

Tax Newsletter
Deloitte
Central Europe



Tax news in Central European countries

Albania

VAT Instructions amended

Instruction No. 30 dated 12 May 2009 made a number of amendments to Albania's VAT law.

Rental of buildings

One of the most significant changes is a new option to treat a rental supply of a building either as an exempt supply or a taxable supply. Previously, this was considered a taxable supply. A taxable person can now submit an application to the tax authorities requesting that the supply be treated as exempt or taxable. The request must be in writing and submitted to the Regional Tax Directorate where the subject is registered and provide details about the lease, such as the names of the parties, tax identification number and address.

Tax representative

If a tax representative has not been appointed, all obligations and penalties imposed fall on the Albanian beneficiary of the supply.

Penalties

Penalties will be imposed on the tax authorities for late reimbursement if they fail to make a VAT reimbursement to a taxpayer within 30 calendar days from the date a request was submitted.

Social security contributions

Effective 1 May 2009, the minimum and maximum salary base for purposes of calculating social and health insurance contributions is ALL 16,120 and ALL 80,600.

Tax-Free Zone

On 11 June 2009, the Council of Ministers approved the creation of a tax-free economic zone in the region around Vlora, covering an area of approximately 478 hectares. The zone is designed to encourage domestic and foreign investment and accelerate development of the area.

The existing economic zone law (Law No. 9789, "On the development and functioning of economic zones," dated 19 July 2007) defines an economic zone as an area with special "free zone" or an "industrial park" status. Free-zone status is granted to a specified area of land and/or buildings and other immovable property that are used for production and commerce.

A free economic zone offers several tax advantages, in particular, an exemption from customs duties and VAT in respect of goods that enter the free zone from licensed persons and services rendered to such licensed persons within the free zone.

Goods that enter the free zone from a different part of the customs territory of Albania and are not in transit are entitled to the same reliefs as goods destined for export, meaning a VAT rate of 0%. Infrastructure services that are offered from a different part of the Albanian customs territory to licensed developers and users of the free zone also receive the reliefs granted to export services, such as VAT at the 0% rate.

The following goods and services, however, are not entitled to the benefits of the customs duties or/and VAT exemptions (the list is not exhaustive):

- Goods that have entered the free zone but are missing are subject to customs duties and any tax that would have been due at the time they entered the zone.
- Goods that leave the free economic zone to enter a different customs territory of Albania and are not destined for transit in another state are in free circulation only if tax liabilities are satisfied as if the goods were imported goods.
- Goods that are produced in the free zone and the value of any components produced in the free zone must be deducted from the value to calculate the taxable base for customs duties purposes. Other taxes, such as VAT, are calculated based on the full value.
- Goods for personal use that enter the free zone are subject to customs duties and other taxation.

Tax treaty news

Albania has continued to make progress in expanding its tax treaty network during the first half of 2009.

Singapore

A treaty signed with Singapore on 28 May 2009 still must be ratified before it can enter into force.

Slovenia

The Albania-Slovenia tax treaty signed on 27 February 2008 entered into force on 4 May 2009, and will apply as from 1 January 2010. The following summarizes the principal benefits under the treaty with Slovenia:

Income from immovable property

Income derived by a Slovenian resident from immovable property situated in Albania may be taxed in Albania.

Dividends

Dividends paid by an Albanian entity to a Slovenian resident shareholder that holds directly 25% or more of the capital of the Albanian entity paying the dividends are subject to a 5% withholding tax; otherwise, the rate is 10%.

Interest

Interest paid by Albanian entities to a lender in Slovenia is subject to a 7% rate.

Royalties

The withholding tax on royalties paid to a resident of Slovenia is 7%.

Capital Gains

Capital gains derived from the alienation of the following assets may be taxed in the source country:

- Gains from the alienation of immovable property may be taxed in the country where the property is situated;
- Gains from the alienation of shares deriving, directly or indirectly, from 50% or more of the value from immovable property may be taxed in the country in which the property is located; and
- Gains from the alienation of movable property connected to a permanent establishment or fixed base may be taxed in the country it is located.

Permanent establishment

A service provider would be deemed to have a PE, and income would be considered as business profits if services (e.g. consultancy services) are provided in Albania through employees or other personnel engaged for a period or periods aggregating more than six months in the relevant calendar year, or are engaged for a period or periods aggregating more than 12 months in a building site, construction, or assembly and installation project, or for the supervision of such projects.

Independent personal services

Income derived from professional and other services of an independent character would be taxed only in the state where the service provider is resident. However, the source state also would have taxing rights if one of the following applies:

- The service provider has a fixed base in the source state; or
- The service provider exceeds a 183-day stay within a 12-month period.

Other income

Income not expressly covered by articles 6-21 of the treaty would be taxed only in the country of residence of the recipient, except where the income is attributable to a permanent establishment or fixed base in the other country through which the recipient carries out business activities or independent personal services, respectively.

Bosnia and Herzegovina

Corporate Income Tax Law

The new Corporate Income Tax Law of the Federation of Bosnia and Herzegovina (FBiH), which applies from 1 January 2008, reduced the corporate income tax rate from 30% to 10%. The same rate applies in Republika Srpska (RS) and the Brcko District (BD). The corporate income tax law of the FBiH provides attractive tax exemptions for all taxpayers, as follows:

- A taxpayer that derived more than 30% of its total turnover from export activities within one calendar year is exempt from corporate income tax for that year;
- A taxpayer that invests at least KM 20 million (approximately EUR 10 million) in the territory of BiH within a period of five consecutive years is exempt from corporate income tax for five years, starting from the first year of the investment provided at least KM 4 million is invested in this first year. Taxpayers must undertake certain actions and provide the competent tax authorities with evidence proving their entitlement to these exemptions; and
- A taxpayer employing more than 50% of disabled persons and persons with special needs for more than one year are exempt from corporate income tax for the year in which more than 50% of disabled persons and persons with special needs were employed.

Amendments to the FBiH corporate income tax law, published in the Official Gazette on 16 June 2009, make changes to the tax treatment of specific loan expenses. Expenses arising from provisions for potential loan losses made by banks and microcredit companies in accordance with specific regulations will be considered tax deductible items.

New Excise Duty Law

By signing the Stabilisation and Association Agreement with the EU and eliminating and scaling down the custom duties on products from the EU, public revenue from customs has decreased significantly. In response, the new Excise Duty Law of the BiH, published in the Official Gazette 49/09 on 22 June 2009 makes changes to the duties on cigarettes, coffee and petrol. Cigarettes are subject to a proportionate duty - 42% of the retail price and a specific duty of BAM 0.15 per pack. There is also a minimum excise duty on the most popular brand of cigarettes and the one that has the most sales in Bosnia and Herzegovina. Duty on coffee is payable on

import per kilo. Excise duty on raw coffee is BAM 1.5, roasted coffee BAM 3 and other coffee products BAM 3.5. Petrol is subject to an additional BAM 0.10 per litre of duty, with this revenue directed to the construction of highways fund. For petroleum products, duty is payable per litre, on diesel fuel and other oils at BAM 0.30, petroleum BAM 0.30, lead-free motor fuel BAM 0.35, motor fuel BAM 0.40 and light distillate oil BAM 0.30.



Bulgaria

Tax treaties

A new tax treaty between Bulgaria and Austria has been signed and is expected to apply as from 1 January 2010. Compared to the current treaty, the new treaty increases the level of source taxation, as it allows a withholding tax (at 5%) for interest and royalties, and in some cases for capital gains from the disposal of shares (at 10%).

Social security

Council Regulation (EC) No 1408/71 applies as from 1 June 2009 in respect of the coordination of the social security schemes of Bulgaria and Switzerland. The social security (totalization) agreement between the two countries still applies for cross-border posting of workers up to 31 May 2009.



Croatia

New Rules for Tax Relations and Procedures

As from 22 May 2009, new rules set out requirements for parties to be deemed to be acting in good faith in tax law relationships, what is considered a business unit, the form and content of reporting forms for individual taxpayers with respect to the acquisition of property, and the method for monitoring taxpayer assets and sources of acquisition.

Business Permit Issuance to Foreigners

Regulations that came into effect on 27 February 2009 prescribe the procedures relating to the issue and renewal of business licenses of a foreign founder of a company, a foreigner who holds a company share of at least 51%, a foreigner who owns a small business if he/she is a co-owner of a joint small business that is registered for business in Croatia, and a service provider on behalf of a foreign employer. The Regulations are in force from 27 February 2009.

Money Laundering and Terrorist Financing Regulations

Four sets of regulations that came into force on 1 July 2009 are designed to prevent money laundering and terrorist financing. The regulations address the following:

- Prescribe conditions under which persons providing services which are subject to the Prevention of Money Laundering and Terrorist Financing Act can concede an in-depth examination of their clients to an independent third party;
- Set out the manner and deadlines for the provision of information from magistrate's procedures to the Money Laundering Prevention Office;
- Set out the manner and deadlines for the provision of information relating to money laundering and terrorist financing to the Money Laundering Prevention Office; and
- Prescribe conditions under which the for persons providing services which are subject to the Prevention of Money Laundering and Terrorist Financing Act can classify a person as one that presents a minor risk for money laundering or financing of terrorism.

Excise Tax Act

A new Excise Tax Act has been enacted to standardize national excise tax rules with EU legislation. The act prescribes a new system of excise taxation of alcohol and alcoholic beverages (including beer), tobacco products, energy (including natural gas, coal and coke) and electricity, which are produced or imported into and released for consumption in Croatia. The act also contains definitions of objects of taxation, rules for the production, storage, movement and control of these products, and payment of the tax. The new Excise Tax Act enters into force on 1 January 2010.

Taxation of wins from games of chance

The Games of Chance Act introduces a tax on winnings from games of chance. The tax is paid by an individual who derives profits from such games, at a rate of 15% on wins from HRK 30,000 to HRK 500,000 and at a rate of 20% on wins over HRK 500,000. Tax on gains from games of chance is calculated and charged on the win payout, and the calculation and payment must be made by the sponsor of the games. The new rules enter into force on 1 January 2010.

Amendments to the Value Added Tax Act

The VAT Act has been amended to partially align Croatia's rule with EU rules in anticipation of accession to the EU. The most significant changes relate to withdrawals, the provision of free samples, entertainment expenses, car expenses, VAT-exempt services and registration for VAT purposes. The Act enters into force on 1 January 2010.

Czech Republic

Shortened Depreciation Period for Assets

It will be possible to depreciate assets included in the first and second depreciation groups acquired in the period from 1 January 2009 to 30 June 2010 over a shortened period (see table below). The assets will have to be depreciated on a monthly basis starting in the month after the requirements for putting the assets into use have been met.

Asset type	Current depreciation period	Amendment
I. Depreciation group	3 years	1 year
II. Depreciation group	5 years	2 years

The implementation of the new rules likely will give rise to some issues that will be discussed between officials of the Ministry of Finance and tax advisors on the "Coordination Committee". Of particular interest will be the treatment suggested by the Ministry of Finance in cases where the depreciation of assets was initiated before 1 January 2009, such as, for instance, the purchase of a large production line which encompasses a number of parts. Similar problems will emerge regarding internally generated assets in situations where the work related to their origination commenced before 1 January 2009. In an extreme case, the Ministry of Finance could use an interpretation that the shortened depreciation period will be applicable only with respect to assets acquired after 1 January 2009.

A similar provision shortening the obligatory term of a lease contract will be effective with regard to assets included in the first and second depreciation groups acquired under finance leases. This provision did not become effective on 1 January 2009, but instead on the date of the Amendment, applying only to newly concluded contracts. As a result, the period over which entrepreneurs will be able to make use of the new requirements for the conclusion of lease contracts will not take 18 months, but will be shorter by almost six months.

Deductibility of Costs on Income Generated in Czech Republic

Under an amendment to the Income Taxes Act that became effective on 20 July 2009 and applies retroactively from 1 January 2009, tax residents from EU/EEA Member States will have an opportunity to file

a tax return at year-end where it will be possible to deduct costs related to certain types of income derived from the Czech Republic. This possibility will apply specifically with regard to license fees and interest paid abroad where the recipient cannot credit the tax withheld in the Czech Republic against its tax liability. Although tax returns for 2009 will not be filed until 2010, potentially affected taxpayers should begin to examine any potential costs that would be deductible from income subject to withholding tax to ensure that appropriate action can be taken to benefit from the new rules.

"Millionaire's tax"

One of the anti-crisis packages contains a proposal from the Social Democratic Party (ČSSD) that would introduce a "millionaires' tax". The most recent proposals presented by the ČSSD clearly show an intent to change the current concept of a 15% flat tax on income and reintroduce the progressive taxation without applying the "super-gross salary" concept. The tax base would be calculated as the total amount of taxable income decreased by social security and health insurance contributions paid by the employer.

While the current personal income tax rate effectively represents taxation at a rate of 20.10% (up to the cap of the assessment base on social security and health insurance of CZK 1,130,640) rather than 15%, due to the "super-gross salary" concept, the 20.10% tax rate seems beneficial, even in comparison with the rates in other EU countries.

Unfortunately, the proposed change in concept was not presented in a comprehensive manner. The information presented at ČSSD's press conference indicates an intent to introduce a progressive income tax rate and increase the cap on social security and health insurance from the current 48th multiple of the average salary to the 72nd multiple. One of the options also involved abolishing the caps. The proposal listed a rate of 38% as the limit for the highest income group, which would be applicable on the tax base starting at CZK 1,200,000. Although the individual rates of the progressive tax have not been revealed, from the information available and assuming the caps will be retained (but increased), we can expect an impacts on the net income of employees and a change in the amount of company expenses.

Example:

Gross monthly income (CZK)	Net annual income (CZK) 2009	Net annual income after the change (CZK)	Increase in company expenses (CZK)
100,000	862,809	775,440	23,582
150,000	1,372,809	1,142,952	192,209
200,000	1 882,809	1,514,952	192,209

Under the proposed change in the concept of tax base calculations and personal income tax rates, an employee with a monthly income of CZK 100,000 would receive CZK 87,369 less in net income annually. An employee with a monthly income of CZK 150,000 would receive CZK 229,857 less and an employee with income of CZK 200,000 would receive CZK 367,857 less. The expenses of employers would increase by CZK 23,582 and CZK 192,209 in the latter two examples.

Although these proposals have not been finalized and it is not possible to predict the results of the October Czech parliamentary elections, the proposals should be taken seriously because if approved, the changes would apply in 2010. Companies whose employees earn medium and higher incomes should prepare for the situation now. For this reason, we recommend that companies review their current methods of remuneration, the structure of employee benefits, the setting of equity, option or bonus plans, etc. Those who are prepared for the potential change will be able to at least partially mitigate the negative impacts on the amount of employee net income or the increase in the company's expenses.

VAT

The Ministry of Finance recently ruled on several recommendations submitted during the meetings of the Coordination Committee of the Chamber of Tax Advisers and the Ministry of Finance. Of the conclusions reached, two significant ones are as follows:

- As part of the meeting of the Coordination Committee regarding the contribution of non-monetary assets, the regime governing such contributions was clarified which, until 2008, depended on whether the recipient was a taxpayer. The Ministry of Finance stated that the taxpayer condition must be assessed at the time the increase

in the share capital is recorded in the Register of Companies, rather than at the date of the taxable supply.

- Based on the Coordination Committee's meeting regarding the provision of drinking water and drinks at work in hot workplaces, the Ministry of Finance admitted that the taxpayer is entitled to an input VAT deduction for the purchase of drinking water and drinks at work and, at the same time, there is no obligation to pay the related output VAT.

Data Boxes

The Act 300/2008 Coll. on Electronic Actions and Authorised Document Conversion, which became effective on 1 July 2009, is designed to accelerate, simplify and reduce costs relating to communication between public bodies and citizens and between public bodies themselves.

A data box will be established by the Ministry of Interior for all public bodies, from minor municipalities to courts and tax authorities to health insurers, within 90 days from the date the Electronic Actions Act enters into effect. At the same time, data boxes will be established for all corporate entities and organisational branches of international entities recorded in the Register of Companies as well as corporate entities established by law, and insolvency administrators. The data boxes will be set up free of charge, although they will be compulsory.

Kosovo

Tax Administration and Procedures

Law No. 03/L-071, "On Amendments and Supplements to Law No. 2004/48 on Tax Administration and Procedures" provides the following changes.

Tax Investigation Unit

The Director General will have authority to establish a Tax Investigation Unit, which will have the following powers in cases where there is a suspicion of tax evasion or criminal failure to meet tax obligations:

- Investigate transactions where tax evasion may be involved;
- Obtain bank records, including those of any account or transaction that is applicable to a tax investigation;
- Interview taxpayers or other persons that are deemed to be involved in tax evasion or other criminal violation of the tax laws;
- Carry out tax assessments and collect evidence from third parties;
- Have direct access to the Customs Service during the assessment and clearance of goods of taxpayers;
- Make direct referrals to the competent officials for bringing criminal charges; and
- Carry out other duties as may be assigned or delegated by the Director General.

Deregistration of Taxpayers

A taxpayer has the right to deregister for tax purposes only if the taxpayer has submitted the closing balance sheet and has no outstanding tax liabilities with the Kosovo tax authorities (TAK). Once the TAK receives a notice of deregistration, it must verify the tax situation of the taxpayer within 60 days and, if necessary, conduct an audit. If the taxpayer has not met requirements for deregistration, the taxpayer so be notified in writing. If the taxpayer has not received a written notice within 60 days, it will be considered deregistered. Deregistration from the active register does not eliminate outstanding tax liabilities.

Allowable Expenditures

In calculating taxable income, corporate taxpayers may deduct amounts paid in or outside Kosovo provided the costs relate (in whole or in part) to economic activities carried out during that tax period and documentary evidence is available to support the expenses.

With respect to claims for deductions, damages, destruction or the burning of goods, the taxpayer must provide documentation issued by competent bodies; otherwise, the goods will be considered as goods that have been sold.

Where a taxable person possesses goods without proof of origin, the goods may be seized by the TAK.

Cancellation of tax certificates

The Director General can nullify tax documents issued by the TAK if it is determined that the tax legislation has been violated. Such nullification can be made by publishing a notice in the local newspapers and/or on the tax administration website to ensure that other businesses are aware of the withdrawal and its impact on their ability to engage in legal transactions with that business.

Interest on late payments

When a taxpayer submits a request to the TAK for payment of tax in accordance with an installment agreement, interest will not accrue from the month in which the agreement is reached. Failure to comply with the agreement will result in reinstatement of interest due.

Order of payments

Changes have been made to the order of payments of outstanding tax liabilities as follows:

1. Collection costs;
2. Tax due;
3. Penalties and fines; and
4. Interest.

Credits and refunds

Tax paid in excess of the amount of tax due must be applied to the taxpayer's current liability for any other tax or pension contribution due. The TAK must notify the taxpayer in writing when excess tax paid is applied to another tax liability, advising the taxpayer of the amount applied, the tax and the applicable tax period. Where the taxpayer has no other outstanding tax debts or where an amount of tax overpaid remains after applying the excess to other outstanding liabilities, the taxpayer is entitled to claim a refund from the TAK. The claim for credit and refund of an overpayment of tax must be filed within six years from the date the tax was paid.

Attachment of lien on property belonging to third party beneficial owners

If a person who is liable to pay any tax neglects or refuses to pay the tax within 10 days after receiving an assessment notice, a lien will be placed on all of the taxpayer's property. The lien also attaches to property belonging to a third party who is deemed to be a beneficial owner of a business that has incurred a tax liability, even though the business is registered in another name and the tax liability has been incurred in that other name. The lien expires six years from the date of assessment and the tax due not be collectable after that date, except in the following circumstances:

- The taxpayer appeals a tax assessment, in which case the six-year period is extended for the period from the date the TAK receives the case until such a final decision is issued, or the period allowed for appeal has expired, plus an additional six months;
- The tax debt has been placed under the jurisdiction of a competent court or the Independent Review board, in which case the six-year period is extended for the period from the date the case is received by the court until the court or board decision is rendered, plus an additional six months;
- The taxpayer is a socially-owned enterprise subject to privatization;
- The taxpayer is a central publicly owned enterprise, or local publicly owned enterprise, in which case the six-year period is extended indefinitely and the lien does not expire until the liabilities of the publicly owned enterprise are fully satisfied; or
- The taxpayer is outside Kosovo for a period longer than three months, in which case the six-year period is extended for the period the taxpayer is outside Kosovo and for an additional six months after his/her return to Kosovo.

The taxpayer and TAK may mutually agree to extend the period for collection by written agreement, which in general shall not exceed 24 months. The assessment date for computation of the six-year collection period is the date of the assessment notice.

Exchange transactions and third party information reporting

All persons engaged in a trade or business are obliged to make a true and accurate reporting of purchases to the TAK, provided: a) they are taxed on a real income basis; b) the annual amount of goods and services purchased is equal or larger than EUR 500; and c) the goods and services are purchased from another taxable person. The annual declarations must be submitted to the tax administration by 31 July of the following year. Failing to submit the information return will result in a penalty of up to EUR 500.

Deadline for an appeal

The deadline to file an appeal against an assessment or other official decision of the TAK is reduced from 60 days to 30 days and the deadline for appealing against an official decision of the TAK can be extended if the reasonable circumstances exist that might have prevented the taxpayer from meeting the deadline and such circumstances are out of taxpayer's control. In addition, the new law also reduced the deadline for appealing a decision of the Appeals Department to the Independent Review Board from 60 days to 30 days from the date of the decision of the Appeals Department.

Administrative penalties

The administrative penalties imposed by the Kosovo tax authorities for tax violations have been amended as follows:

- An administrative penalty of 5% of tax due may be imposed for every month or part thereof that it is late, up to a maximum penalty of 25%;
- The administrative penalties for failing to pay tax are reduced from 2% to 1% of tax due for each month or part thereof that the payment is late, up to a maximum of 12 months;
- An administrative penalty of EUR 500 may be imposed on taxpayers carrying out business activities without a Fiscal Certification;

Administrative penalties for understatements of tax due and overstatement of tax refunds are modified as follows:

- 15% where the underestimate of tax due or overestimate of a tax refund differs by 10% or less;
- 25% where the underestimate of tax or overestimate of refund differ by more than 10%; and
- 100% where the underestimate of tax due and overestimate of tax refund was intentional and willful, provided such decision is concluded by a competent court;
- A penalty for failure to file (or filing an inaccurate or incomplete) an information statement may be imposed in the amount of EUR 125;
- Penalties for failure to create or retain records are as follows:
 - Entities with annual turnover up to EUR 30,000: EUR 125;
 - Entities with annual turnover between EUR 30,000 and EUR 200,000: EUR 250;
 - Entities with annual turnover of EUR 500,000 and above: EUR 1,000.

- The base for calculating the administrative penalty is the turnover of the previous year, and for new businesses, the basis is the turnover of the current year. A person who is required to provide access to books or records and fails to do so will be subject to an administrative penalty of EUR 100 for each day of default following the date specified by the TAK;

VAT penalties are as follows

Persons making supplies without being registered for VAT are liable for the VAT due on the supplies plus an administrative penalty of:

- 15% of the VAT due if the taxable sales are less than EUR 10,000 where the failure to register was due to negligence;
- 25% of the VAT due if the taxable sales are more than EUR 10,000 if the failure to register was due to negligence; and
- 100% of the VAT due on supplies, where the failure to register is due to a deliberate and willful attempt by the taxpayer to not pay VAT on the supplies, determined by a competent court in a criminal tax evasion case.

A taxable person failing to issue a VAT invoice or who issues an incorrect invoice that results in an apparent decrease of the VAT due or an increase of the amount of credit claimable, will be liable for that decrease/increase, plus a administrative penalty of 15% or 25% or 100%, depending on the amount of the invoice or transaction and on the intent of the taxpayer.



Lithuania

On 22 July 2009, the Lithuanian Parliament adopted several changes to the tax laws, which came into force from 4 August 2009;

Personal Income Tax

The rules governing benefits in kind have been amended, as a result of which the measures that became effective on 1 January 2009 do not apply when calculating income for 2009. Instead, these provisions will come into force on 1 January 2010. Also beginning in 2010, the concept of income in kind will be expanded to include benefits such as the use of company cars for private purposes, interest-free loans from employers, etc.

As from 2010, individual's carrying out registered business activities will be able to opt for a simplified method of calculation of allowable deductions. An individual will be able to treat a fixed amount totaling 30% of income derived from individual activities as allowable deductions (subject to certain limits) without having to provide documentation for the deductions. If an individual chooses not to apply this method, he will have to collect and be able to submit documents proving all deductions to the tax authorities. Finally, as from 2010, individuals carrying individual business activities will be able to deduct representation expenses (subject to limitations); this is currently not possible.

Health Insurance Contributions

As from 1 January 2010, the taxation of income of sole proprietors and general members of partnerships will change. Insurers will have to pay a 3% health insurance contribution and the above individuals will have to pay a 6% health insurance contribution. The taxable base for health insurance contributions is the same as that for social security contributions.

Non-regular income of individuals (e.g. dividends, capital gains, rental income) will not be subject to health insurance contributions as from 1 January 2010, except for grants set out in the law on sickness and maternity social insurance paid from the State Social Security Fund that are subject to personal income tax. These grants will be subject to a 6% health insurance contribution.

Social Security Contributions

As from 1 January 2010, calculation of the taxable base for Social Security Contributions (SSC) will change for

certain taxpayers. The taxable base for sole proprietors and general partners of partnerships will be equal to the amount withdrawn from the proprietorship/partnership for personal purposes during a calendar year but not less than a minimum monthly salary per month.

As of 1 January 2010, the taxable base of SSC for individuals engaged in registered individual activities will be 50% of taxable income derived from the activities. Farmers and their partners will pay SSC on income derived from taxable farming activities, an annual amount of which may not be less than 12 times the minimum monthly salary and may not exceed 12 times the annual insured income. These provisions will apply to income of farmers and their partners where the agricultural holding exceeds 14 European size units (recalculated each year).

As of 1 January 2010, taxable base of SSC on income from copyright agreements, income from sports and performing activities derived by tax residents of Lithuania will be reduced by 50%.

Withholding tax

As from 1 January 2010, interest received in Lithuania by entities registered in the European Economic Area or a country that has concluded a tax treaty with Lithuania will be exempt from withholding tax at source. Under the transition rules for the application of the EC Interest and Royalty Directive, a 5% withholding tax applies to interest paid to the qualifying EU entities until 31 December 2009.

Interest paid to entities registered in other countries will be subject to a 10% withholding tax at source, i.e. 10 percent withholding tax will still be applicable in cases where interest payments are made to enterprises not registered in countries that are EU Member States, Norway, Lichtenstein or Iceland and countries that are not parties to double tax avoidance treaties concluded with Lithuania.

Value Added Tax

The standard VAT rate was increased from 19% to 21% on 1 September 2009. Reduced VAT rates (5% on certain pharmaceutical products and 9% on books and non-periodical press) will continue to apply until 31 December 2010. From 1 September 2009 until 31 August 2010, the 9% reduced VAT rate will apply on heating energy supplied to residential premises and for the purpose of water heating.

Poland

Tax effective step-up

According to current regulations under the Corporate Income Tax Act and the position of the tax authorities, it is possible to obtain a tax-free increase of the depreciation basis of certain assets for tax purposes (i.e. step-up). Up to 19% of the market value of the assets may be saved as a result of the step-up. The following assets (preferably significantly amortized and carrying high hidden reserves) generally may be subject to the step-up:

- trademarks and certain other intellectual property; and
- real estate and other fixed assets (including immediately depreciated low value fixed assets).

A tax free step-up can be generally achieved upon the contribution in kind to an existing or newly established limited partnership (or other tax transparent type of partnership). The value of the contributed assets recognized for tax purposes may be increased in a tax-free manner to their market value.

Certainty of the tax treatment of such a structure is possible by obtaining a binding ruling from the Polish tax authorities before the structure is implemented.

Up to now, based on the prevailing practice of the Polish tax authorities, the chances for obtaining a positive binding ruling were estimated to be high, both for corporations and individuals. However, the Polish tax authorities have recently started issuing negative rulings on these structures. For example, the Director of the Tax Chamber in Warsaw, in a binding ruling dated 25 June 2009 (No. IPPB1/415-288/09-2/AG) relating to an individual planning an in-kind contribution of a trademark into a newly established limited partnership, stated that such a contribution should be treated as a disposal of the trademark for consideration (in form of a share in the partnership). Accordingly, the value of the trademark defined in the partnership agreement (which is the basis for determining the partner's capital contribution) will constitute taxable income from business activities of the individual.

This ruling appears to signal a significant change in the Polish tax authorities' approach to the tax-neutral nature of step-up structures involving partnerships. There is a risk that such structures may not be available in the near future or at least the likelihood of receiving a positive ruling may significantly decrease. Affected taxpayers should review their step-up opportunities and consider immediate action.



Romania

Emergency Ordinance No. 34/2009 of 14 April 2009 introduced a number of measures in the Tax Code (published in the Official Gazette No. 249).

Corporate Income Tax

Minimum Annual Tax

Corporate income taxpayers are required to pay a minimum tax based on the amount of total income derived as at 31 December of the previous year. The minimum tax is as follows:

Total annual income (RON)	Minimum annual tax (RON)
0 - 52,000	2,200
52,001 - 215,000	4,300
215,001 - 430,000	6,500
430,001 - 4,300,000	8,600
4,300,001 - 21,500,000	11,000
21,500,001 - 129,000,000	22,000
Over 129,000,001	43,000

If the corporate income tax is less than the minimum annual tax corresponding to the above amounts of income, the taxpayer must pay the minimum tax.

The Emergency Ordinance also provides details on the quarterly computation and payment requirements of the minimum tax for registered taxpayers, newly incorporated businesses, and for banks and their Romanian branches.

Nondeductible expenses

Fuel expenses are nondeductible for corporate income tax purposes for the period 1 May 2009 through 31 December 2010, unless the expenses are incurred in respect of one of the following types of vehicles:

- vehicles exclusively used for intervention, repairs, security or courier services, the transportation of personnel to and from the premises where the activities are carried out, specially adapted vehicles used for mobile television broadcasting, and vehicles used by sales agents and recruitment agents;
- vehicles used for paid transportation services (e.g. taxi services); and
- vehicles used for rental activities.

Revaluation reserves

Revaluation reserves for fixed assets, including land, made after 1 January 2004, which are deductible for corporate income tax purposes by way of depreciation or the writing off of the assets, will be taxable at the time tax depreciation is taken or at the time the assets are disposed of or written off.

VAT

VAT deductibility

No deduction will be granted for input VAT paid upon the acquisition of vehicles used for passenger transportation and input VAT related to the supply of fuel until the end of calendar year 2010, except for vehicles are used for the following:

- special purposes such as: intervention, repairs, security or courier services, transportation of personnel to and from the premises where the activities are carried out, and vehicles used by sales agents and recruitment agents;
- transportation of persons for payment, including taxi activities;
- their right to be used is transferred under a finance or operating lease or they are used to supply services for consideration; and
- commercial purposes, specifically for resale.

Domestic exemptions

The subsequent supply of motor vehicles used exclusively for passenger road transportation will be VAT exempt if they have been allocated to a VAT-exempt activity and the input VAT paid on the supply was not deductible.

Change of fiscal period

The VAT declaration period for taxable persons that are registered as quarterly VAT payers will change from a quarter to a calendar month with respect to intra-Community acquisitions, without the possibility to return to the previous declaration period.

Penalties

As from 1 May 2009, the penalty for failure to submit EC Lists on time, or the submission of an incorrect or incomplete return is 2% of the amount of the intra-Community supplies/acquisitions that have not been declared or that are incorrect. This fine will be reduced by 50% if the taxpayer corrects the statement by the legal deadline for the submission of the next list. Previously, the penalty ranged from approximately EUR 2,890 to EUR 3,400.

No penalty will be imposed if the taxpayer submits a corrected declaration before the deadline for submitting the statement or when the error results from facts or circumstances that cannot be imputed to the taxpayer.



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