

Doing Business in Russia

TAX

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Preface



Doing Business in Russia is intended as an introduction to the topics of interest to a foreign business contemplating an investment or doing business in Russia. The business environment is constantly changing and the information given should be regarded only as illustrative and not definitive. It has been prepared by KPMG in Russia and refers to the situation as of the date above. In order to anticipate how the business environment may change, a certain amount of subjective judgment is required. Consequently, it is essential that the information contained herein should not be acted upon without consulting with qualified professional advisers.

KPMG would be pleased, at any time, to discuss any matters relating to Russia with you and also to provide any further information you may require.



The Civil Code of the Russian Federation provides for various legal forms - general partnerships, limited partnerships, additional (or unlimited) liability companies, joint stock companies ("JSC" or the Russian abbreviation "AO"), limited liability companies ("LLC" or the Russian abbreviation "OOO") and others. The most common commercial organizations are joint stock companies and limited liability companies. The Civil Code also provides for not-for-profit organizations of various types.

Foreign companies conducting Russian business operations increasingly view a wholly-owned Russian subsidiary as a relatively quick and easy way of expanding their local businesses. For this reason, foreign companies tend to create subsidiaries with charters that are broad in scope and require a minimum capital investment.

In Russian, the legal entity's form, which is usually abbreviated, precedes its name. Thus, for example, Russian firms will generally be known as AO "name" or OOO "name".

Russian legal entities

Types of Russian legal entities ("RLEs")

The corporate law governing the rights and obligations of shareholders discussed below applies to both shareholders of a joint stock company ("JSC") and participants of a limited liability company ("LLC") unless specifically indicated otherwise. Shareholders (participants) have the power to amend the company's rules and bylaws, change its authorized capital, elect members of the board of directors, approve annual reports, and adopt decisions on reorganization and liquidation.

Parent liabilities

In general, a shareholder's or participant's liability is limited to the extent of the capital it has invested in the company including any unpaid amounts. However, in the event of the bankruptcy of a company, a "parent" may be held liable by a company's creditors if the parent's actions caused the subsidiary to become insolvent.

A "parent" is defined quite widely and includes control not only by reference to ownership, but also contractual or other relationships that allow a person, including a parent, to determine the decisions of the company. Application of these provisions is uncertain, which, in practice, often leads to investments in Russia being made through an offshore special purpose vehicle.

Joint stock companies

A joint stock company is one of the most commonly used Russian legal entity forms for business in Russia¹.

A joint stock company has shareholders and may engage in any form of commercial activity envisaged by its charter documents, provided that such activity is not prohibited by Russian corporate law or other legislation, subject to licensing where applicable (see below). A joint stock company may contract, undertake legal

¹ Joint Stock Companies are governed by the Civil Code of Russia, and Law No.208-FZ OF 26 December 1995 On Joint Stock Companies (JSC Law).

For information on organizing your business in Russia, ask for our Legal Info-Brochure “Organizing Your Business in Russia”, which answers frequently asked questions – e.g., how to register – and other tax and legal issues to be considered.

obligations, acquire property, and sue and be sued in its own name. A joint stock company may be either “open” (“OJSC”), meaning publicly held (with the Russian abbreviation “OAO”), or “closed” (“CJSC”), meaning privately held (“ZAO”). Both forms may issue common or preferred shares and debentures. Both forms are subject to statutory reporting requirements and regulatory restrictions, but the requirements for public disclosure are less rigorous for CJSCs.

No provision in the organizing documents can be made to prohibit a JSC shareholder from selling its shares. The shareholders of a CJSC, however, have non-waivable pre-emptive purchase rights.

Minimum capital and contributions

For an OJSC, the statutory minimum authorized capital is RUB 100,000 (approximately USD 4,255²), and 10,000 RUB (approximately USD 425) for a CJSC.

Different classes of shares are permitted; dividends and voting rights are equal for each share in a class. Shares in a joint stock company are considered “securities” under the Russian securities law and must be registered with the Federal Service for Financial Markets at the time of issuance.

Board of directors

The board of directors (often referred to as the “supervisory council”) of a JSC is responsible for the overall management of the company’s activities. The powers of the director(s) normally include all powers not specifically delegated to the realm of the general meeting of shareholders or other management bodies. However, these powers may be specifically limited by the company’s charter document or other applicable laws. Directors have broad fiduciary duties, and may be held individually or jointly liable for damages to the company resulting from their misconduct.

Accounting/dividends

Accounting records must be kept in roubles and according to Russian accounting rules (records may also be kept in parallel according to any other desired accounting standards, e.g., IFRS).

Dividends may be paid quarterly, semi-annually, or annually. The decision to pay dividends is made at the shareholder meeting, but the amount of dividends is recommended by the board of directors. Dividends are determined based on the financial statements prepared under Russian accounting and reporting standards.

Limited liability companies

Limited liability companies are also a popular form of corporate organization. LLCs are often used by foreign companies to conduct wholly-owned businesses in Russia³.

The minimum authorized capital for an LLC is RUB 10,000 (approximately USD 425).

The Limited Liability Company law provides for many similar provisions to those in the Joint Stock Company Law.

² All Russian rouble amounts have been converted at the rate of 23.50 RUB/USD on 1 April 2008.

³ LLCs are governed by: the Civil Code of Russia, and Law No.14-FZ of 8 February 1998 On Limited Liability Companies (LLC Law).

A notable distinction between LLCs and JSCs is the division of the capital of a LLC into “participations” or units, which are not considered securities under the Russian securities law, unlike shares in a JSC which are securities.

Unlike in a JSC, the sale of participations by a participant of an LLC can be restricted in the charter. Also, unlike a JSC, a participant may withdraw from an LLC at any time, requiring the LLC (or remaining participants) to provide it with a portion of the net assets of the LLC proportionate to its interest in the LLC.

Limitations on the sale of participation interests or preferential purchase rights or on the approval process for a transfer of participation may be included in the charter of an LLC.

Dividends and voting rights are determined by the participants in the Charter, although some restrictions on voting rights exist in the Limited Liability Company Law.

Registration

Registration of a legal entity takes at least 3 – 5 weeks, including 1 - 2 weeks after the submission of numerous required documents to the registration (tax) authority. When a foreign founder is involved, a number of documents need to be apostilled (or legalized), translated and notarized, which may mean that the registration process can take far longer than the aforementioned period. “Express” company formation services are advertised, but caution is advised in selecting such services, as it is often possible to register a company without performing all the necessary steps.

This often becomes apparent only when a change to the constituent documents is required and the change is rejected by the tax authorities due to an earlier failure in the registration process. Resolving such issues can be more time-consuming and costly than the original registration of the company.

“Off the shelf” companies are available, although it is not advisable to obtain a company in this manner. There are inherent risks, including potential liabilities (e.g., for taxes) involved in acquiring a company that may have been used for undisclosed purposes. Furthermore, in some cases the change in ownership of a company involving more than 20% of the shares requires prior approval from the Federal Antimonopoly Service. In all cases, a change in ownership must be registered which can take as long as the formation of a new company.

Foundation costs (LLC, CJSC)

The state fee for registration of a RLE (LLC or JSC) is RUB 2,000 (approximately USD 85), plus some other small amounts. The professional fees for the entire process of collecting documents, preparing organizational documents and presenting the documents to the Russian registration authorities typically range from RUB 350,000 to RUB 550,000 (approximately USD 15,000 to USD 25,000).

Registration period

The tax authorities finalize the state and tax registration of a company and then forward the documents for registration with the social funds and Federal Service for State Statistics without the involvement of the company being registered. The registration processes take 1 - 2 weeks (included in the 3-5 weeks above).

Bank accounts

Rouble and foreign currency accounts can be opened after registration. Prior to registration a so-called "cumulative" account is opened to pay the charter capital. Certain requirements established by the government and specific requirements which may be established by each bank must be met.

Payment of capital

For an LLC, 50% of the charter capital must be paid prior to state registration and the balance must be paid within the period established by the foundation agreement (but not more than one year from the date of state registration).

For a JSC, 50% of the charter capital must be paid within three months after state registration and the balance within the period established by the foundation agreement (but not more than one year from the date of state registration).

Charter capital contributions can be made in monetary form or in kind.

Debt may not be capitalized as a charter capital contribution.

Minimum number of participants or shareholders

Generally, only one participant or shareholder is required. Under a special rule, if a sole participant or shareholder of a Russian company (LLC or CJSC) to be formed is itself a company owned by only one participant or shareholder, the Russian company to be formed must have at least two participants or shareholders. A Closed Joint Stock Company with over 50 shareholders must be converted into an Open Joint Stock Company. A Limited Liability Company with over 50 participants must be converted into an Open Joint Stock Company or into a manufacturing cooperative.

Net assets position

If a company has net assets less than the minimum charter capital required by law for two consecutive years, the company is subject to liquidation. If the shareholders or participants do not proceed with a voluntary liquidation, government authorities may petition a court to liquidate the company and creditors may demand early termination or performance of obligations and compensation for losses. In practice, forced liquidation is rare if a company is complying with its payment obligations.

If a company's net assets on its balance sheet fall below its stated capital, a reduction in stated capital to net asset value is required.

For a JSC the amount of net assets on the balance sheet is determined on a quarterly and annual basis and disclosed in the quarterly and annual financial statements reported to the Russian authorities.

For an LLC, no requirement is stated in the Law for reporting the company's net asset position to the Russian authorities.

Liquidation, bankruptcy, reorganization

A company may be terminated by:

- A decision of a general meeting of the shareholders/participants to liquidate;
- A court decision if the company has become insolvent or bankrupt;
- A court decision in some cases of gross violation of law; and
- On expiry of the term or achievement of the goal for which the company was established.

Liquidation

The liquidation procedures include deregistration with the tax authorities and the establishment of a liquidating commission. The requirement for tax deregistration can cause significant delays in completing the procedures as a tax audit is often performed before tax deregistration is permitted.

Once a liquidation commission has been appointed, all rights to manage the company are transferred to the commission.

Bankruptcy

Bankruptcy law provides for the protection of an enterprise's creditors and outlines the procedures to be followed in the event of bankruptcy. Bankruptcy is understood as the inability to satisfy all pecuniary claims made by creditors or to meet and execute pecuniary obligations as recognized by a court. A legal entity is considered insolvent and consequently can be declared bankrupt by a court if it fails to meet pecuniary obligations for three months after the date such obligations were due.

Bankruptcy legal action can be initiated if the debt owed is more than RUB 100,000 (approximately USD 4,255) to a legal entity or RUB 10,000 (approximately USD 425) to an individual.

Reorganization

Mergers, consolidations, split-ups and spin-offs and transformations are permitted under the Civil Code, Joint Stock Company Law and Limited Liability Company Law. Such a reorganization involves a variety of steps to be undertaken which, in individual circumstances, can mean that the completion of such reorganization requires considerable time and effort.

Audit

An OJSC must undergo a Russian statutory audit annually. A CJSC is required to undergo an annual audit if it meets certain legal criteria. In particular, an audit is mandatory for the following companies, including Limited Liability Companies:

- Credit and insurance institutions
- Companies with annual revenue of over RUB 50,000,000 (approximately USD 2,127,415) or with total assets over RUB 20,000,000 (approximately USD 850,966).

Moreover, all JSCs are subject to audit at the initiative of the company's internal audit committee (internal auditor), by decision of the general meeting of shareholders or board of directors, or by demand of a shareholder or group of shareholders holding 10% or more of the voting stock.

Such an audit must be performed by an auditor or audit firm with a Russian audit license.

Foreign legal entities – branch or representative office

In lieu of participating in a Russian entity, a foreign legal entity ("FLE") may choose to establish a presence in Russia through a representative office ("RO") or branch ("Branch"). A RO is authorized to conduct certain "preparatory and auxiliary" activities for its head office. A Branch, on the other hand, is able to conduct all the activities which the head office itself could perform, including the execution of sales contracts. A foreign company may also maintain a RO or Branch and a wholly or partially-owned subsidiary in Russia.

A RO or Branch of a foreign legal entity ("FLE") in Russia is not regarded as a separate legal entity but as part of the same legal entity as the head office of the RO or Branch. Therefore, a RO or Branch is not subject to the same legal requirements as a Russian legal entity. In addition, the application of tax rules to non-residents of Russia may vary from their application to Russian legal entities depending on whether or not the RO or Branch constitutes a taxable presence in Russia (see discussion below). The currency regulations apply differently to representative offices and Branches than to Russian legal entities.

Parent liability

A RO or Branch is a legal part of the FLE. Consequently, the head office bears unlimited responsibility for the obligations and actions of the RO or Branch.

Tax status

A RO constitutes a taxable (rather than non-taxable) presence for the FLE in Russia depending on the actual activities performed by the RO and the availability of protection offered by an applicable double tax treaty ("DTT").

For Russian tax purposes, an FLE has a "permanent establishment" if it conducts certain business activities in Russia through a RO or other permanent place used for the regular performance of such business activities. Domestic rules for the determination of a "permanent establishment" are similar to those outlined in the OECD Model Tax Convention. A Branch, as a result of the scope of its legal authority and consequent activities, almost always constitutes a taxable presence.

Registration

A RO or Branch must be recognized with the government authorities through a process called “accreditation”.

A foreign legal entity is required to register with the tax and other authorities depending on the number of days in the calendar year during which the foreign legal entity has a presence in Russia. For further details see section “Taxation of business entities”.

Each RO or Branch of a foreign legal entity must be individually accredited. In general, each RO or Branch is responsible for its own tax and other filings.

Separate ROs or Branches of one foreign legal entity in Russia can file a consolidated VAT return. Furthermore, if the activities performed by different representative offices or Branches of one foreign legal entity in Russia constitute part of one technological process, Russian profits tax can be calculated for the representative offices or Branches on a consolidated basis.

Accreditation

The state fee for the registration of a branch is RUB 60,000 (approximately USD 2,553), plus USD 500–2,000, depending on the period of registration: one, two, three or five years. A RO can be accredited for one to five years, and the state fee for registration of an RO depends on the RO accreditation period: USD 1,000–2,500 in each case plus some other lesser fees. The professional fees for the entire process of collecting documents, preparing organizational documents and presenting the documents to the Russian registration authorities typically range from RUB 370,000 to RUB 520,000 (approximately USD 15,500 to USD 22,000).

Typical registration period

It normally takes 3-6 weeks to accredit a RO or Branch. The accreditation process requires a large volume of documentation to be prepared, authorized and, in many cases, notarized and apostilled (or legalized). The total time required can therefore exceed the registration period stipulated by the authorities.

Bank accounts

Rouble and foreign currency accounts can be opened. Certain requirements established by the government and specific requirements which may be established by each bank must be met.

Licensing

A number of activities are subject to licensing by the appropriate government authority, including, for example, banking, construction, and the sale of pharmaceuticals.

Whether established by law or practice it may not be possible to obtain certain licenses by a FLE operating through a Branch. In this case a RLE will be required. The licensing process can be very demanding with regard to documentary support and time-consuming and difficult to complete.

In those cases where a company undertakes a regulated activity without the appropriate license, a government agency (such as a tax inspectorate) may apply to the courts for the liquidation of the company and the confiscation of all income from the unlicensed activity.

Land ownership

The purchase of land is currently regulated by the Federal Land Code, which must be implemented through enabling legislation by each regional government authority. It is still generally difficult to acquire ownership of land in Russia.

Typically, land is available under lease (sometimes with a right of first refusal to purchase) for a maximum term of 49 years. Certain other restrictions also apply to the ownership of land, e.g., land adjacent to a border may not be owned by a foreign individual or a FLE.



Taxes may be categorized as follows:

- Federal taxes (1): These are applied throughout the Russian Federation at uniform rates, e.g., VAT;
- Federal taxes (2): These are applied throughout the Russian Federation at tax rates determined by the Tax Code but which may be reduced by the regional government authorities in respect of the portion of such taxes going to the regional budget, e.g., corporate profits tax;
- Local/regional taxes: These taxes are determined by the Tax Code and the local or regional government authorities and are collected entirely locally or regionally, e.g., property tax (a regional tax) and land tax (a local tax).

The above tax structure can result in different tax burdens in different locations. The comparison below focuses on the principal taxes in Moscow (most are Federal-level taxes although the rates may vary in other regions). Additional local and regional taxes in other regions may exist.

This structure also creates the need for local and regional filings and payments of taxes if a Russian legal entity has Branches in different regions.

Corporate profits tax

Tax base

Taxable profit is calculated as income less deductible expenses based on tax accounting data.

Generally, income is determined on an accrual basis. The cash basis is only allowed if average sales proceeds for four consecutive quarters are less than RUB 1,000,000 a quarter (approximately USD 42,550).

Expenses are deductible if they are incurred to generate income and also if they are economically justified and properly supported with documents. The documentation requirements in Russia are generally regarded as more onerous and burdensome than in many other jurisdictions.

Losses can be carried forward for 10 years.

A foreign legal entity is not subject to corporate profits tax on its net business income unless its Russian presence creates a “permanent establishment”. See discussion above. If a “permanent establishment” exists, profits tax may only be levied on the part of the profit of the foreign legal entity which relates to its operations in the Russian Federation.

Profits tax is levied at the individual entity level; there is no provision for fiscal unity or group relief.

Tax rate

The profits tax rate is generally 24%, which includes 6.5% for the federal budget and 17.5% for the regional budget. The rate can be lowered to 20% if the regional government authority reduces the regional rate from 17.5% to 13.5%.

Expenses deductible within limits

The following expenses are deductible for corporate profits tax purposes only within specified limits:

Type of expense	Limit
Advertising (certain types)	Up to 1% of sales proceeds
Entertainment	Up to 4% of payroll
Pension and life insurance for employees	12% of payroll
Medical insurance for employees	3% of payroll
Per diems	Within statutory limits

Depreciation and amortization

Depreciable or amortizable assets include fixed assets and intellectual property, respectively, used to generate income with an initial value exceeding RUB 20,000 and a useful life exceeding one year.

The following assets are not subject to depreciation or amortization:

- Property received with special purpose financing;
- Property acquired with state budget financing;
- Property not in service for more than three months;
- Property subject to modernization or reconstruction for more than 12 months;
- Books and art works;
- Fixed assets provided (received) for use without charge; and
- Land and other objects of nature.

Depreciation and amortization procedures for corporate profits tax purposes differ from those applicable under Russian statutory accounting. For profits tax purposes, the tax basis of a fixed asset is defined as the costs incurred in relation to such asset in order to place the asset in service for production, including purchase, transportation, installation and other costs.

The useful life of an asset is determined within the limits established by the Russian Government.

Two depreciation methods are available for profits tax purposes: straight-line and declining balance.

Interest

General terms

Interest on loans and other borrowings, as well as interest accrued on securities and other debt instruments, is deductible for corporate profits tax purposes if the interest rate was determined at “arm’s length” or the rate is within the following limits:

- refinancing rate of the Russian Central Bank (currently – 10.25%) multiplied by 1.1 - for debt instruments denominated in Russian roubles;
- 15% - for debt instruments denominated in a foreign currency.

Thin capitalization rules

Thin capitalization rules are applicable when:

- A Russian company has an outstanding debt (a “controlled debt”):
 - to a foreign company that owns (directly or indirectly) more than 20% of the Russian company’s share capital, or
 - to a Russian company that is an affiliate of the aforementioned foreign company, or
 - in respect of which an affiliated person or the foreign company itself acts as a guarantor, surety or otherwise guarantees repayment of the debt by the Russian debtor company, and
- The amount of such company’s unpaid loans (unsettled debts) exceeds the net assets of the Russian company more than three times (12.5 times for banks and leasing companies).

The excess interest (i.e., the amount of interest on the controlled debt exceeding the 3:1 or 12:5:1 ratio) is considered a dividend, which is non-deductible for profits tax purposes and generally is subject to withholding tax of 15% or lower rate under an applicable DTT.

Other income/expenses

Gratuitous receipt of assets from a parent company, a subsidiary, or an individual does not result in taxable income if:

- The ownership of the recipient or transferor in the charter capital of the other party to the transaction is more than 50%;
- The individual’s ownership in the company-recipient is more than 50%;
- The property received (except for money) is not disposed of within one year from the date of receipt.

Such exclusions are not applicable to debt forgiveness.

Exchange gains are included in taxable income and exchange losses from foreign currency transactions are deductible (with some exceptions), for profits tax purposes.



Filing and payment

All taxpayers should file their annual corporate profits tax declarations and pay the tax reflected therein by 28 March of the year following the reporting year. A taxpayer (including a foreign legal entity) may file profits tax returns monthly, based on the tax accounting results for the month, or quarterly with monthly estimated prepayments. In either case, an annual return is required with a final calculation and any necessary adjustments.

Tax accounting

The Tax Code requires taxpayers (including branches of foreign legal entities) to maintain separate accounts for profits tax purposes.

The methodology applied for corporate profits tax purposes should be clearly explained in the taxpayer's tax accounting policy. Once chosen, the tax accounting policy may not be changed during the financial year.

Specifically, a taxpayer must independently develop its tax accounting policy and apply it for at least two tax periods with respect to expenses treated as direct expenses and the method for valuing inventory.

If expenses cannot be allocated directly to a manufacturing process, such expenses are to be allocated on an economically justified basis.

Withholding tax

Tax rate

Russian source income which is not attributable to a permanent establishment, such as rent, royalties, interest and dividends as well as international transportation income received by a foreign legal entity, is subject to withholding tax.

There is no withholding tax on the repatriation of profits from a local Russian office (Branch or RO) to the head office.

Withholding taxes may be reduced or eliminated if the recipient is a tax resident in a country with a double tax treaty with Russia.

Appendix I includes a list of certain Russian double tax treaties and the withholding tax rates applicable under these treaties to dividends, interest and royalties.

In the absence of appropriate documents supporting treaty relief, the payer of such income must withhold tax. If tax is withheld even though treaty relief is available, a refund claim may be filed by the foreign recipient. This is, however, a time-consuming process and there can be no certainty that a refund will ultimately be obtained.

Tax withholding on dividends

A Russian company should withhold tax at the following rates from dividends paid and remit the tax to the federal budget:

- 0% - for dividends payable to a Russian company if this company owns at least 50% of shares of dividend payer for 365 consecutive days and if this company's investment in dividend payer exceeds RUB 500,000,000 (USD 21,275,000)
- 9% - for dividends payable to a Russian company or to a foreign company with a permanent establishment in Russia (as defined in an applicable double tax treaty);
- 15% - for dividends payable to a foreign legal entity;
- 9% - for dividends payable to an individual with Russian tax resident status;
- 30% - for dividends payable to an individual with Russian non-resident status.

Other tax withholding

The general rate of tax withholding is 20% (on interest, royalties, income from leasing and rental operations, etc). Tax withholding on freight income paid to a non-resident with no permanent establishment in Russia is 10%.

Capital gains from the sale of real estate located in Russia are subject to Russian tax at the following rates:

- 24% - on the net gain (sales proceeds less expenses) if the expenses for the acquisition of such property can be supported by appropriate documents;
- 20% - on gross income (sales proceeds) where documents to support expenses on the above sales are not presented by the recipient of income;

Capital gains by a foreign shareholder from the sale of a RLE are also exempt from withholding tax except where more than 50% of the assets of the RLE being sold consist of real property.

Profit repatriation by RLEs

Profits can be repatriated through a number of techniques, including: transfer pricing mechanisms, service charges, royalties and interest payments. These are, however, coming under increasing official scrutiny and often raise other tax issues:

- Transfer prices impact the amount of customs duty;
- Management services can create a taxable presence in Russia (permanent establishment) for the service provider;
- Consulting services can be challenged with respect to deductibility and are subject to VAT;
- Royalties charged must be economically justifiable;
- Interest is deductible up to a certain rate, but subject to the thin capitalization rules (see discussion in the Profits tax section above).

Transfer pricing

Currently, the Russian tax authorities are entitled to challenge the prices of the following transactions and impose additional taxes, late payment interest and penalties if the sales price deviates from the market level by more than 20%:

- transactions between related companies where one party to the transaction directly or indirectly owns 20% or more of the share capital of the other party;
- barter transactions;
- foreign trade transactions;
- transactions where the price deviates by more than 20% during a brief period.

These are one-sided adjustments in that a Russian seller with additional tax costs from a transfer pricing challenge will not lead to a reduced tax cost for a Russian buyer.



Value Added Tax

Tax base

Russian Value Added Tax (VAT) is generally designed as a tax to be borne ultimately by consumers, but collected through taxable persons on a basis similar to the EU model.

VAT taxable operations include:

- sale of goods (work, services) in the Russian Federation;
- transfer of goods (performance of work, provision of services) in the Russian Federation for the taxpayer's own use in respect of which expenses are not deductible for corporate profits tax purposes;
- construction and building projects for the taxpayer's own use;
- import of goods into the customs territory of the Russian Federation.

The taxable base for VAT on imports is the customs value of the goods plus customs duties, excise and customs fees. "Technological equipment" imported by a foreign company to invest in the charter capital of a Russia legal entity may be exempt from import VAT.

VAT tax is imposed as of the earliest of the following dates:

- the date of shipment of goods (performance of work, provision of services);
- the date of payment (full or partial) against future shipment (delivery).

Advance payments are included in the VAT taxable base at the time of receipt of monetary funds.

Input VAT

Input VAT (VAT on purchases and expenses) is recoverable if a number of requirements are met. The recoverability of input VAT does not depend on its having been actually paid to the supplier or on import.

Input VAT is not recoverable in respect of expenses or assets used in the manufacture or sale of products exempted from VAT, including those expenses or assets incurred for non-production activities. In certain circumstances input VAT recovery may be denied if the supplier has not paid over their output VAT.

If a taxpayer has net VAT due from the budget (input VAT is greater than output VAT), the tax authority conducts a desk audit of the submitted VAT declaration. Within seven days of the end of the desk audit the tax authority issues a decision on whether to refund VAT due from the budget. However, the tax authorities often require a taxpayer to carry forward VAT due from the budget for the offset of this amount against future VAT payable.

Tax rates

The general VAT rate is 18%. A reduced VAT rate of 10% applies to medical goods, books, periodicals, foodstuffs and children's clothes. The export of goods is subject to VAT at a 0% rate. Certain lines of business, including banking and securities transactions, are exempt from VAT altogether.

Withholding VAT

If a supplier of VAT taxable goods and services is not registered for Russian tax purposes with the tax authorities, VAT must be collected by a payer at the source of payment (as tax agent). For this purpose, an organization or individual entrepreneur conducting settlements on the basis of delegation, commission or agency contracts is considered a tax agent for goods sold by a non-registered foreign entity.

With some exceptions, VAT withheld at the source qualifies as input VAT.

The Russian Tax Code provides for goods and services place of supply rules which determine whether Russian VAT applies to certain cross-border transactions.

Filing and payment

All taxpayers should file their VAT declarations on a monthly or quarterly basis. The final settlement of tax is made on the same date as filing.

The submission of declarations and payment of VAT by a foreign legal entity with several branches in the Russian Federation can be performed on a consolidated basis by one division at the election of the foreign legal entity.

Customs

Import duties

Customs duties levied on imported goods are assessed at various rates (according to classification) applied to the customs value of the imported goods. The applicable rates for the most frequently imported commodities are significantly higher than those in most Western states. Customs rates usually vary from 5% to 20% and apply to goods from countries which enjoy most favored nation status with Russia. If goods come from developing countries with most favored nation status, the customs rates may be reduced. If goods come from a country that is not on the list of countries with most favored nation status, the customs duties are imposed at twice the normal rates.

Fixed assets imported into Russia as contributions in-kind by a foreign participant or shareholder to the charter capital of a Russian legal entity may be exempt from import customs duties if certain conditions are met. Currently, this customs duty exemption is broader than the import VAT exemption for "technological equipment".

Customs clearance is intended to be much simpler and faster due to new procedures (the so-called “Green Corridor”) developed by the Federal Customs Service. However, the customs authorities are exercising increasing control over customs applicants and many businesses still report customs clearance to be among the most troublesome issues they face in Russia.

Export duties and tariffs

Export duties are assessed on exports of certain raw materials (e.g., timber, oil, metals).

Export customs duty rates vary depending on the goods exported. The export duty on oil and oil products is reviewed every two months by the Russian Government based on the market price of oil.

State duties

The Tax Code defines a state duty as a fee charged on organizations and individuals for taking certain legal actions. The table below illustrates some of those legal actions and corresponding state duties.

Legal action	State duty
Registration of a legal entity	RUB 2,000 (USD 85)
Accreditation of a subsidiary of a foreign entity	RUB 60,000 (USD 2,553)
Registration of rights to real estate (FLE/RLE)	RUB 7,500 (USD 319)
Registration of rights to transportation facilities	From RUB 100 (USD 4) to RUB 400 (USD 17)
Licensing	From RUB 10,000 (USD 425) to RUB 100,000 (USD 4255).

Excise tax

Legal entities, organizations and individual entrepreneurs, which are producers and traders of excisable products (for example tobacco, alcohol, oil products and cars) are considered taxpayers.

Generally, excise tax is levied on the value of a taxable product.

A taxpayer can use registration certificates which permit a taxpayer to offset the tax due by deducting the amount of excise taxes paid earlier.

Excise tax is not imposed on exported goods.

Property tax

Property tax is assessed on all Russian and foreign legal entities owning property in Russia. For Russian legal entities and foreign legal entities with a permanent establishment in Russia, taxable property includes personal property and buildings treated as fixed assets based on Russian accounting standards. For foreign legal entities without a permanent establishment in Russia, only buildings are subject to property tax. The rate is set by regional legislation but may not exceed 2.2%. In Moscow, Moscow region and St. Petersburg the rate is currently set at 2.2%. The property tax base is equal to the average annual net book value of fixed assets for Russian financial reporting purposes (not for tax purposes). Land, water, and natural resources are not subject to property tax.

Taxes on land, water and natural resources

Land taxes

The land tax is imposed on taxpayers that use land based on ownership rights, rights of permanent use or lifelong heritable possession.

The land tax is imposed on land which is payable to the regional budgets. The Tax Code sets the tax base and reporting requirements, while the local authorities set the tax rate and filing period.

Water and natural resource taxes

The tax is imposed on taxpayers that use water resources to manufacture or produce hydroelectricity. The rate depends on the source from which the water is taken and the economic region in which it is located.

Another tax is imposed on taxpayers using fauna and water biological resources.

Finally, a tax is imposed on taxpayers recognized as sub-soil users based on the value of extracted mineral resources.

Payroll-related taxes

Each employer in Russia, including a Russian legal entity and a RO or Branch of a FLE registered in Russia, pays social security contributions - Unified Social Tax – to the Russian Pension Fund and contributions for injury and occupational diseases.

Unified Social Tax ("UST")

UST is assessed on the gross payroll of each employee and is payable by the employer to the Federal Budget, Social Insurance and Medical Insurance Funds. The Tax Code provides a regressive scale of annual UST rates as follows:

Tax base (RUB)	UST rate %
First RUB 280,000 (USD 11,915)	26
Next RUB 320,000 (USD 13,615)	10
Over RUB 600,000 (USD 25,530)	2

Russian Pension Fund

Contributions to the Russian Pension Fund are assessed on the gross payroll in respect of each employee and are paid on a regressive scale, depending on the employee's annual income. Contributions are capped at RUB 56,800 per annum per employee and are not payable on an individual's annual income above RUB 600,000.

Contributions to the Russian Pension Fund are deductible from UST (i.e., an employer reduces its current UST payment by contributions to the Russian Pension Fund). As a result, they do not actually represent an additional cost.

Insurance against injury and occupational diseases

Contributions to the Social Insurance Fund (for injury and occupational diseases) are payable in addition to the taxes set out above. The rate of contributions depends on the risk category into which the employer falls as determined by the fund. The current minimum contribution is 0.2 percent of payroll and the maximum is 8.5 percent.

Taxation of individuals

Individuals are subject to Russian personal income tax as either tax residents or non-residents. A tax resident is subject to personal income tax on worldwide income, whereas a non-resident is subject to personal income tax only on Russian-source income. Note that for these purposes, Russia source income will include any income from any payment source for performing services in Russia.

An individual is considered a Russian tax resident if physically present in the Russian Federation for 183 days or more during 12 consecutive months.

Tax rates

A flat personal income tax rate of 13 percent applies to all types of income with the following exceptions:

- 9 percent tax rate on dividend income from Russian and foreign companies;
- 30 percent tax rate on Russian-source income of non-residents, except for 15 percent tax rate on dividend income from Russian companies
- 35 percent tax rate on specific types of income, including: interest from bank deposits in excess of specified rates; material benefit from loans provided by organizations or individual entrepreneurs at a rate of interest less than the specified rate.

A Russian tax resident can benefit from standard, social, property and professional deductions in computing the taxable base.

Social deductions include educational expenditures (per taxpayer and each of his/her children) and medical expenditures (per family) up to a threshold of RUB 50,000 (approximately USD 2,127) each.

Property deductions include expenditures relating to the purchase and sale of real estate and personal property.

Professional deductions include expenditures for the creation of intellectual property rights.

All tax agents, including individual entrepreneurs, Russian legal entities and representative offices and Branches of foreign legal entities registered in Russia, must withhold tax on income paid to individuals and remit the tax to the budget.

An individual who has taxable income that is not subject to withholding, for example remuneration from outside Russia, is personally responsible for filing and paying the appropriate income tax.

A foreign citizen may be entitled to benefits under a double tax treaty. In this case certain information must be provided to the Russian tax authorities to claim such benefits.

Special tax regimes

The Tax Code provides for special tax regimes under which a taxpayer is entitled to pay one specified tax instead of a number of taxes. Such a regime may be applied if certain requirements are met. Special tax regimes include the simplified tax, unified agricultural tax, tax on imputed income and production sharing (not discussed further).

Simplified tax system

A company can use a simplified tax system if certain criteria are met, including but not limited to:

- The company's annual turnover does not exceed RUB 20,000,000 (approximately USD 850,966); and
- The net book value of fixed assets and intangible assets does not exceed RUB 100,000,000 (approximately USD 4,254,830); and
- It employs less than 100 people.

The simplified tax replaces the profits tax, VAT (except VAT paid on imports), property tax, and a portion of UST. Use of the simplified tax system does not exempt employers or individual entrepreneurs from making mandatory pension insurance contributions or withholding income tax from employees' compensation.

The following organizations may not use the simplified tax system regime:

- A Russian company with local branches;
- A FLE, RO or Branch of a FLE;
- An organization engaged in specified lines of business (e.g., banks, insurance companies, pension funds, investment funds, participants in [production sharing agreements], etc.); or
- A company where more than 25% of its capital is owned by other organizations.

The simplified tax rate is:

- 6% - if a taxpayer selects "revenues" as the tax base; and
- 15% - if a taxpayer selects "revenues less deductible expenses" as the tax base.

Unified agricultural tax

A taxpayer producing, processing and selling agricultural products may use a simplified tax system, provided that the share of income from the sale of agricultural products accounts for at least 70% of its overall sales income.

The unified agricultural tax replaces the profits tax, VAT (except VAT paid on imports), property tax and the portion of UST payable to the medical and social funds. The tax rate is imposed at 6% of revenues less certain deductible expenses.

Tax on imputed income

Regional authorities may impose a "tax on imputed income" on individual entrepreneurs and small companies. The tax rate is set by the local tax authorities for specific types of activities (e.g., public catering, retail trade). A taxpayer paying this tax is exempt from most other taxes. The imputed income tax does not exempt an employer or individual entrepreneur from mandatory pension insurance contributions. The tax on imputed income is imposed at the rate of 15% on the "imputed" revenue per month and is adjusted by special coefficients based on the type of land used, range of goods, seasonal factors, level of income, etc.

Transportation tax

Transportation tax is a regional tax payable on registered transportation vehicles (e.g., cars, motor bicycles, ships, aircraft, etc.) by the entities (or individuals) registered as the owners of such vehicles.

The tax base is usually determined based on engine power if applicable. The tax rate varies for different types of transportation facilities and may be increased or decreased by regional legislation.



The Foreign Exchange Control Law (the "Currency Law") regulates currency transactions in Russia. All currency transactions can be conducted without limitation unless a restriction is introduced by the Currency Law.

A resident that receives foreign currency proceeds from a non-resident must repatriate those proceeds to Russia.

Russian entities can perform transactions with roubles in Russia without any restriction. Generally, foreign currency transactions between residents are prohibited. The exceptions are transactions in duty free stores, certain transport operations, certain transactions performed under agency contracts and others. The foreign currency transactions between residents which can be performed without any restriction include:

- receipt and repayment of loans and interest;
- deposit and withdrawal of cash from bank accounts;
- certain transactions with bills of exchange issued by authorized banks;
- purchase and sale of foreign currency by individuals;
- payment of commissions to authorized banks.

Generally, foreign currency transactions between residents and non-residents can be performed without limitation.

Currency transactions between non-residents generally can be performed without restrictions.



Fines for Infringement of Tax Legislation

Russian legislation envisages tax, administrative and criminal liabilities for tax infringements.

The main types of tax infringements and liability are provided in Appendix II.



General approach

Currently, the principal law applicable to employment arrangements is the Russian Labor Code⁴.

Social partnership

The interests of the employer and employees are regulated by a system of social partnership in the following aspects:

- Negotiation of collective agreements;
- Mutual consultation on employment issues;
- Participation of employees in the management of the organization;
- Participation of parties in pre-court settlements between an employer and its employees.

Collective agreement

A collective agreement may be concluded between an employer and employees. The law does not require a collective agreement if neither party requests it. Trade unions normally represent employees when such a contract is concluded. The employer is represented by the General Director or his authorized representative.

The law allows the parties to define the content of a collective agreement independently; however, they may not be less favorable than those in the Labor Code. The collective agreement is subject to registration with the appropriate State Labor Office.

4

Labor Code of the Russian Federation of 30 December 2001 No. 197 FZ (as amended)

Role of trade unions

According to the Labor Code, when an employer makes decisions, the employer should consider the opinion of the trade union(s) if such exists. Trade unions in Russia are more typically formed at company level rather than on an industry-wide level as in other countries. If an agreement cannot be reached, the employer can adopt decisions unilaterally, although this action can be challenged in court.

Employment contracts

The Labor Code states that an employment contract should contain “essential” conditions (such as place of work, commencement of work, position, rights and obligations of the employer and the employee, salary and benefits) and “additional” conditions (such as probation, trial period, confidentiality).

Employment contracts may be concluded for:

- an indefinite term; or
- a fixed term of not more than five years.

Contracts with a fixed term are only allowed when employment relationships cannot be established for an indefinite term and specific conditions are satisfied.

In particular, fixed term contracts are permitted with the following employees:

- Directors, deputy directors, chief accountants;
- Employees working in companies created for a specific project;
- Part-time workers (having more than one job);
- If the work is temporary in nature.

Employers are required to conclude an individual written employment contract with each employee. After the contract's signing, a respective order for the employee's admission to work should be issued by the General Director.

In a fixed term contract, the term and the reason for defining the term of duration of the contract must be specified.

Trial period

Trial periods (up to a maximum of three months) are permitted to assess the suitability of employees for a position. Certain categories of employees are not subject to a trial period (e.g. pregnant women, minors, transferees). The trial period may be established for six months for directors, deputy directors, chief accountants, deputy chief accountants and directors of branches, representative offices or other divisions.

Salary

If the payment of salary is delayed by more than 15 days, the employee has the right to notify the employer and to stop working. In such cases, the employer may be obliged by court to reimburse the employee for each idle day in the amount of two-thirds of the average salary (calculated based on actual salary accrued and the actual working time for the past 12 months).

The employer must pay interest for each day of delay in payment of salary in the amount of no less than 1/300 of the refinancing rate of the Bank of Russia.

Criminal sanctions may be imposed on an employer if the payment of salary is delayed for more than two months – up to RUB 125,000 or deprivation of liberty for up to two years.

Currency issues

Russian legal entities with foreign investments are considered residents for the purposes of currency regulations, and may compensate their employees (whether foreign or not) in roubles or in kind (in-kind compensation may not exceed 20% of total salary). Branches or ROs of foreign legal entities may pay employees in roubles or in foreign currency.

Russian employees may receive foreign currency:

- By money transfer from outside Russia or from a local bank account of a foreign legal entity to a bank account of the individual in a Russian authorized bank;
- While outside Russia, while performing overseas duties for a foreign employer and bringing the foreign currency back into Russia on return.

Russian citizens may legally open foreign currency accounts with authorized banks in Russia. Foreign currency deposits may be made in such accounts and Russian citizens may withdraw cash from such deposits.

Employee rights

Russian employment legislation provides certain guarantees for employees, including among others:

- Wages for time spent away from work, for the performance of the functions of a trade union officer, appearing in court, going to vote, and fulfilling other state or social responsibilities;
- Severance pay in certain situations;
- Certain social benefits: maternity leave, paid holidays and vacation time;
- Limited overtime is permitted for certain workers, subject to certain conditions. Overtime is payable at the following coefficients: 1.5 times normal salary per hour for the first two hours, 2 times for subsequent hours. Employees may demand additional days-off as compensation for overtime;
- In general, employees are entitled to twelve days of paid Russian national holidays and annual leave of not less than 28 calendar days;
- Employees are generally entitled to sick leave benefits, paid by the Social Insurance Fund. The monthly amount of such statutory benefits may not exceed RUB 17,250 (approximately USD 734), although the first two days of sick leave are paid by the employer;
- Women are entitled to paid maternity leave for 70 days before and after childbirth as well as unpaid leave until the child's third birthday.



Severance

The Labor Code requires severance pay equal to at least two week's average earnings where an employment contract is terminated in certain circumstances, for example:

- Drafting or enlisting of an employee into military service;
- Refusal of an employee to be transferred to work in another locality together with the enterprise, institution or organization upon its relocation;
- Reinstatement of an employee who previously performed the work.

In the event of the dissolution of an enterprise, institution, or organization, or staffing cuts, a one-off payment of monthly average earnings is required with additional payments if the dismissed employee is unable to find work, but no more than two months. Redundancy provides another way to reduce employee numbers, e.g., a change in circumstances resulting in the elimination of a position. To eliminate a position by redundancy, at least 60 days notice must be given to the employee and severance pay must be made in an amount equal to two months' salary. In addition, if the employee is unable to find alternative employment, then up to two additional months' salary may be claimed from the former employer.

Labor book

Russian employment legislation requires that a work labor book ("trudovaya knizhka") be kept for each employee working for more than five days for an enterprise. This is the basic document concerning the activities of the employee, work performed by the employee, reasons for dismissal, etc. Firms are generally required to sign, stamp and hold such work record cards for their employees.

Amendments should be made to the labor book if there are any changes to material conditions of employment.

Termination of contracts

The grounds for terminating employment under Russian employment legislation include a number of situations, such as:

- Agreement of the parties;
- Expiry of the term of the employment contract;
- Cancellation of the employment contract at the initiative of management (as discussed below) or employee;
- Refusal of the employee to continue working due to a change in owner or subordination of the employer, or its reorganization;
- Refusal of the employee to continue work owing to relocation of the employer.

In general, an employee may terminate a contract by giving two week's advance written notice to the company, unless an earlier termination is mutually agreed. A fixed term employment contract may be terminated by an employee if he/ she is injured or disabled and unable to perform the required work, management violates employment legislation, the collective agreement or employment contract, or if the employee has other good grounds for doing so. In some limited instances, the employee may terminate an employment contract without prior notice.

In general, an employer may terminate a contract in the following cases:

- An employee submitted false documents when hired;
- An employee fails to discharge work duties on a regular basis for no good cause – is absent for no good cause, is inebriated at work – or discloses state, commercial information or internal confidential information of the employer, steals from the employer, fails to comply with labor protection requirements, resulting in significant damage;
- The director of a company or company branch commits a single violation of employment responsibilities;
- An employee with financial responsibilities commits an act in breach of the trust of the company.

Russian law stipulates that employment contracts cannot be terminated on the initiative of the employer with the following employees:

- Pregnant women or women with children under the age of three;
- Single women with children under 14 or disabled children under 16.

In the case of employees under 18, an employment contract may be terminated with the approval of the State Labor Inspectorate and Commission on Minors.

It may prove difficult to terminate an employment contract on the grounds that the employee is not suitable for the position unless there are clear job requirements with demonstrable failings by the employee. Courts generally rule in favor of the employee when considering cases of alleged wrongful dismissal. In practice, companies seek where possible to secure the employee's voluntary resignation.

Independent contractors

An independent contractor may be engaged pursuant to provisions of the Russian Civil Code relating to civil work contracts. Under a civil work contract, the contractor performs certain work at his/her own risk for the "customer" (employer). The contractor is required to use his/her own materials, unless otherwise stipulated by the contract.

However, if the nature of the contract or actual "employment" is effectively an employment agreement, a court is likely to uphold the applicability of labor law should a dispute arise.

Foreigners

Work permits for foreign employees

All foreign nationals employed in the Russian Federation must obtain a work permit. An employer wishing to hire a foreign national must request and obtain an authorization to hire foreign citizens and quota from the Federal Immigration Service. On the basis of the authorization and within the limits of the quota, the Immigration Service grants a named foreign national a work permit.

Appendix I: Schedule of Certain Double Tax Treaties



Country	Dividends%	Interest %	Royalties
Albania	10	10	10
Armenia	5 ¹ ; 10	0	0
Australia	5 ² ; 15	10	10
Austria	5 ³ ; 15	0	0
Azerbaijan	10	10	10
Belgium	10	10	0
Belorussia	15	10	10
Bulgaria	15	15	15
Canada	10; 15 ⁴	10	10
China	10	10	10
Croatia	5; 10 ⁵	10	10
Cyprus	5; 10 ⁶	0	0
Czech Republic	10	0	10
Denmark	10	0	0
Egypt	10	15	15
Finland	5, 12 ⁷	0	0
France	5, 10, 15 ⁸	0	0
Germany	5; 15 ⁹	0	0
Greece	5; 10 ¹⁰	7	7
Hungary	10	0	0
India	10	10	10
Indonesia	15	15	15
Iran	5; 10 ¹¹	7,5	5
Ireland	10	0	0
Iceland	5 ¹² ; 15	0	0
Italy	5; 10 ¹³	10	0
Israel	10	10	10
Japan/USSR	15	10	0; 10 ¹⁴
Kazakhstan	10	10	10
Kuwait	5	0	10
Kyrgyzstan	10	10	10
Korea (North)	10	0	0
Korea (South)	5; 10 ¹⁵	0	5
Lebanon	10	5	5
Lithuania	5; 10 ¹⁶	10	5; 10 ¹⁷
Luxembourg	10; 15 ¹⁸	0	0

Country	Dividends%	Interest %	Royalties
Macedonia	10	10	10
Malaysia/USSR	15	15	10;15 ¹⁹
Mali	10;15 ²⁰	15	0
Moldova	10	0	10
Mongolia	10	10	0
Morocco	5;10 ²¹	10	10
Namibia	5;10 ²²	10	5
Netherlands	5;15 ²³	0	0
New Zealand	15	10	10
Norway	10	10, 0 ²⁴	0
Philippines	15	15	15
Poland	10	10	10
Portugal	10; 15 ²⁵	10	10
Romania	15	15	10
Qatar	5	5	0
SAR	10;15 ²⁶	10	0
Slovakia	10	0	10
Slovenia	10	10	10
Spain	5, 10, 15 ²⁷	0, 5 ²⁸	5
Sri-Lanka	10;15 ²⁹	10	10
Sweden	5; 15 ³⁰	0	0
Switzerland	5; 15 ³¹	5;10 ³²	0
Syria	15	10	18;13,5;4,5 ³³
Tajikistan	5; 10 ³⁴	10	0
Turkmenistan	10	5	5
Turkey	10	10	10
Vietnam	10;15 ³⁵	10	15
UK	10	0	0
Ukraine	5, 15 ³⁶	10	10
USA	5; 10 ³⁷	0	0
Uzbekistan	10	10	0

- 1 5% - in case of investment in charter capital of not less than USD 40,000 or its equivalent in national currency of parties, 10% - in all other cases
- 2 5% - for the beneficial owners (legal entity other than a partnership) which holds directly at least 10%, if the participation exceeds 700 000 Australian dollars or its equivalent in rubles and if the dividends are exempt from Australian tax; 15% in all other cases
- 3 5% - for the beneficial owners (legal entity other than a partnership) of 10% of the capital, if the participation exceeds USD 100,000 or its equivalent in another currency; 15% in all other cases.
- 4 10% - for at least 10% investment in the voting stock (charter capital), 15% - in all other cases.
- 5 5% - for participation of at least 25% (this share should be not less than USD 100,000 or its equivalent in another currency), 10% - in all other cases.
- 6 5% - in case of direct initial investment of not less than USD 100,000, 10% - in all other cases.
- 7 5% - for the beneficial owners in a company (other than a partnership) of at least 30% holding of a company, investment of USD 100,000, 12% - in all other cases.
- 8 5% - (i) if the actual recipient of dividends has invested not less than FF 500,000, and (ii) if the actual recipient of dividends is the company subject to profits tax according to the legislation where it is resident, and such dividends are not subject to profits tax, 10% - if either of the conditions (i) or (ii) are not met, 15% - in all other cases.
- 9 5% - for participation of at least 10% (not less than DM 160,000), as was announced by the Russian Ministry of Finance and Ministry of Taxes and Duties, it was agreed that this condition should be observed at the moment of initial investment and should not be recalculated on an annual basis at the time dividends are paid. As Germany uses the EURO as the local currency from 1 January 2002, for investments made after that date, the minimum capital requirement to enjoy the reduced rate of withholding tax is established as EURO 81,806.7; 15% applies in all other cases.
- 10 5% - for the beneficial owners in a company (other than a partnership) of at least 25% of the capital; 10% - in all other cases.
- 11 5% - for the beneficial owners in a company (other than a partnership) of at least 25% of the capital, 10% - in all other cases.
- 12 5% - for the beneficial owners in a company (other than a partnership) which holds directly at least 25% of the capital and investment not less than USD 100,000 or its equivalent in another currency; 15% - in all other cases
- 13 5% - for participation of at least 10% (not less than USD 100,000), 10% - in all other cases.
- 14 0% - copyright of literary, artistic or scientific work including cinematography films and films or tapes for radio or television broadcasting, 10% - any patent, trade mark, design or model, plan, secret formula or process, or industrial, commercial or scientific equipment, or information concerning industrial, commercial or scientific experience.
- 15 5% - for participation of not less than 30% (and not less than USD 100,000), 10% - in all other cases.
- 16 5% - for the beneficial owners in a company (other than a partnership) which holds directly at least 25% of the capital and direct investment not less than USD 100,000 or its equivalent in another currency; 10% - in all other cases
- 17 5% - industrial, commercial or scientific equipment, 10% - in all other cases
- 18 10% - for investment of not less than 30% (and not less than ECU 75,000), 15% - in all other cases.
- 19 10% - any patent, trade mark, design or model, plan, secret formula or process, or any copyright of scientific work, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience; 15% - cinematograph films, or tapes for radio or television broadcasting, any copyright of literary or artistic work,
- 20 10% - for investment of at least 1,000,000 French francs; 15% - in all other cases.
- 21 5% - for participation of at least USD 500,000; 10% - in all other cases.

- 22 5% - for the beneficial owners in a company (other than a partnership) which holds directly at least 25% of the share capital and direct investment in the equity share not less than USD 100,000; 10% - in all other cases.
- 23 5% - for direct participation in the capital and investment of at least 25% (not less than ECU 75,000); 15% - in all other cases.
- 24 10% - general treaty rate, 0% - commercial loans in connection with a delay of payment for goods, equipment and services.
- 25 10% - for at least 25% participation for uninterrupted two year period, 15% - in all other cases.
- 26 10% - for participation of not less than 30% and direct investment in the equity share capital not less than USD 100,000 or its equivalent in another currency, 15% - in all other cases.
- 27 5% - for both (i) participation of at least ECU 100,000 and (ii) if the dividends are exempt from tax in the other state; 10% - if either (i) or (ii) conditions are met; 15% - in all other cases.
- 28 0% - if the actual recipient of interest is the government of the other contracting state, or for long-term bank loans (exceeding 7 years); 5% - in all other cases.
- 29 10% - for the beneficial owners (legal entity other than a partnership) which holds directly at least 25% of the capital; 15% in all other cases.
- 30 5% - for either 100% direct participation or 30% participation in a joint venture (for both cases the investment should not be less than USD 100,000), 15% - in all other cases.
- 31 5% - for participation of at least 20% (not less than CHF 200,000), 15% - in all other cases.
- 32 5% - bank loans, 10% - in all other cases.
- 33 18% - patent, trade mark, design or model, plan, secret formula or process, any computer software program, or for information concerning industrial, commercial or scientific experience; 13,5% - copyright of literary, artistic or scientific work; 4,5% - cinematography films, programs and recordings for radio or television broadcasting,
- 34 5% - for participation of at least 25%; 10% - in all other cases
- 35 10% - for direct investment in the equity share capital not less than USD 10,000,000, 15% - in all other cases
- 36 5% - for participation of at least USD 50,000; 15% - in all other cases.
- 37 5% - for at least 10% participation; 10% - in all other cases.

Appendix II. Fines for Infringement of Tax Legislation



Fines based on the Tax Code

Type of infringement	Penalty
Late registration with the tax authorities	<p>10% of the income received as a result of activity conducted without registration, but not less than RUB 20,000 (USD 851)</p> <p>If the activity is conducted without registration for more than 90 days – 20% of the income received as a result of activity conducted without registration over 90 days, but not less than RUB 40,000 (USD 1,702)</p>
Late submission of tax returns	<p>5% of the amount due for each full or part month late, but not more than 30% and not less than RUB 100 (USD 4)</p> <p>30% of the tax underpaid, plus 10% of the amount due for each full or part month late starting from the 181st day of a delay</p>
Gross violation of the rules for accounting for taxable income and expense items	<p>RUB 5,000 (USD 213)</p> <p>If committed in several tax periods – RUB 15,000 (USD 639)</p> <p>If it resulted in understatement of the tax base - 10% of the amount of tax underpaid (if any), but not less than RUB 15,000 (USD 639)</p>
Non-payment or underpayment of taxes	<p>20% of the tax underpaid as a result of the understatement of the taxable base or illegal actions</p> <p>40% of the tax underpaid if the tax underpayment was deliberate</p>
Non-withholding and/or non-remittance by a tax agent of taxes	20% of the tax not withheld and remitted by the tax agent

In the cases above, if the taxpayers correct the errors independently and pay the required additional taxes and fines, the penalties for incorrect accounting and incomplete tax payments are not imposed.

Penalties are charged in the amount of 1/300 of the Central Bank refinancing rate (10.25% as of 29 January 2007) for each day of delay in payment of tax. Currently interest would run at 0.0342% per day.

Fines based on the Administrative Code

Type of infringement	Penalty
Violation of terms of registration with the tax authorities	RUB 500 - 1,000 (USD 21 - 42) for missing registration deadlines; RUB 2,000 - 3,000 (USD 84 - 126), if the activity is conducted without registration
Violation of terms for submission of tax returns	RUB 300 – 500 (USD 13 - 21)
Non-submission of essential information for tax control purposes	For individuals – RUB 100 - 300 (USD 4 - 13), For officials – RUB 300 - 500 (USD 13 - 21) – non-submission of information, or incomplete submission of information essential for tax control

Fines based on the Criminal Code

The Criminal Code provides liability for tax evasion by an individual or a legal entity.

According to the Russian Criminal Code⁵, officials of a company are subject to criminal penalties for underpayment of taxes by the company.

In particular, large scale tax evasion is punishable by imprisonment for a period up to six years, prohibition from carrying out specific activities for three years and a penalty in the amount of RUB 200,000-500,000 (approximately USD 8,510 – 21,274) or in the amount of salary or other income of the offender for a period from one to three years.

Tax evasion is considered to be large scale if the amount of taxes unpaid to the budget over three financial years is more than RUB 2,500,000 (approximately USD 106,370), provided that the amount of unpaid taxes represents more than 20% of the overall amount of taxes due to the budget or exceeds RUB 7,500,000 (approximately USD 319,112).

⁵ The Criminal Code, Article 199

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