

Overview

The key principles of the Russian tax system, including types of tax, the rights and obligations of the tax authorities and taxpayers, and the procedural aspects of tax administration, are set out in Part I of the Tax Code of the Russian Federation. Some of the most significant provisions of Part I include the following:

- All contradictions, ambiguities and questionable issues in tax legislation that cannot be resolved must be interpreted in favour of the taxpayer
- Tax legislation that increases tax rates or introduces new taxes or sanctions cannot be applied retroactively
- There is a presumption of innocence on the part of the taxpayer, placing the burden of proof on the tax authorities
- The tax authorities are required to maintain the confidentiality of information regarding taxpayers
- Tax legislation that mitigates a tax liability and (or) reduces a tax burden may come into legal effect through a simplified tax regime (where such a regime is specifically provided for by law)

Although Russian court decisions are not formally regarded as law, taxpayers are strongly recommended to take court precedent into account, since many of the basic Russian tax principles, terms and definitions have been developed by the courts (e.g. "substance over form", limitation of the period during which a tax authority's decision can be challenged in court, "mala fide" taxpayers). Furthermore, the legal position expressed in resolutions of Russia's Supreme Arbitration Court are binding on inferior courts and can be used as grounds for revising cases upon the discovery of new facts.

From 2012, the Tax Code has introduced the concept of a consolidated group of taxpayers, one member

of which is responsible for calculating and paying profits tax on the basis of joint business activities. Special rules apply to the audit of such groups for profits tax purposes, as well as for the payment of tax and penalties, which are not covered in this chapter.

Administrative structure

The Russian tax system is administered by the Federal Tax Service. This broadly consists of inspectorates that carry out day-to-day operations such as tax registration, tax audits and tax collection, and tax directorates, which supervise the tax inspectorates and perform various other functions. The jurisdictions of both these bodies are based on geographical limits (e.g. cities or districts). The registration of a Russian legal entity includes de facto registration with the tax inspectorate office covering the company's registered address.

In addition, a company must also initiate its tax registration at the location of its actual branch, subdivision or property (real estate and transport vehicles). After tax registration, the tax authorities will issue the taxpayer with a certificate of registration and a tax identification number (TIN), which must be put on official documents (tax returns, invoices, payment orders and reports).

Tax audits

The tax audit is the main method applied by the tax authorities to control the accuracy of reporting, calculating and paying tax. Tax audits have been criticised for the serious impact they can have on the conduct of a taxpayer's business, for example, due to the imposition of multiple audits, repeat requests for documentation and the technical weaknesses of some tax claims.

According to the Tax Code, the tax authorities are authorised to conduct the following types of tax audit with regard to taxpayers (individual and corporate) and tax agents: desk and field tax audits, and transfer pricing audits.

Desk tax audits

A desk tax audit is conducted at the tax authorities' own premises on the basis of tax returns filed by taxpayers.

It must be conducted within three months of the date on which the tax return is filed. The filing of an amended tax return during a desk tax audit should lead to the termination of the initial tax audit and the initiation of a new one with respect to the amended tax return (within three months of the amended tax return's submission). During the three month period, the tax authorities may request the following from the taxpayer:

- Documents that should be submitted together with the tax return
- Documents supporting the taxpayer's right to a tax exemption
- Documents supporting the right of the taxpayer to recover input VAT
- Documents supporting the calculation and payment of tax relating to the utilisation of natural resources

Where errors or contradictions in data are detected in documents, the tax authorities are obliged to inform the taxpayer accordingly, note the correctness or otherwise of the tax return, and request explanations from the taxpayer or make the due corrections. A taxpayer is entitled to present documentation to the tax authorities in support of his or her explanation regarding the accuracy of the tax return. If, after reviewing the explanations, the tax authority finds that the taxpayer committed a tax offence or any other violation of tax legislation, it must issue a tax audit report.

The subsequent procedures are similar to those for field tax audits, and are described below.

Field tax audits

- Field tax audits (sometimes referred to as documentary audits) are conducted at the taxpayer's premises and are initiated by a decision of the head (or deputy head) of the tax office at which the taxpayer

is registered. If the taxpayer is unable to provide accommodation for the tax officers, the field audit is carried out at the tax office.

The Tax Code allows the tax authorities to take the following action during a field audit:

- Access the taxpayer's premises upon the presentation of identification and the document authorising the field audit
- Examine the premises and property of the taxpayer in the presence of witnesses
- Request explanations and supporting documents from the taxpayer
- Examine witnesses
- Seize documents and other evidence, subject to the issue of an order initiated by the tax official conducting the audit and certified by the head (or deputy head) of the tax authority in the presence of the taxpayer and witnesses

Duration and suspension

The duration of a field tax audit cannot exceed two months, although it can be extended for up to six months in "exceptional cases". The audit period starts from the day the decision initiating the field tax audit is issued and ends on the day a memorandum on the completion of the audit is issued.

- In practice, field tax audits are very rarely completed within two months, since the tax authorities often suspend the audit process. This can occur for an aggregate period of up to six months (with the two month period extended), but only on the basis of a decision by the head (or deputy head) of the relevant tax office. During the suspension, the tax authorities may:
  - Request information and documents regarding the activities of the audited entity from its contractors or from others
  - Obtain information from foreign state authorities based on Russia's international treaties
  - Examine experts
  - Translate foreign language documents submitted by the audited entity

Tax audit report

A tax audit is completed with the issue of a memorandum. No later than two months after the issue of this document, the tax authorities must issue a tax audit report which should reach the taxpayer within five business days. The report must contain the audit findings, specifying the provisions of the Tax Code that have been violated — or the absence of a violation. Documents evidencing the tax offence must be attached to the report. If the taxpayer disagrees with the facts, conclusions or suggestions set out in the tax audit report, he or she may file a written objection together with supporting documents within the next 15 business days. Starting from the day the objection is filed, the head (or deputy head) of the tax office has 10 business days to review the audit report and the taxpayer's objection. While the taxpayer must be notified of the place and time of this review, the absence of the taxpayer or his/her representative does not invalidate the review. Based on this review, the tax authority issues a decision — either to hold the taxpayer liable

for the tax violation (or not), or to order additional tax control measures within one month. The latter decision is issued if it is necessary to obtain additional evidence of the tax violation. After additional tax control measures are conducted, the taxpayer has the right to meet with the tax authority to discuss the additional findings.

Where the tax audit relates to the recovery of VAT, the tax authorities should also issue a decision to reimburse VAT (or not), which may be challenged by the taxpayer in the same way as the main decision.

Decision enforcement

Depending on the nature of the decision, the tax authority will then issue a request to pay the tax, interest and penalty fine(s), stating the payment deadline.

Such a request cannot be issued by the tax authority earlier than 10 business days after the taxpayer receives notification of the decision (which will be presumed to have been received within six business days of it being sent by registered mail), and the payment deadline cannot be less than eight calendar days from the date the taxpayer actually receives the request.

If the taxpayer fails to make the payment by the given deadline, the tax authority has two months in which to issue a decision to collect the outstanding liability from the taxpayer's bank account(s). In practice, the tax authority normally issues a decision to freeze the taxpayer's bank accounts at the same time, followed by a collection order to the bank either on paper or electronically. The bank should then freeze any payment transactions up to the amount indicated in the decision sent to the bank.

If the tax authority fails to issue a decision to collect taxes, interest and penalties within the required two-month period, it can still file a claim with the court within six months of the payment deadline.

If a taxpayer's cash funds are insufficient to cover the demands, the tax authorities can collect the shortfall from the taxpayer's other property, including through the seizure of property, subject to the relevant laws on enforcing court judgments. A decision to take such an action must be issued within one year of the payment deadline.

In addition to the above powers, tax authorities also have the right to issue an order prohibiting the taxpayer from disposing its property, up to

the amount of the outstanding liability. The order is valid until the liability is paid (either voluntarily or compulsorily) or cancelled by a higher level tax authority or by a court decision.

Regardless of the above, a taxpayer has the right to challenge any decision of the tax authority before a higher level tax authority or in court and take measures to protect its assets from confiscation. The decision of the tax authority may be challenged in court only after challenging it before a higher level tax authority.

Limitations on tax audits

The Tax Code includes a number of provisions limiting the powers of the tax authorities in relation to tax audits. Field tax audits may be initiated only with respect to the three year period immediately preceding the year in which the audit takes place. However, if a taxpayer files an amended tax return for a period which does not fall within those three years, that return period may also be audited.

In principle, a taxpayer can only be held liable for a tax violation, including tax underpayments, for tax returns relating to the three-year period up to the date of the decision. However, the period may be extended if the taxpayer "deliberately hindered" the conduct of the tax audit. There is no time limit for desk tax audits.

The tax authorities cannot conduct more than two field audits within each calendar year with respect to a particular taxpayer, except by a decision of the head of the Federal Tax Service.

Furthermore, the tax authorities cannot conduct more than one field tax audit with respect to the same taxes and the same tax period, with the following exceptions: where the taxpayer files an amended tax return reducing the amount of tax due; where a higher level tax authority reviews the audit of a lower level tax authority; and where a company has been reorganised or liquidated. If a taxpayer succeeds in challenging audit findings in court, the higher level tax authority has no right to repeat the audit.

Transfer pricing audits

From 2012, business transactions between interdependent persons are subject to a transfer pricing audit carried out at the premises of the tax authorities.

The grounds for undertaking an audit are the following:

- Statement of controlled transactions filed by a taxpayer
- A tax authority notification stating that unreported controlled transactions have been identified during a desk or field audit
- Identification of unreported controlled transactions during a repeat field tax audit conducted by the Russian Federal Tax Service

The audit must be scheduled no later than two years after the statement or notification is received and, as a general rule, the duration of an audit should not exceed six months. The audited period may not exceed the three-calendar-year period preceding the year of the audit. The fact that an audit is in process does not prevent the tax authorities from conducting desk or field tax audits for the same period in relation to other tax matters.

Any deviations from market price that lead to an underpayment of taxes are stated in the tax report issued by the tax authorities. The taxpayer can then make any objections to the report within the 20 business days following the day of its receipt. Consideration of the tax report/decision is subject to the same rules as for desk and field tax audits.

Underpayments of tax detected during a transfer pricing audit may only be collected by means of a court judgment.

Sanctions provided by the Tax Code

The Tax Code sets out sanctions that may be imposed on taxpayers for tax violations. Generally, fines may be collected by the tax authorities without recourse to the courts. The tax authorities have the right to reduce or increase the amount of a fine if any mitigating or aggravating circumstances exist. The courts also have this right. The Tax Code establishes the following penalty rates for the most common tax violations:

Failure to register with the tax authorities

Conducting business activities without registration is subject to a penalty fine of 10% of the revenue arising during the period that the entity was not registered, but not less than RUB 40,000 (approximately USD 1,300).

Full or partial non-payment of tax

Full or partial non-payment as a result of decreasing the tax base or incorrect calculation is subject to a penalty of 20% of the unpaid tax amount. If the mistake was made deliberately, the penalty fare is 40% of the unpaid tax amount.

Underpayment of tax as a result of applying non-market prices is subject to a 40 % penalty fare or RUB 30,000 (approximately USD 1,000): whichever is the larger amount.

Failure to file tax returns

The late filing of a tax return is subject to a fine of 5% of the unpaid tax due according to the return for each full or partial month from the official date that it should have been filed, subject to a minimum penalty fine of RUB 1,000 (approximately USD 30).

Gross violation of accounting regulations

Such violations may result in the following penalties: (i) RUB 10,000 (approximately USD 330) if the violation is limited to one tax period; (ii) RUB 30,000 (approximately USD 1,000) if the violation occurred in more than one tax period; or (iii) 20% of the outstanding tax amount, but no less than RUB 40,000, if the violation results in an understatement of the tax base.

Failure by a tax agent to withhold or remit tax

Such a failure may result in a fine equal to 20% of the tax to be remitted.

Failure to provide documents

Failure to provide documents or other information required by law to the tax authorities within 10 business days following a request being received may result

in a fine of RUB 200 (approximately USD 6) for each document not provided.

Criminal sanctions

The Criminal Code provides for five types of tax crime which are described below. In each case, only the relevant individuals/officers are subject to criminal liability, and not the legal entity itself. Criminal intent, according to the definition stipulated in the law, must be proven.

The limitation period for tax crimes committed by individuals is either two or six years depending on the gravity of the crime. For tax crimes committed by legal entities, the period is either six or ten years, also depending on the gravity of the crime.

Since 1 January 2010, pre-trial detention for an alleged tax crime has been expressly forbidden. However, imprisonment may still arise in practice since other crimes, to which this restriction does not apply (e.g. fraud, illegal business activities, etc.), may be prosecuted at the same time.

Tax evasion committed by legal entities

The Criminal Code provides for criminal sanctions where a "large-scale" or "very large-scale" amount of tax is involved. "Large-scale" is defined as tax of RUB 2 million over three financial years (assuming this exceeds 10% of the total taxes due), or more than RUB 6 million. "Very large scale" is RUB 10 million over three financial years (assuming this exceeds 20% of the total taxes due) or more than RUB 30 million.

Liability can arise for deliberately including false information in tax returns or documents required by law, resulting in an underpayment of tax or levies, as well as for failure to file tax returns or to submit the required documents. The penalties range from fines of RUB 100,000 to 500,000 (approximately USD 3,300 to 17,000), or imprisonment of the company's CEO, Chief Accountant (or employees fulfilling these roles), or any other official of the legal entity, or its external advisor, who has falsified documents or concealed property on which tax payments should be made, for a period of up to six years. A ban from holding certain posts or performing certain activities for a period of up to three years may also be imposed.

A legal entity's officials are exempt from criminal liability for tax evasion if it is a first-time offence and the full amount of tax arrears, interest and fines is voluntarily paid.

Evasion of tax payments by individuals

The same crime committed by individual taxpayers may also be subject to criminal sanctions. In this case, "large-scale" is defined as RUB 600,000 over three financial years (assuming this exceeds 10% of the total taxes due), or more than RUB 1,800,000, and "very large-scale" is RUB 3 million over three financial years (assuming this exceeds 20% of the total taxes due) or more than RUB 9 million.

Fines range from RUB 100,000 to 500,000 or imprisonment for a period of up to three years.

An individual is exempt from criminal liability for tax evasion if it is a first-time offence and the full amount of tax arrears, interest and fines is paid voluntarily.

Failure to fulfill tax agent obligations

A tax agent's failure to calculate, withhold and remit taxes and fees to the relevant budget can result in criminal liability if committed on a "large scale" or "very large scale". The sanctions applied to tax agents are similar to those stipulated for legal entities.

Concealment of money or property by legal entities or individual entrepreneurs

The concealment by a legal entity or individual entrepreneur of money or other property required for tax collection is a crime. In such an event, the officials of the legal entity or the individual entrepreneurs accused of the concealment are held liable for a criminal violation, with fines ranging from RUB 200,000 to 500,000 (approximately USD 6,700 to 17,000) or imprisonment for up to five years. A ban from holding certain posts or performing certain activities for a period of up to three years may also be imposed.

Evasion of customs payments

Evasion by a legal entity or individual entrepreneur involving duties of RUB 500,000 (large-scale) or RUB 1,500,000 (very large-scale) may result in fines ranging from RUB 100,000 to 500,000, mandatory work of 180 to 240 hours, or imprisonment for a period of up to five years. A prohibition from holding certain posts or performing certain activities for a period of up to three years may also be imposed.

Oil and gas taxation

Overview

Russia accounts for an estimated 5-6% of the world's proven oil reserves and around 24% of global natural gas reserves. Energy accounts for some 30% of Russia's GDP and the export of crude oil, oil products and natural gas comprise about 70% of the value of its exports. Since energy and mining have been the main drivers of Russia's overall economic recovery in recent years, tax revenue derived from activities in the natural resource industries deserves special attention.

Profit tax

The following rules apply to companies engaged in the exploration and production of natural resources:

- Expenses associated with obtaining a license for subsurface use, including expenses for the appraisal of natural resource deposits, feasibility studies, obtaining geological information etc., should be included in the cost of the relevant license, treated as an intangible asset and amortised on a straight-line basis over its useful life. Expenses relating to participation in a license tender may, alternatively, be treated as a production and sale expense and amortised over a period of two years at the taxpayer's request. If no license is obtained, the expenses are amortised over a period of two years following the month of the relevant tender
- Expenses relating to the exploration and appraisal of natural resource deposits (successful or otherwise) should be deducted on a straight-line basis over the 12-month period following the completion of the work. Separate tax accounting is required for each exploration project

- Expenses relating to the preparation of land plots for the extraction of natural resources and restitution work for cleaning up environmental damage caused during the construction and operation of extraction plants are deductible evenly over the two-year period following the completion of the work (although the expenses may no longer be deductible if the plant is decommissioned during that period)
- Expenses relating to "dry" wells should be deducted evenly over a 12-month period starting from the first day of the month following the well's abandonment. No provisions for future abandonment costs are allowed, and thus these costs are deductible only when incurred. Examples of the useful lives of fixed assets typically used in the oil and gas industry are shown in Table 5.

Table 5

Depreciation group	Useful life (years)[1]	Examples of types of fixed assets	Depreciation method
1	1 – 2	Metalworking and woodworking tools/machinery, oil and gas production equipment, construction hand tools	Straight-line or declining balance methods
2	2 – 3	Drilling machinery, construction power tools, equipment for underground tunnelling work and sampling	
3	3 – 5	Elevators, forestry tractors, automobiles, tank trucks, computers and peripheral equipment, office machinery	
4	5 – 7	Office furniture, television equipment, clocks, light trucks (less than 0.5 ton capacity)	
5	7 – 10	Oil/gas collection systems, gas pipelines, fibreoptic communication systems, heavy trucks (5 – 15 ton capacity)	
6	10 – 15	Oil wells, railway transport infrastructure, heavy trucks (over 15 ton capacity)	
7	15 – 20	Bridges, ductwork, refrigerators, drilling ships	
8	20 – 25	Blast furnaces, wharves, river and lake passenger vessels	Straight-line method
9	25 – 30	Runways, nuclear reactors, oil/gas tanks	
10	> 30	Escalators, forest shelter belts	

[1] The exact useful life of fixed assets is determined based on their classification as prescribed by the Russian Classification for Fixed Assets.

VAT

Export sales of oil, gas condensate and natural gas are subject to VAT at a 0% rate provided compliance requirements are met. Domestic sales of oil, gas condensate and natural gas are subject to the 18% VAT rate. Please refer to the chapter entitled "Value Added Tax" in relation to VAT on pipeline transportation services.

Recent amendments to the Tax Code introduced a closed list of work and services relating to the geological study, exploration and production of hydrocarbons on the Russian continental shelf and exclusive economic zone that are subject to Russian VAT, allowing for the recovery of corresponding input VAT.

Table 6

Type of mineral resource	Tax rate (RUB)			
	From 1 January 2013	From 1 July 2013	2014	2015
Gas condensate (per ton)	590		647	679
Natural gas (per 1,000m^3)				
Gazprom and 50% (or more) affiliates	582	622	700	788
Other producers[2]	265	402	471	552
Associated gas and standard losses of mineral resources	0% or RUB 0 per unit of measurement			

[2] The Gazprom rates are adjusted by co-efficients of 0.455 from 1 January 2013 until 30 June 2013, 0.646 from 1 July 2013 until 31 December 2013, 0.673 in 2014 and 0.701 in 2015. For 2013 – 2016, special rules for calculating MET apply to oil producers operating in the Republics of Tatarstan and Bashkortostan.
MET is assessed monthly, with payment due within 25 days following the reporting month. Tax returns should be submitted before the end of the month following the reporting month.

Mineral extraction tax

Mineral extraction tax (MET) is imposed on legal entities and private entrepreneurs for the extraction of minerals, including oil and gas, from the subsurface and from production waste. In order to be permitted to extract minerals commercially, an appropriate license should be obtained.

MET is determined on the basis of either the physical quantity of mineral resources extracted or their physical quantity and value. Value is determined based on the quantity of minerals extracted and their selling price, net of VAT, customs duties and levies, and less transportation expenses.

If no sales of a particular mineral resource are made during a tax period, taxpayers should calculate the value of the extracted minerals based on their production cost. The value must be calculated based on the tax accounting records maintained for profits tax purposes and the procedures provided by tax legislation.

For oil, natural and associated gas and gas condensate, MET is based on the volume of minerals extracted.

The tax rate varies according to the type of resource. For oil, the MET rate for 2013 is RUB 470 per ton (approximately USD 16). The rate is adjusted using a coefficient reflecting changes in the world oil price and RUB/USD fluctuations. The coefficient is determined according to the following formula: (P-15)*R/261*D, where P is the average price per barrel of Urals blend crude oil (USD per barrel) for the tax period, R is the average monthly RUB/USD exchange rate as established by the Central Bank of Russia, and D is the depletion factor determined by the taxpayer. A special regressive coefficient applies to blocks depleted by more than 80%.

A 0% MET rate applies to oil extracted from fields located in the following areas, subject to certain cumulative production and development period constraints:

- The Republic of Sakha (Yakutia), Irkutsk and Krasnoyarsk Oblasts
- Areas located north of the Arctic Circle
- The Sea of Azov and the Caspian Sea, Sea of Okhotsk and Black Sea
- Areas above latitude 650 north, located fully or partially within the Yamalo-Nenets Autonomous District (except Yamal Peninsula).

A 0% MET rate also applies to high viscosity oil. For other hydrocarbons, MET is calculated at the rates shown in Table 6.

Excise tax on oil products

Excise tax is applicable to certain transactions with oil products. Currently only gasoline, motor oil and diesel are subject to excise tax. Oil, gas condensate and natural gas are excluded. Excise tax is imposed on the following transactions with oil products performed in Russia:

- Sales of self-produced excisable oil products
- Transfers of excisable oil products which are produced at a processing facility under a tolling agreement to the owner

- Inter-divisional transfers of self-produced excisable oil products within a company for the purpose of producing non-excisable products
- Transfers of self-produced excisable oil products for processing on a tolling basis
- Import of excisable oil products

Where excisable products described in the first two bullet points above are exported, they are exempt from excise tax, subject to documentary requirements.

The excise tax rates applicable to oil products are shown in Table 7.

The taxpayer may offset excise tax paid in respect of excisable oil products if those oil products are used as raw materials for the production of other excisable oil products. Offsets can be made on the condition that the taxpayer submits certain documents to the tax authorities following prescribed procedures.

Goods derived from blending other excisable goods are not subject to additional duty, provided that the excise tax which would otherwise have been applicable is less than or equal to the excise duty applicable to the goods/materials used for blending.

Special rules apply to straight-run gasoline. If a producer and processor hold special certificates for the production and processing of straight-run gasoline, the producer assesses excise tax, but does not charge it to theprocessor. The producer is entitled to offset the excise tax assessed, provided the required filings are made with the tax authorities.

Table 7

Type of excisable good	Rate (RUB per ton)[3]			
	1 January – 30 June 2013		1 July – 31 December 2013	
Gasoline/Diesel Fuel	Gasoline	Diesel Fuel	Gasoline	Diesel Fuel
below class 3	10,100	5,860	10,100	5,860
class 3	9,750	5,860	9,750	5,860
class 4	8,560	4,934	8,960	5,100
class 5	5,143	4,334	5,750	4,500
Motor oil	7,509			
Straight-run gasoline	10,229			

[3] Progressive rates applied to gasoline and diesel fuel depending on their ecological standard.

These certificates are issued by the tax authorities if the taxpayers have the appropriate straight-run gasoline production and processing capacities and if a processing agreement is in place. Different tax payment and tax return submission deadlines apply

Export customs duties

Export customs duties are levied on exports of oil, natural and petroleum gas and oil products. The duties on crude oil and oil products are adjusted by the Russian government on a monthly basis to reflect price movements in the European oil market. The flat rate on crude oil cannot exceed the maximum rate shown in Table 8

A single export duty set at 66% of the duty on crude oil applies to both light and heavy oil products, and a rate of 90% of the duty on crude oil applies to gasoline. From 2015, it is planned that the rate for both crude oil and heavy oil products will be the same.

The rate of export duty on natural gas is currently approximately 30% of the customs value. No duty applies to the export of liquefied natural gas.

The rate on propane, butane, ethylene, propylene, butylene, butadiene and other liquefied gases is USD 200.3 per ton from 1 February 2013.

Table 8

Urals prices (P) (USD per ton)	Maximum export duty rate
< 109.50	0%
109.50 – 146.00	35%*(P-109.50)
146.00 – 182.50	12.78+45%*(P-146.00)
> 182.50	29.20+60%*(P-182.50)[4]

[4] A reduction from 65% to 60% is planned.

A new law effective from 1 January 2013 introduced allowances with respect to export customs duties levied on oil produced from Russian deposits with high-viscosity and difficult-to-extract hydrocarbons. The Russian Government now has the right to establish special formulas for the purpose of determining export duties with respect to:

- high-viscosity oil for a period of 10 years starting from the moment at which the reduced export duty rate is applied, but no later than 1 January 2023. The rate of export duty on high-viscosity oil should be determined as 10% of the duty on crude oil for the corresponding calendar month
- crude oil with specific physical-chemical characteristics produced from deposits located partly or fully in the Yakutia, Irkutsk and Krasnoyarsk regions, Yamalo-Nenets Autonomous District, the Russian sector of the Caspian Sea region, on the sea-bed of the inland or territorial sea waters of the Russian Federation, or on the Russian continental shelf. The minimum level of reserves should be equal to 10 million tons (if an application for the allowance is submitted in 2013) or 5 million tons (if the application is submitted from 2014), and the accumulated volume of oil extraction should be less than 5%. According to the information available from publicly-available sources, the rate should be applied in order to provide investors with 16.3% profitability. The flat rate on this crude oil should be determined in accordance with Table 9.

The law introduces a new procedure for publishing the export customs duty rates. This should be carried out using official sources of information rather than Regulations. The described changes to the procedure for determining the export duties on high-viscosity and difficult-to-extract oil should come into effect on 1 April 2013.

Payments for subsurface use

Companies holding licenses for exploration and production are subject to the payments described below.

- Regular payments for the right to prospect and appraise oil and gas deposits. The rate of these payments is set by the administration of the State Fund of Subsurface Resources within a range of RUB 120/sq km to RUB 360/sq km (approximately USD 4-12/sq km) of the area being prospected and appraised. For the continental shelf and exclusive economic zone, the rates vary from RUB 50/sq km to RUB 150/sq km (approximately USD 1.5-5/sq km)
- Regular payments for the right to explore deposits (i.e. the stage following prospecting and appraisal).

Table 9

Urals prices (P) (USD per ton)	Maximum export duty rate
< 365.00 (or equal to 365.00)	0%
> 365.00	45%*(P-365.00)

The payment rate is also set by the administration of the State Fund of Subsurface Resources, within a range of RUB 5,000/sq km to RUB 20,000/sq km (approximately USD 170-670/sq km) of the area under exploration. Rates of RUB 4,000/sq km to RUB 16,000/sq km (approximately USD 130-530/sq km) of the area under exploration are prescribed for the continental shelf and Russia's exclusive economic zone

- One-time payments for the use of subsurface resources. The terms of these payments are established by the relevant licenses, but should not be lower than 10% of the estimated annual amount of MET. This may potentially be one of the most significant costs related to obtaining and developing a license area
- Fee for participation in a competitive tender/auction. The fee is determined based on the costs of preparing for, holding and evaluating the tender/auction, plus fees paid to experts.

Production sharing regime

Legislative framework

Production Sharing Agreements (PSAs) are governed under a legal regime which sees the Russian government grant an investor the exclusive right to prospect, develop and produce mineral resources from a subsurface area for a certain period of time. The investor guarantees the development of these mineral deposits at his or her own risk and expense.

By committing to share the production of mineral resources with the state under the terms of a PSA, the investor becomes entitled to a share of the minerals extracted. Currently, a PSA may only be created if certain terms are met, in particular where a tender was previously held and later declared invalid due to a lack of investors interested in the opportunity under the general tax regime. This PSA legislation has proved to be a significant obstacle to the establishment of new agreements.

PSA tax regime

The PSA tax legislation provides for two methods of determining tax liabilities on production sharing; the standard method and the direct method. Under the standard method, the investor is subject to MET on minerals extracted under the PSA. Once the value of the minerals produced, net of MET, has been reduced by the "compensatory production" and the costs of exploration, production and other reimbursable expenses, the remaining profit (profit production) is shared between the state and the investor in accordance with the terms of the PSA. The investor is subject to profit tax in respect of its share of the profits. The share of compensatory production should not be more than 75% (90% in the case of extraction on the continental shelf) of the total volume of production.

Under the direct method, there is no division of minerals produced into compensatory production and profit production. The investor is eligible for a share of up to 68% of the total quantity of minerals produced under the PSA. The investor is exempt from profit tax, MET, water tax and land tax. Under both methods, the investor is exempt from customs duties in respect of goods imported or exported under the PSA, as well as from property and transport taxes in respect of fixed assets used under the PSA. PSA investors are also required to account for VAT.

"Grandfathered" PSAs

All of the PSAs currently in effect ("Kharyaga", "Sakhalin-1", and "Sakhalin-2") were concluded before the PSA regime described above came into effect. For these PSAs a special "grandfathering" approach is included in the legislation, which generally provides that the PSA provisions apply even though the legislation covering those aspects has changed. For example, the profit tax rate established for investors under "Sakhalin 2" is higher (at 32%) than under the general tax regime. In addition, VAT and customs duty exemptions may apply to investors and, in some cases, contractors.

Mining taxation

Overview

This chapter relates to taxpayers engaged in the extraction of minerals other than oil and gas.

Mineral extraction tax

Corporate entities and individual entrepreneurs engaged in mining are subject to mineral extraction tax (MET). The tax base is the value of the mineral resources extracted, based on their quantity, and either the sales price net of VAT, customs duties, and customs clearance fees (reduced by freight costs and refining costs) or the cost of production, as per the tax accounting records maintained for profits tax purposes.

Generally, the cost of production measure is only applied if there are no sales.

The value of precious metals recovered from natural deposits or spoil should be determined on the basis of the taxpayer's sales prices for chemically pure metals during the current month (or the preceding month in the absence of sales during the current month).

If no sales of a particular mineral resource are made during a tax period, taxpayers should calculate the value of the extracted minerals based on their production costs. Certain rates of MET are shown in Table 10.

Table 10

Type of mineral resource		Tax rate
Coal[1]:	Lignite	RUB 11
	Anthracite	RUB 47
	Coke	RUB 57
	Others	RUB 24
Standard ores of ferrous metals		4.8%
Concentrates and other intermediate products containing gold		6%
Concentrates and other intermediate products containing precious metals (other than gold)		6.5%
Standard ores of non-ferrous metals (other than nephelines and bauxites)		8%
Diamonds and other precious and semi-precious stones		8%

[1] Per ton. Discounts to these rates may also apply.

Export customs duties

The rates of export duty for some types of mineral resources are provided in Table 11.

VAT exemption

Sales of precious metals by mining companies, or companies producing such metals from scrap and waste, to the State Funds for Precious Metals and Stones, the Central Bank of Russia (CBR) and authorised banks are subject to VAT at a rate of 0%. Input VAT relating to production is generally recoverable, assuming the conditions provided in the Tax Code for VAT recovery are satisfied. The recovery is usually accomplished by offsetting the input VAT against other taxes payable to the Federal budget.

Table 11

Type of mineral resource	Tariff code under the Russian Harmonized System	Export customs duty rate
Coke and semi-coke manufactured from coal, lignite or peat	2704	6.50%
Diamonds	7102	0% or 6.5%
Precious and semi-precious stones (excluding diamonds)	7103	6.50%
Copper, various types	7401-7403; 7405	10%
Copper waste and scrap	7404	EUR 50, but no less than EUR 420 for 1000 kg
Unrefined nickel	7502	5%
Nickel waste and scrap	7503	EUR 30, but no less than EUR 720 for 1000 kg
Aluminum alloys	7601	3%
Aluminum waste and scrap	7602	EUR 50, but no less than EUR 380 for 1000 kg
Lead waste and scrap	7802	EUR 30, but no less than EUR 105 for 1000 kg
Zinc waste and scrap	7902	EUR 30, but no less than EUR 180 for 1000 kg

The tax legislation provides VAT exemption for the following transactions:

- Sale of scrap and waste of ferrous and non-ferrous metals
- Sale of ore, concentrates, other industrial products, and scrap and waste containing precious metals for the production of other precious metals
- Sale of precious metals and precious stones by companies other than mining companies or companies that produce metals or stones to the State Funds of Precious Metals and Stones
- Sale of precious metals and precious stones by the CBR and authorised banks
- Sale of raw precious stones, excluding unprocessed diamonds, for processing and subsequent export sale
- Sale of unprocessed diamonds to processing companies

If a VAT exemption applies, the input VAT relating to the production cannot be recovered but is deductible as an expense.

Appendix 1

Withholding tax rates (%) under Russia's double taxation treaties

Country of recipient	Dividends			Interest	Royalties
	Major shareholding	Minor shareholding	"Major shareholding" criteria		
Albania	10	10	N/A	10	10
Algeria	5	15	25%	0/15	15
Argentina	10	15	25%	15	15
Armenia	5	10	USD 40,000[1]	0[2]	0
Australia	5	15	10% & AUD 700,000	10	10
Austria	5	15	10% & USD 100,000	0	0
Azerbaijan	10	10	N/A	10	10
Belarus	15	15	N/A	10	10
Belgium	10	10	N/A	0/10	0
Botswana	5	10	25%	10	10
Brazil	10	15	20%	15	15
Bulgaria	15	15	N/A	15	15
Canada	10	15	10%	10	0/10
Chilie	5	10	N/A	15	5/10
China	10	10	N/A	10	10
Croatia	5	10	25% & USD 100,000	10	10
Cuba	5	15	25%	10	5
Cyprus	5	10	EUR 100,000	0	0
Czech Republic	10	10	N/A	0	10
Denmark	10	10	N/A	0	0

[1] Substituted by "major shareholding" criteria of 25% according to a Protocol ratified on 1 February 2013

[2] Changed to 10%, except for interest paid to Russian or Armenian public authorities or central banks, according to a Protocol ratified on 1 February 2013

Country of recipient	Dividends			Interest	Royalties
	Major shareholding	Minor shareholding	"Major shareholding" criteria		
Egypt	10	10	N/A	15	15
Finland	5	12	30% & USD 100,000	0	0
France	5/10	15	5% if EUR 76,225 & dividend exemption; 10% if only one condition is met	0	0
Germany	5	15	10% & EUR 80,000	0	0
Greece	5	10	25%	7	7
Hungary	10	10	N/A	0	0
Iceland	5	15	25% & USD 100,000	0	0
India	10	10	N/A	10	10
Indonesia	15	15	N/A	15	15
Iran	5	10	25%	7.5	5
Ireland	10	10	N/A	0	0
Israel	10	10	N/A	10	10
Italy	5	10	10% & USD 100,000	10	0
Japan	15	15	N/A	10	0/10
Kazakhstan	10	10	N/A	10	10
Korea (Dem. Rep.)	10	10	N/A	0	0
Korea (Rep.)	5	10	30% & USD 100,000	0	5
Kuwait	0	5	25 % state ownership (direct or indirect)	0	10
Kyrgyzstan	10	10	N/A	10	10

Country of recipient	Dividends			Interest	Royalties
	Major shareholding	Minor shareholding	"Major shareholding" criteria		
Latvia	5	10	25% & USD 75,000	5/10	5
Lebanon	10	10	N/A	5	5
Lithuania	5	10	25% & USD 100,000	10	5/10
Luxembourg	10[3]	15	30% & EUR 75,000	0	0
Macedonia	10	10	N/A	10	10
Malaysia	15	15	N/A	15	10/15
Mali	10	15	FRF 1,000,000	15	0
Mexico	10	10	N/A	0/10	10
Moldova	10	10	N/A	0	10
Mongolia	10	10	N/A	10	No reduction
Montenegro, Serbia (former Yugoslavia DTT)	5	15	25% & USD 100,000	10	10
Morocco	5	10	USD 500,000	0/10	10
Namibia	5	10	25% & USD 100,000	10	5
Netherlands	5	15	25% & EUR 75,000	0	0
New Zealand	15	15	N/A	10	10
Norway	10	10	N/A	0/10	0
Philippines	15	15	N/A	15	15
Poland	10	10	N/A	10	10
Portugal	10	15	25% & 2 years	10	10
Qatar	5	5	N/A	5	0
Romania	15	15	N/A	15	10

[3] Reduced to 5%, subject to "major shareholding" criteria of 10% and EUR 80,000, according to a Protocol that has been signed but not yet ratified

Country of recipient	Dividends			Interest	Royalties
	Major shareholding	Minor shareholding	"Major shareholding" criteria		
Saudi Arabia	0	5	25% direct state ownership	0/5	10
Singapore	5	10	15% & USD 100,000	7.5	7.5
Slovak Republic	10	10	N/A	0	10
Slovenia	10	10	N/A	10	10
South Africa	10	15	30% & USD 100,000	10	0
Spain	5/10	15	5% if EUR 100,000 & dividend exemption; 10% if only one condition is met	0/5	5
Sri Lanka	10	15	25%	10	10
Sweden	5	15	100% & USD 100,000	0	0
Switzerland	0/5[4]	15	20% & CHF 200,000	0	0
Syria	15	15	N/A	10	4.5/13.5/18
Tajikistan	5	10	25%	10	0
Thailand	15	15	N/A	10/no reduction	15
Turkey	10	10	N/A	10	10
Turkmenistan	10	10	N/A	5	5
Ukraine	5	15	USD 50,000	10	10
United Kingdom	10	10	If dividends subject to tax	0	0
United States	5	10	10%	0	0
Uzbekistan	10	10	N/A	10	0
Venezuela	10	15	10% & USD 100,000	5/10	10/15
Vietnam	10	15	USD 10,000,000	10	15

[4] 0% effective for a pension fund, the Government of the other State, any political subdivision or local authority, or the Central Bank

Appendix 2

Brief summary of statutory financial, taxation, statistical and ecological reporting for Russian legal entities for 2013[1]

Reports	Filing obligations	Deadline for filing report
Statutory financial statements	Financial reports are filed to the tax authorities on annual basis[2].	
	Annual reporting package[3]: Balance Sheet, Statement of Financial Performance Supplements to the Balance Sheet and Statement of Financial Performance	No later than 3 calendar months after the end of reporting year
	Annual reporting package is ssubmitted to statistic authorities.	No later than 3 calendar months after the end of reporting year
	Auditor's report (when RLE is subject to obligatory audit) is submitted to statistic authorities.	No later than 12 calendar months after the end of reporting year[4]

Taxation reporting

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Profit tax				
The actual profit for a month or quarter, onan accumulated basis, starting at the beginning of the year. The taxpayer has the right to choose between monthly and quarterly reporting.	20% including: • 2% to the federal budget • 18%[5] to the regional budget	Payments procedures depends on filing basis. Tax payments on a monthly basis no later than the 28th of the month following the reporting month. For quarterly filing, advance monthly payments are carried out no later than the 28th of each month[6].	Taxpayer is free to choose filing on monthly or quarterly basis. For monthly filing, interim monthly tax declarations and a final annual tax declaration are necessary. For quarterly filing, interim quarterly tax declarations and a final annual tax declaration are necessary.	Monthly declarations — no later than the 28th of the month, following the reporting month Annual declaration — no later than 28 March of the year, following the reporting year Quarterly declarations — no later than the 28th of the month, following the reporting quarter Annual declaration — no later than 28 March of the year, following the reporting year
Income in the form of dividends received by RLE from Russian and foreign legal entities.	9%, 0%, if the RLE receives dividends from a company where it permanently owns no less than 50% of the share capital during 365 days			
Income received in the form of interest on some municipal and state bonds.	15%			

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Withholding tax on income payable to an FLE from sources in the RF[7]				
Income that is not related to the permanent establishment of this FLE on Russian territory, including (but not limited to): • Dividends • Interest on loans • Royalties • Income from rent, • leasing and freight operations • Income from international shipments	20% — general rate 15% — on dividends 10%[8] — on income received from rent, leasing, freight of ships, aircraft, trailers, and other transportation equipment, used in international shipments.	Tax should be withheld and paid within 1 days following the income payment to the FLE. For dividends, tax payment must be effected within 1 days.	Reporting process for withholding tax is in line with reporting for profit tax. Tax agent submits reports on monthly or quarterly basis and a final annual report.	Monthly reports — no later than the 28th of the month, following the reporting month Quarterly — no later than the 28th of the month, following the reporting quarter Annual report — no later than 28 March of the year, following the reporting year

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
VAT[9]				
Value of goods (works, services) sold on Russian territory. VAT[10], payable to the authorities, is determined as the difference between VAT charged to customers (output VAT) and VAT paid to suppliers of goods (works or services) and customs (input VAT), provided that certain criteria are met.	18% — standard rate 10% — rate for certain foodstuffs, children's goods, medicines, books and periodical literature 0% — export, international passenger transportation and some other operations Some types of activities are VAT exempt (such as services in areas of medicine, education and culture).	1/3 of tax amount payable is due no later than the 20th of each of months of the quarter, following the reporting quarter.	Quarterly tax declarations	Quarterly — no later than the 20th of the month, following the reporting quarter
For imported goods, the taxable base is determined as their customs value, plus import duties and excises, where applicable.		VAT for import operations is paid to customs authorities, during the clearance process. Later this input VAT is off-set against output VAT.	No special obligation, VAT for import operations is disclosed in the ordinary VAT declaration.	

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Withholding VAT tax on revenue payable to an FLE[11]				
Payments to FLE, not registered as a taxpayers in Russia, for services provided on Russian territory.	18% — standard rate	VAT withheld is due to the budget at the day of income payment to FLE.	Withheld VAT is disclosed in separate section of the ordinary VAT declaration.	Quarterly — no later than the 20th of the month, following the reporting quarter
Property tax				
Average annual net book value of fixed assets which are subject to property tax[12]	Rates are established by regional authorities[13].	Deadlines for payments are established by regional authorities.	The annual tax declaration. Quarterly reports are to be established by regional authorities.	Quarterly — no later than the 30th of the month, following the reporting quarter Annually — no later than 30 March of the year, following the reporting year
	Moscow — 2.2%	Moscow: Quarterly — within 30 days of the end of the reporting quarter Annually — no later than 30 March of the year, following the reporting year	Moscow: Interim quarterly and final annual tax declarations.	
Transportation tax				
Engine power of transport	Rates are established by regional authorities.	Deadlines for payments are established by regional authorities.	The annual tax declaration.	Annually — by 1 February of the year, following the reporting year
	Moscow: Rates vary from RUB 7 to 800, depending on the type of vehicle and its engine power.	Moscow: No later than 5 February of the year, following the reporting year.	Moscow: The annual tax declaration.	

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Land tax				
The cadastral value of a plot of land, determined in compliance with the land legislation of the RF, as of 1 January for the tax period (year).	Rates are established by local authorities (regional laws for the cities of Moscow and St. Petersburg)[14].	Deadlines for payments are established by local authorities.	The annual tax declaration.	Annually — no later than 1 February of the year, following the reporting year
	Moscow: Rates vary from 0.1% to 1.5%, depending on the category of the plot of land.	Moscow: Quarterly — no later than the last day of the month, following the reporting quarter. Annually — no later than 1 February of the year, following the reporting year	Moscow The annual tax declarations.	
United (Simplified) Declaration				
Submitted if a taxpayer has a "zero" tax base for Profit Tax, VAT and Property tax.			Quarterly tax declarations	Quarterly — no later than the 20th of the month, following the reporting quarter

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Contributions to the Pension Fund (accumulated and insurance part)[15]				
Payroll (salary, bonuses and other employee benefits). Contributions to the Pension Fund are calculated for insured persons registered with the Pension Fund. The tax base is capped at RUB 512 000[16] accumulated from the beginning of the year.	22% from the tax base, which is capped at RUB 512 000 and 10% from the amount, which is more that the tax base	Compulsory monthly payments must be paid no later than the 15th of the month, following the month when contributions are accrued by the employer.	Quarterly reports on Contributions to the Pension Fund and on Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds must be submitted to the Pension Fund.	Quarterly — by the 15st day of the second month following the reporting quarter.
Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds[12]				
The same as for Contributions to the Pension Fund.	Federal Medical Insurance Fund: 5,1%.	The same as for Contributions to the Pension Fund.	Quarterly reports on Contributions to the Pension Fund and on Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds must be submitted to the Pension Fund.	Quarterly — by the 15st day of the second month following the reporting quarter.
Contributions to the Social Security Fund in case of temporary disability and due to maternity[15]				
The same as for Contributions to the Pension Fund.	2.9%	The same as for Contributions to the Pension Fund.	Quarterly reports to the Social Security Fund.	Quarterly — no later than the 15th of the month, following the reporting quarter.

Tax base	Rate	Deadline for tax payment	Filing obligations	Deadline for filing reports
Accident insurance contributions to the Social Security Fund[17]				
Payroll and other payments to employees with certain exceptions (statutory welfare benefits, business-related expenses, etc).	Rates vary from 0.2% to 8.5% and are assigned on an annual basis by SSF depending on the type of FLE activity in Russia.	A monthly basis, due date corresponds to the date of salary payment, but should not be later than the 15th day of the following month.	Quarterly reports to the Social Security Fund.	Quarterly — no later than the 15th of the month, following the reporting quarter.
Personal income tax (PIT)[18]				
RLEs acting as tax agents are obliged to withhold and pay the budget tax, based on salaries and benefits-in-kind, paid or provided to employees and other individuals.	13% — for tax residents[19] and highly quilified specialists[20] 35% — for some benefits-in-kind 9% — for dividends, received by tax residents from Russian corporations 30% — for non-residents 15% — for dividends, received by non-residents from Russian corporations	On a monthly basis, no later than the date of salary (or other income) payment. PIT on advance salary payments may not be withheld.	Annual report with information of income and PIT of employees in special individual form (2-NDFL)[21].	2-NDFL forms with a special format file must be filed no later than 1 April of the year, following the reporting year.
Information about Average Number of Employees				
			Annual report to the tax authorities	Annual report — no later than 20 January of the year, following the reporting year.

Non-tax reporting

Reports	Filing obligations	Deadline for filing report
Ecological levy[22]	Special reporting forms for different pollution types: atmospheric pollution, water pollution, waste disposal, noise and other. The levy has graduated rates (depending on the type of pollution)	Payments for specific instances is to be no later than the 20th day of the month, following the reporting quarter For quarterly reporting, on specific violations the deadline is the 20th of the month, following the reporting quarter.
Statistical reporting[23]	Form P-1 for entities with more than 15 employees	Monthly — no later than the 4th of the month, following the reporting month
	Form P-2 for entities with more than 15 employees	Quarterly — no later than 20th of the month, following the reporting quarter
	Form P-3: monthly and quarterly — for entities with more than 15employees;	Monthly — no later than 28th of the month, following the reporting month Quarterly — no later than 30th of the month, following the reporting quarter
The structure of reporting package depends on the type of activity and size of a company[24].	Form P-4: Monthly — for entities with more than 15 employees Quarterly — for entities with less than 15 employees	Monthly — no later than the 15th of the month, following the reporting month Quarterly — no later than 15th of the month, following the reporting quarter
	Form P-5 for entities with less than 15 employees	Quarterly — no later than 30th of the month, following the reporting quarter
	Form 1-Invest for entities receiving or making foreign investments	Quarterly — no later than 15th of the month, following the reporting quarter
	Form 1-T	Annually — no later than 20 January, following the reporting year
	Form 1-VES for an entity having a share of foreign capital Form 1-DA for for an entity working in the service sector	Annually — no later than 24 March, following the reporting year Quarterly — by the 14st day of the second month following the reporting quarter.

[1] Please note that we summarized most common statutory, taxation, statistical and ecological reporting for RLE not taking into account special taxation regimes and special types of activities (financial institutions, insurance companies, organizations engaged in mining, agriculture etc).

[2] The New Federal Law dated 6 December 2011 №402-FZ "On Accounting" and corresponding amendments to the Russian Tax Code require only annual financial statements, which must be submitted to both the tax authorities and the statistics authorities starting from 1 January 2013

[3] It is expected that the requirements for the contents of the reports will also change; however, new reporting guidelines have not been approved yet.

[4] According to the draft of Federal Law 17.09.2012 which has not been approved yet.

[5] The regional budget tax rate can be reduced by regional authorities (but by no more than 4.5%).

[6] Payments on a quarterly basis without advance monthly payments are possible if certain criteria are met. In this case the payment deadline is the 28th of the month following the reporting quarter.

[7] To be withheld by a tax agent from an amount of income due to an FLE.

[8] Please note that these rates can be reduced, based on Double Tax Treaty provisions.

[9] Companies have the right to exemption from VAT, if the amount of net sales revenue for three successive months previously was no more than RUB 2 million. Obtaining VAT exemption requires the presentation of confirming documents to the tax authorities, no later than the 20th of the month when the exemption starts to be applied. The exemption will apply for the next 12 months.

[10] Taxpayers must maintain separate accounting records for VAT-able and non-VAT-able supplies. Failure to do so may mean that any input VAT will not be allowed for offset.

[11] To be withheld by a tax agent from an amount of income due to an FLE.

[12] Property tax is to be paid, based on the book value of fixed assets, which are put into operation. Immovable property value will also be included into calculations, if the ownership documents have been submitted for state registration. According to the amendments put recently into the Russian Tax Code the movable property put on the books since 2013 will not be subject to property tax.

[13] The tax rate cannot exceed 2.2%. Regional authorities can also establish varied tax rates, in accordance with the type of taxpayer and property.

[14] The tax rate cannot exceed 0.3-1.5%, depending on the category of a plot of land. Local authorities, as well as Moscow and St .Petersburg laws, can also establish varied tax rates.

[15] Insurance contributions are not payable in respect of foreign nationals temporary staying in Russia.

[16] The cap will be adjusted by the Government on annual basis.

[17] Companies should confirm the rate with the Social Security Fund for each year not later than 15 April of the current year.

[18] Please note that, for the purpose of this calendar, we do not provide information on legislative requirements for individuals submitting personal PIT declarations (3-NDFL) and paying the tax.

[19] Individuals (Russian and foreign), who spend more than 183 days in Russia during a 12 month period (without taking into account breaks for study leave or medical care outside of Russia that do not exceed 6 months).

[20] Highly qualified specialists are eligible for 13% personal income tax rate (i.e. a rate applicable for tax residents) on income received from Russian employment even before qualifying as a Russian tax resident. Please note that according to the official clarifications, the Ministry of Finance qualifies the concept of income from the employment duties of a highly qualified specialist, covering only the salary, bonuses, and business trip payments.

[21] If the employer provides any benefits-in-kind to the employees and cannot withhold and pay the applicable amount of tax, the information regarding benefits-in-kind received by the employees should be provided to the tax authorities no later than one month from the end of tax period.

[22] The Ecological levy is not considered to be a tax payment and is regulated by the State Body Rostekhnadzor. The appropriateness and procedures for reporting and payment should be negotiated with this body.

[23] Please note that these reports do not provide for any taxes and levies to be paid, but only disclose overall accounting figures, with regards to the various activities of an entity.

[24] The current list includes only the main statistical forms that should be filed. In addition to these, there are other forms, specifically assigned to each type of activity or property of an RLE.

Appendix 3

Brief summary of taxation, statistical and ecological reporting for representative offices and branches of foreign legal entities for 2013[1]

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Annual activity report, explanatory note for profit tax declaration[3]				
			Annually	No later than March 28th of the year following the reporting year.
Profit tax				
Actual profit for the quarter on an accumulated basis.	20% including: • 2% — federal budget; • 18%[4] — regionalbudget.	Payments on a quarterly basis: no later than the 28th of the month following the reporting quarter.	Interim quarterly tax declarations	Quarterly declarations — no later than the 28th of the month, following the reporting quarter.
Income in the form of dividends received by foreign legal entities from Russian legal entities.	15%[5]	Final tax payment for the year: no later than March 28 of the year following the reporting year.	Annual tax declaration	Annual declaration — no later than 28 March of the year, following the reporting year
Withholding tax on income payable to a FLE from sources in the RF[6]				
Income that is not related to the permanent establishment of this FLE on Russian territory, including (but not limited to): • Dividends • Interest on loans • Royalties • Income from rent, leasing	20% — general rate 15% — on dividends 10%[7] — on income received from rent, leasing, freight of ships, aircraft, trailers, and other transportation equipment, used in international shipments	Tax should be withheld and paid within 1 days following the income payment to the FLE. For dividends, tax payment must be effected within 1 days.	Quarterly reports	Quarterly — no later than the 28th of the month, following the reporting quarter Report for the 4th quarter — no later than 28 March of the year, following the reporting year

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
VAT[8]				
Value of goods (works, services) sold on Russian territory VAT[9], payable to the authorities, is determined as the difference between VAT charged to customers (output VAT) and VAT paid to suppliers of goods (works or services) and customs (input VAT), provided that certain criteria are met.	18% — standard rate 10% — rate for certain foodstuffs, children's goods, medicines, books and periodic literature 0% — export, international passenger transportation and some other operations Some types of activities are VAT exempt (such as services in areas of medicine, education and culture)	1/3 of tax amount payable is due no later than the 20th of each of months of the quarter, following the reporting quarter	Quarterly tax declarations	Quarterly — no later than the 20th of the month, following the reporting quarter
For imported goods, the taxable base is determined as their customs value, plus import duties and excises, where applicable.		VAT for import operations is paid to customs authorities, during the clearance process. Later this input VAT is off-set against output VAT	No special obligation, VAT for import operations is disclosed in the ordinary VAT declaration	

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Withholding VAT tax on revenue payable to a FLE[10]				
Payments to FLE, not registered as a taxpayers in Russia, for services provided on Russian territory.	18% — standard rate	VAT withheld is due to the budget at the day of income payment to FLE.	Withheld VAT is disclosed in separate section of the ordinary VAT declaration	Quarterly — no later than the 20th of the month, following the reporting quarter
Property tax				
For foreign entities performing their activities in Russia through a permanent establishment — the average annual net book value of fixed assets which are subject to property tax[11]; for other entities — the value of immovable property determined by special state authorities	Rates are established by regional authorities[12]	Deadlines for payments are established by regional authorities	The annual tax declaration. Quarterly reports are to be established by regional authorities	Quarterly — no later than the 30th of the month following the reporting quarter; Annually — no later than March 30 of the year following the reporting year
	Moscow: 2.2%	Moscow: Quarterly — within 30 days of the end of the reporting quarter; Annually — not later than March 30 of the year following the reporting year	Moscow: Interim quarterly and final annual tax declarations	

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Transportation tax				
Engine power of transport vehicles	Rates are established by regional authorities	Deadlines for payments are established by regional authorities	The annual tax declaration.	Annually — by 1 February of the year, following the reporting year
	Moscow: Rates vary from RUB 7 to 800, depending on the type of vehicle and its engine power	Moscow: No later than 5 February of the year, following the reporting year	Moscow: The annual tax declaration	
Land tax				
The cadastral value of a plot of land, determined in compliance with the land legislation of the RF, as of 1 January for the tax period (year)	Rates are established by local authorities (regional laws for the cities of Moscow and St. Petersburg)[13]	Deadlines for payments are established by local authorities (regional laws for the cities of Moscow and St. Petersburg)	The annual tax declaration.	Annually — no later than 1 February of the year, following the reporting year
	Moscow: Rates vary from 0.1% to 1.5% depending on the category of the land plot.	Moscow: Quarterly — no later than the last day of the month, following the reporting quarter. Annually — no later than 1 February of the year, following the reporting year	Moscow: The annual tax declarations	

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Personal income tax (PIT)[14]				
FLEs acting as tax agents are obliged to withhold and transmit the budget PIT, based on salaries and benefits-in-kind, paid or provided to employees and other individuals.	13% — for tax residents[15] and highly quilified specialists[16] 35% — for prizes, insurance, receipts and interest with certain conditions 9% — for dividends, received by tax residents from Russian or foreign corporations 30% — for non-residents 15% — for dividends, received by non-residents from Russian corporations	On a monthly basis, no later than the date of salary (or other income) payment.	Annual report with information of income and PIT of individuals recieved income from FLE (2-NDFL form)[17]	2-NDFL forms with a electronic format file must be filed no later than 1 April of the year, following the reporting year.
Information about Average Number of Employees				
-	-	-	Annual report to the tax authorities	Annual report — no later than 20 January of the year, following the reporting year

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Contributions to the Pension Fund (accumulated and insurance part)[18]				
Payroll (salary, bonuses and other employee benefits). Contributions to the Pension Fund are calculated for insured persons registered with the Pension Fund. The tax base is capped at RUB 512 000[19] accumulated from the beginning of the year.	22% from the tax base, which is capped at RUB 512 000 and 10% from the amount, which is more that the tax base	Compulsory monthly payments must be paid no later than the 15th of the month, following the month when contributions are accrued by the employer.	Quarterly reports on Contributions to the Pension Fund and on Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds must be submitted to the Pension Fund.	Quarterly — by the 15st day of the second month following the reporting quarter.
Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds[18]				
The same as for Contributions to the Pension Fund.	Federal Medical Insurance Fund: 5.1%.	The same as for Contributions to the Pension Fund.	Quarterly reports on Contributions to the Pension Fund and on Contributions to the Federal Medical Insurance Fund and Territorial Medical Insurance Funds must be submitted to the Pension Fund	Quarterly — by the 15st day of the second month following the reporting quarter.
Contributions to the Social Security Fund in case of temporary disability and due to maternity[18]				
The same as for Contributions to the Pension Fund.	2.9%	The same as for Contributions to the Pension Fund.	Quarterly reports to the Social Security Fund.	Quarterly — no later than the 15th of the month, following the reporting quarter.

Tax base	Rate	Deadline[2] for tax payment	Filing obligations	Deadline for filing reports
Accident insurance contributions to the Social Security Fund[20]				
Payroll and other payments to employees with certain exceptions (statutory welfare benefits, business-related expenses, etc).	Rates vary from 0.2% to 8.5% and are assigned on an annual basis by SSF depending on the type of FLE activity in Russia.	A monthly basis, due date corresponds to the date of salary payment, but should not be later than the 15th day of the following month.	Quarterly reports to the Social Security Fund.	Quarterly — no later than the 15th of the month, following the reporting quarter.

Non-tax reporting

Reports	Filing obligations	Deadline for filing report
Ecological levy[21]	Special reporting forms for different pollution types: atmospheric pollution, water pollution, waste disposal, noise and other. The levy has graduated rates (depending on the type of pollution)	Payments for specific instances is to be no later than the 20th day of the month, following the reporting quarter. For quarterly reporting, on specific violations the deadline is the 20th of the month, following the reporting quarter
Statistical Reporting[22] Structure of reporting package depends on the type of activity and size of a company[23].	Form P-4: Monthly — for entities with more than 15 employees; Quarterly — for entities with less than 15 employees.	Monthly — no later than the 15th of the month following the reporting month; Quarterly — no later than 15th of the month following the reporting quarter.
	Form 1-Invest: Quarterly for entities receiving or making foreign investments. Form 1-VES: Annually for foreign legal entities. Form 1-DA for for an entity working in the service sector.	Quarterly — no later than 15th of the month following the reporting quarter. Annually — no later than March 24 after the reporting year. Quarterly — by the 14st day of the second month following the reporting quarter.

If you have any questions, please contact Deloitte professionals in the Outsourcing and Tax compliance group at our Moscow office on +7 (495) 787 06 00.

[1] When statutory deadline for tax payment or report filing falls for week end or official holiday, the deadline is prolonged to the first working day after the due date.

[2] An explanatory note is recommended by the Moscow tax authorities, it should contain detailed information on an FLE's activity in Russia. The tax authorities of other regions might also have similar requirements. This issue is to be clarified with the regional tax authorities.

[3] Regional rates can be reduced according to the decision of the regional authorities, but not by more than 4,5%.

[4] Please note that these rates can be reduced based on Double Tax Treaty provisions.

[5] To be withheld by the tax agent from the amount of income due to an FLE. Please note, that the reports should be submitted to the tax authorities even if the income paid out is not subject to the taxation.

[6] Please note that these rates can be reduced, based on Double Tax Treaty provisions.

[7] Companies have the right to exemption from VAT if the amount of net sales revenue for three successive months was no more than RUB 2,000,000. The procedure for obtaining VAT examption requires presenting confirmation documents to the tax authorities no later than the 20th of the month, when the exemption is applied for 12 months consecutively.

[8] Taxpayers must maintain separate accounting records for expenses, and consequently for input VAT, related to activities taxable by VAT and VAT exempted . Failure to do so may mean that any input VAT will not be allowed for offset.

[9] To be withheld by a tax agent from an amount of income due to an FLE.

[10] According to the amendments put recently into the Russian Tax Code the movable property put on the books since 2013 will not be subject to property tax.

[11] Tax rate cannot exceed 2.2%. Regional authorities can also establish varied tax rates in accordance with the categories of taxpayers and property.

[12] Tax rate cannot exceed 0.3 - 1.5% depending on the category of a land plot. Local authorities and Moscow and St .Petersburg laws can also establish varied tax rates.

[13] Please note that for the purpose of this calendar, we do not provide information on legislative requirements for individuals submitting personal PIT declarations (3-NDFL) and paying the tax individually.

[14] Individuals (Russian and foreign), who spend more than 183 days in Russia during a 12 month rolling period (without taking into account breaks for study leave or medical care outside of Russia that do not exceed 6 months).

[15] Highly qualified specialists are eligible for 13% personal income tax rate (i.e. a rate applicable for tax residents) on income received from Russian employment even before qualifying as a Russian tax resident. Please note that according to the official clarifications, the Ministry of Finance qualifies the concept of income from the employment duties of a highly quilified specialist, covering only the salary, bonuses, and business trip payments.

[16] If the employer provides any benefits-in-kind to the employees and cannot withhold and pay the applicable amount of tax, the information regarding benefits-in-kind received by the employees should be provided to the tax authorities no later than one month from the end of the tax period.

[17] Insurance contributions are not payable in respect of foreign nationals temporary staying in Russia.

[18] The cap will be adjusted by the Government on annual basis.

[19] Companies should confirm the rate with the Social Security Fund for each year not later than 15 April of the current year.

[20] The ecological levy is not considered to be a tax payment and is regulated by the State Body Rostekhnadzor. The appropriateness and procedures for reporting and payments should be negotiated with this body.

[21] The ecological levy is not considered to be a tax payment and is regulated by the State Body Rostekhnadzor. The appropriateness and procedures for reporting and payments should be negotiated with this body.

[22] Please note that these reports do not provide for any taxes and levies to be paid, but disclose overall accounting figures with regard to the various activities of an entity.

[23] The current list includes only the main statistical forms that should be filed. There are other forms specifically assigned to each type of activity or property of the FLE.

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