

**DOING  
BUSINESS  
IN**

**Russia**



**Inspired Around the World**



**Russian Group**

*doing business  
in Russia*

# *foreword*

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Laws in the Russian Federation that regulate businesses and taxes are numerous and complex. Therefore we would advise you to consult an HLB International member firm in the Russian Federation before taking any specific action.

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# *contents*

<b>FOREWORD</b>	2
<b>ABOUT HLB INTERNATIONAL</b>	4
<b>ABOUT HLB RUSSIAN GROUP</b>	5
<b>GENERAL INFORMATION</b>	6
Geography	6
Economy	7
International Economic Links and Membership of International Trade Organisations	7
Government	7
Legal System	8
Population	8
Business Habits	8
<b>INVESTMENT FACTORS</b>	10
Governmental Policy and Incentives	10
Sources of Finance	11
Foreign Exchange Control	11
Employment Regulations	12
<b>TYPES OF BUSINESS ORGANISATIONS</b>	15
Principal Forms of Business	15
Formal State Registration of Commercial Organisations	17
Accounting and Audit Requirements	18
<b>TAXATION</b>	19
General Structure of Taxation	19
Tax Registration	19
Transfer Pricing	19
Corporate Profit Tax	20
Value Added Tax (Vat)	23
Personal Income Tax	24
Corporate Property Tax	26
Mineral Extraction Tax	26
Taxation System for Agriculture	27
Social Security Contributions	27
Customs Duty and Fees	27
Tax Treaties	28
<b>CONTACTS IN RUSSIA</b>	30

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Member firms provide clients with a comprehensive and personal service relating to auditing, taxation, accounting and general and financial management advice.

Up-to-date information and general assistance on international matters can be obtained from any of the member firm partners listed in this booklet or from the Executive Office in London.

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# *about HLB Russian Group*

HLB Russian Group is an association of independent audit and consulting firms all incorporated in the Russian Federation. Each firm is a member of HLB International.

The objective of creating HLB Russian Group was to raise the profile of HLB International and its member firms in Russia by developing joint opportunities in Russia, co-operating with common marketing activities, implementing internationally accepted high standards of quality to the clients and sharing best practice.

Over the years member firms of HLB Russian Group have built a strong reputation in the local markets approved by Statutory Banks and Financial Institutions by serving over 50% of the Top 100 Russian businesses across all industry sectors.

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# general information

## GEOGRAPHY

### Global Position and Boundaries

Russia extends over much of northern Eurasia occupying about 1/3 of its territory and about 1/8 of the Earth's inhabited land area. Occupying 17.1 million km<sup>2</sup>, Russia is the largest country in the world.

Extending for 57,792 km, the Russian border is the world's longest. Along the 20,139-kilometer land frontier, Russia has boundaries with 14 countries: Norway, Finland, Estonia, Latvia, Lithuania, Poland, Belarus, Ukraine, Georgia, Azerbaijan, Kazakhstan, Mongolia, the People's Republic of China and North Korea.

Russian shores are washed by 13 seas of three oceans – the Arctic, Atlantic and Pacific. Russia shares a maritime boundary with the USA and Japan.

### Administrative and Territorial Divisions

Administratively the Russian territory includes 83 administrative territorial divisions (so called constituent entities of the Federation according to the Russian Constitution): 21 republics, 54 krais and oblasts (provinces), one autonomous oblast, four autonomous areas and two federal cities (Moscow and St. Petersburg). All federal territories are consolidated in eight federal districts.

### Topography

The large extent of the Russian territory causes the variety of topography. The largest natural zone of Russia is the taiga, or forest zone, which stretches from the western borders to the Pacific shore. The Arctic seaboard to the north of forest zone belongs to the tundra zone. Territories of the European part located to the south from the forest zone are the steppe, or plains. Finally, the coast of the Black Sea, the extreme south of the European Russia, belongs to the subtropics.

The Ural Mountains stretching in meridian direction from the Arctic Ocean to the northern border of Kazakhstan form the natural boundary between two unequal parts of Russia – European (smaller) and Asian (larger), which is known as Siberia.

European Russia is a large plain edged with the Caucasus Mountains in the south. To the east

of the Urals is the largest plain in the world, The West Siberian Plain, stretching to the Yenisei River. Lands eastward of the Yenisei are mainly mountainous areas.

Russia is the outlet to the Caspian Sea, which in fact is a lake, the largest in the world by area (371,000 km<sup>2</sup>). In the south of Siberia there is another big lake – Baikal, the deepest in the world (1,642 m). The lake contains roughly 20% of the world's unfrozen surface fresh water.

### Climate

The bulk of Russia lies within the zone of temperate climate. Only in the Far North areas is the zone of polar climate, and the coast of the Black Sea enjoys a humid subtropical climate.

However, due to very large territory of Russia, even within the temperate zone the climate can differ greatly.

The humid continental climate of European Russia is comparatively mild – rather damp and not so cold.

In Moscow, which is situated at the latitude of Copenhagen and Glasgow, winter comes in November and ends in March. The normal temperature in January is –8°C to –5°C (18°F to 23°F). Thaws are not uncommon. Frosts of –25°C (–13°F) and lower are considered extreme and occur seldom. Summer lasts from the end of May till the end of August and sometimes can be very hot.

The arid and cold climate of Siberia is much more rigorous. It is characterized by substantial daily and seasonal fluctuations of temperature, a long and cold winter and a hot but short summer. Two places in the Republic of Sakha (Yakytia), namely Verkhoyansk and Oymyakon, are considered to be the northern pole of cold, where the lowest officially registered temperature was reached –68°C (–90°F).

### Natural Resources

Russia is rich in mineral resources, first of all in mineral fuels.

The country may possess as much as half of the world's coal reserves. The largest deposits of coal are located in central and eastern Siberia, but the most developed fields are in western Siberia and in the European part (north-eastern region, the area around Moscow, the Urals).

Estimated resource of natural gas held by Russia can reach more than 40% of the world's reserves. It can be found along the Arctic coast of Siberia, in the North Caucasus and in north-western Russia.

Russia holds 7th or 8th place in the world in the petroleum reserves. The largest oil basin is Western Siberia. Substantial reserves of oil are also in the North Caucasus, in the Volga-Urals region, in the basin of the Pechora River (north of European Russia), in Eastern Siberia, on Sakhalin Island.

Russia holds large reserves of iron ore. The largest iron ore deposit is Kursk Magnetic Anomaly, near the Ukrainian border.

Russia also contains most of the nonferrous metals. Major reserves of copper are located in the Norilsk area (north of eastern Siberia), in the Urals and east of Lake Baikal. Aluminium ores are scarce and are found primarily in the Ural region, north-western European Russia and south central Siberia.

The country has one of the largest gold reserves in the world, mostly in Siberia and the Urals.

Largest diamond deposits are located in Yakutia (Eastern Siberia).

Eight percent of the land is used for arable farming, four percent — for permanent pastures. Most fertile lands suitable for farming are located in the north of European part. 46% of the land (809 million hectare) is covered with forests and woodland, which makes the country very rich in reserves of timber.

## ECONOMY

Russia has the 8th largest economy in the world by nominal GDP and the 6th largest by purchasing power parity. Nominal GDP in 2012 was more than USD 2 trillion (per capita USD 14,037).

Between 2000 and 2011 the growth of GDP averaged 8% annually. However, in 2013 economy development slowed down.

In 2013 the average monthly salary was RUB 29,900 (about USD 850, up from USD 80 in 2000). Unemployment is about 5%.

The foreign exchange reserves of Russia exceed USD 500 billion (5th position). Excess income from the export of oil and natural gas is being stored in the Stabilization Fund of Russia. The latter helped Russia to come out of the global financial crisis in a much better state than many experts had expected. In 2006, Russia repaid most of its formerly massive debts, leaving it with one of the lowest foreign debts among major economies.

The Russian economy is based on heavy industry, mining industry and agriculture. Russia is a

large producer of oil and natural gas products, chemicals, iron, steel, cement, timber, electricity and coal.

The national currency is the Russian Rouble (RUB).

## INTERNATIONAL ECONOMIC LINKS AND MEMBERSHIP OF INTERNATIONAL TRADE ORGANISATIONS

Foreign trade volume in 2012 totalled USD 900.6 billion with a positive balance of USD 184.4 billion (exports USD 542.5 billion, imports USD 358.1 billion, 9th and 16th positions respectively).

Main export items are oil and oil products, natural gas, metals, timber and woodwork, chemicals, cereal, weapons. Import items: transport vehicle and other machinery, pharmaceuticals, plastics, meat, fruit, optic and medical equipment.

Main consumers of Russian exports are the Netherlands, China, Italy, Germany, Poland. The bulk of imported items come from China, Germany, Ukraine and Italy.

In 2012 Russia joined The WTO.

Within the Commonwealth of Independent States there is an organisation of economic collaboration called the Eurasian Economic Union, the members of which are Russia, Belarus, Kazakhstan, Tajikistan and Kyrgyzstan. Within the framework of that Union Russia, Belarus and Kazakhstan formed a Customs Union. The territories of the three countries are common economic space.

## GOVERNMENT

According to the Constitution adopted in 1993, Russia is a democratic federally structured semi-presidential republic with the President as the head of state and the Prime Minister as the head of the Government.

The President is elected by popular vote for a six-year term (eligible for a second term, but not for a third consecutive term). The President is the Supreme Commander-in-Chief of the Armed Forces, can veto legislative bills before they become laws and appoints the Government.

The Constitution provides for the division of power into three branches: legislative, executive and judicial.

The legislative branch is the bicameral Federal Assembly, consisting of the 450-member State Duma (lower house) and the 166-member Federation Council (upper house). The State Duma adopts federal laws. The Federation Council approves or rejects draft laws passed by the State Duma.



Executive power is exercised by the Government which comprises the Prime Minister, Deputy Prime Ministers and Federal Ministers who head federal ministries, federal services and federal agencies.

Judicial branch includes:

- the Constitutional Court;
- the Supreme Court and lower general jurisdiction courts (consider civil, criminal and administrative cases);
- the Supreme Arbitration Court and lower Arbitration courts (consider disputes arising from economic activity, including tax disputes).

Russia's constituent entities of the Federation have their own legislative and executive bodies.

## LEGAL SYSTEM

The Russian legal system is based on statutory law (continental system) rather than case law. However, Arbitration Courts normally take into consideration court practice. The basic act is the Constitution. Then follow federal constitutional laws, federal laws, and the laws of subjects of the Federation. The President and the Prime Minister can also issue decrees.

The Constitution recognizes the priority of the norms of international law over the domestic ones. However, treaties concluded by the Russian Federation shall not contradict the Constitution.

## POPULATION

The population of Russia is about 143.6 million people (2014, estimation).

Although the population of Russia is large (9th position in the world), because of the country's huge territory the density of population is only about 8 people / km<sup>2</sup>. It is distributed extremely unevenly: 78% of the people live in the European part, while in Chukotka (extreme eastern territory) the density is less than 0.07 people / km<sup>2</sup>. 73% of the population lives in urban areas while 27% in rural ones.

As of January 1, 2013, 15 cities had populations exceeding 1 million people:

City	Population, million	Region
Moscow	11,980	West of the European part
Saint-Petersburg	5,028	The Baltic Sea coast
Novosibirsk	1,523	Western Siberia
Yekaterinburg	1,396	The Urals

Nizhny Novgorod	1,260	The Volga Region
Kazan	1,176	Tatarstan (the Volga Region)
Samara	1,172	The Volga Region
Omsk	1,161	Western Siberia
Chelyabinsk	1,156	The Urals
Rostov-on-Don	1,104	The Azov Sea coast
Ufa	1,078	Bashkortostan (the Urals)
Volgograd	1,019	The Volga Region
Krasnoyarsk	1,016	Eastern Siberia
Perm	1,014	The Urals
Voronezh	1,004	Southwest of European part

For almost all the post-Soviet period the population was decreasing. Since 2009 the process of depopulation has stopped, and now records show a small natural growth of population which is added to by a substantial inflow of migrants, mainly from the former USSR countries (except the Baltic states).

The average age is 39 years.

The territory of Russia is a homeland not only for ethnic Russians, but also for more than 100 ethnic groups which are very diverse by their languages, culture, traditions and religion. 80.9% of population is ethnic Russians. The second are Tartars (3.87%), a Turkic ethnic group whose homeland is Tatarstan, a republic in the Mid-Volga region. The third group is Ukrainians (1.41%), who ethnically are very close to Russians.

Russia's traditional religions are Orthodox Christianity, Islam, Judaism and Buddhism.

## BUSINESS HABITS

One of specific features of doing business in Russia is the necessity to do a lot of paperwork at every stage of a business process, which is caused by traditionally exacting documentation requirements. A written form for a foreign economic contract is a must. Any delivery, transfer of assets, provision of services etc. shall be accompanied by drawing up a deed of acceptance (called act), usually not only in electronic form but also as a hard copy. Foreigners who come to Russia for business find such an intensive paperwork excessive and burdensome.

Foreign businessmen who deal with Russia should be understanding about this feature and sign and return back without delay all papers sent to them for signature by their Russian counterparties.

The development of personal relations is important in Russian business as well as in social life.

Usually the business day in Russia begins at 9 a.m. and ends at 6 p.m. The country is divided into 9 time zones, from UTC+3 to UTC+12 (with the exception of UTC+5) both in winter and in summer. Moscow time is UTC+4. Business days are all days except days off (Saturday and Sunday) and public holidays (January 1 to 8, February 23, March 8, May 1 and 9, June 12 and November 4). Business activity mostly ceases during the first ten days of January.

# investment factors

## GOVERNMENTAL POLICY AND INCENTIVES

### Legislation on Foreign Investments

At the federal level foreign investors are guaranteed their investments and profits by a special federal law on foreign investments. The law says that a foreign investor's rights to conduct business in Russia and to dispose of profits earned in Russia cannot be less favourable than a Russian investor's ones.

Certain limitations can be introduced by federal laws only to protect constitutional order, morality, health and rights of other persons, state defence and security. As an example of such a limitation can be given certain restrictions on foreign investors investing in the capital of Russian companies that have strategic significance for Russia ('strategic companies'). i.e. companies carrying out certain activities, such as: activities related to dealing with nuclear materials and nuclear devices, activities related to the use of encrypting facilities and bugging devices, activities related to weapons and military equipment etc.

The property of foreign investors or companies with foreign participation cannot be seized (nationalized, requisitioned) except in the cases specially stipulated by federal or international laws. Should such a case occur, the value of the seized property and other losses must be reimbursed to the foreign investor.

The law guarantees the right of foreign investors to repatriate or to reinvest profits of all kind legally gained in Russia and remaining after the payment of Russian taxes and duties.

The law on foreign investments does not apply to foreign investments in banks, insurance companies and non-profit organisations which are subject to regulation by special laws.

### Skolkovo Innovation Centre

A foreign company that is focusing on new technologies development and ready to do its business in Russia may benefit from the residency of the Skolkovo Innovation Centre.

Being eager to change from an oil-oriented economy to a technology-oriented one, the Russian Government established a special Innovation Centre in Skolkovo, in the close vicinity of Moscow. A special federal law was adopted to

regulate its activity ('Skolkovo Law'). The project is aimed at increasing Russia's innovation potential and boosting R&D activities in specific fields of technology, namely:

- energy efficiency and saving technologies;
- nuclear technologies;
- space technologies, first of all telecommunications and navigation systems, including ground infrastructure;
- medical technologies;
- IT technologies.

Residents of Skolkovo shall meet the following requirements:

- Russian legal entity;
- permanent executive body and other bodies / persons authorized to act without proxy shall permanently reside in the Centre (from 2016);
- constituent documents allow conducting only R&D activities in accordance with Skolkovo Law;
- the observation of Skolkovo Law provisions and Rules of the Project.

Skolkovo residents can enjoy the following tax and customs duty benefits:

- corporate profit tax exemption;
- VAT exemption (optionally, for a period of up to 10 years);
- corporate property tax exemption (for a period of up to 10 years);
- reduced social security contribution rate of 14% on annual remuneration up to RUR 626,000 threshold and exemption for remuneration exceeding the threshold (see 'Social security contribution' section);
- reimbursement of customs duties paid for imported qualifying equipment if certain conditions are met.
- the Law also provides simplified procedures for attracting foreign labour (see 'Status of foreigners' section of 'Employment regulations' section);
- permits to attract foreign employees are not required;
- attracting foreign employees is not subject to the quota system;
- simplified procedure of arranging invitations for entrance to Russia;
- foreign employees can be recognized as a 'highly skilled specialist' regardless of

the amount of their salary(see 'Status of foreigners' section of 'Employment regulations' section).

The Law restricts some powers of governmental agencies and local authorities in the territory of the Skolkovo Innovations Centre, which, in fact, enjoys a special legal regime.

### Special Economic Zones

Russian special economic zones (SEZ) can be established with the goal to develop manufacturing and high tech industries, tourism and recreation, port and transport infrastructure, to promote new technologies development and commercialization. They can be of four types:

- industrial SEZ;
- innovation SEZ;
- tourism & recreation SEZ;
- port SEZ.

In addition, there are two complex SEZ in the Kaliningrad oblast and Magadan oblast, where various types of activities can be conducted because of special legal regime.

SEZ residents can enjoy the regime of a customs free zone, reduced social insurance contributions and a guarantee against unfavourable changes in the tax law. Services provided by port SEZ residents can be VAT exempt (optionally).

Residents of industrial and tourism & recreation SEZ can apply twice as quick depreciation. The rate of the regional portion of corporate profit tax can be reduced by the decision of the regional authority but cannot exceed 13.5%. On certain conditions a 0% rate of the federal portion of corporate profit tax can be applied for innovation SEZ and tourism & recreation SEZ residents.

### General Tax Incentives

Depending on the kind of business activity tax incentives can be provided for taxpayers conducting business not only in Skolkovo or SEZ, but throughout the country. The majority of such incentive relate to corporate profit tax and corporate property tax (see 'Corporate profit tax' and 'Corporate property tax' chapters).

### SOURCES OF FINANCE

The banking system of Russia consists of the Central Bank of the Russian Federation and credit institutions (banks and non-bank credit institutions). At present there are 1070 credit institutions, mainly banks, in Russia.

Foreign banks cannot set up branches and conduct banking and other business activity. They can only establish subsidiaries which have the status

of Russian legal entities. The legislation admits restrictions on foreign participation in Russian banking capital, however, at present the limitation is not valid.

Although Russian banks experience a lack of investment opportunities, the access to bank credit facilities remains difficult and expensive, especially for medium and small companies that have no credit files and sufficient assets to pledge. Thus, the feature of debt financing is the requirement of substantial securities, including pledges of property and guarantees often exceeding the amount of borrowings. Besides, because of the high-inflationary experience of Russia many investors still prefer to denominate credit facilities in foreign currency.

Borrowings from foreign banks and other investors could be an alternative to Russian banking market. However, because of constantly fluctuating exchange rates the attracting of foreign sources of finance is not always practicable.

There are about 40 venture funds in Russia that finance start up projects. As opposed to some other countries, venture capital invests mainly in fast pay-back projects rather than in high tech ones.

One more option of financing is leasing facilities. More than 350 leasing companies have been set up in Russia.

Companies that issue securities can attract funds from stock exchange. Capital can be raised from the public through floatation on the Moscow Exchange that dominate the Russian securities market. Securities, bonds, derivatives and currency are traded in at this universal platform by Russian and international investors.

### FOREIGN EXCHANGE CONTROL

Russia has a system of foreign exchange control that regulates 'currency transactions'. Foreign exchange control is exercised by the Government, the Central Bank and the Federal Service on Finance and Budget Supervision (Rosfinnadzor). Banks, professional participants of security market, customs authorities and tax authorities are so called agents of foreign exchange control.

### Key Definitions

Russian currency is defined as Russian Rouble banknotes, coins and resources in bank accounts. Correspondingly, foreign currency means foreign banknotes, treasury notes, coins and resources in bank accounts denominated in foreign currency.

Securities can be internal (registrable securities registered in Russia or any other securities issued in Russia and denominated in Russian currency) and

external (all others, including registrable securities issued in Russia and denominated in foreign currency).

External securities and foreign currency together comprise 'currency values'.

Parties to currency transactions are divided into residents and non-residents. The former are Russian citizens with the exception of those who live abroad for not less than one year, foreign citizens permanently residing in Russia with a residence permit, Russian legal entities and their units abroad, the Russian Federation (including constituent entities and municipalities), Russian diplomatic missions and consulates abroad. It should be specially noted that a legal entity established in Russia by a foreign company is considered to be a Russian legal entity and, hence, Russian resident, even if it has 100% foreign capital.

Non-residents are, to be brief, all other entities, including registered abroad legal entities (corporations, organisations) and their structural units in Russia.

The law provides a rather long list of 'currency transactions', in particular: foreign values transactions between residents, between non-residents and between a resident and non-resident. Internal securities transactions between a resident and non-resident or between non-residents are also considered currency transactions, as well as Russian currency transactions between non-residents. Among other currency transactions are import and export of currency values, internal securities or Russian currency from / to Russia and some other cross border transactions with the said values.

### **Regulation of Currency Operations**

As a general rule currency transactions between a resident and a non-resident can be effected without restrictions.

Payments between residents are allowed, in general, only in Russian Roubles, although there is a rather long list of exceptions. The most important example is borrowing (and repayment) in foreign currency from Russian banks.

Non-residents are permitted to set up bank accounts in Russian banks both in foreign currency and in Russian Roubles. Between themselves they are permitted to make payments in foreign currency with no restrictions, but Russian Rouble payments in Russia can be effected only via bank accounts set up in Russian banks. Transactions between non-residents involving internal securities are allowed until they do not violate the provisions of antimonopoly and security market laws.

### **Control and Restrictions**

#### **Transaction passport**

Although residents can effect currency transactions with very few limitations, their currency transactions with non-residents such as loans, the import / export of goods and the provision of services and intellectual property rights transfer are subject to monitoring by the authorised bodies. With this purpose the bank that effects payments under the deal must arrange a so called 'transaction passport', where all documentation relating to the transaction should be filed.

#### **Foreign currency repatriation**

As a general rule residents must repatriate their receipts in foreign currency or Russian Roubles obtained from their international commercial activities to their bank accounts in Russian banks. This also concerns amounts of money paid in advance by Russian resident clients, should the delivery fail.

#### **Foreign bank accounts**

Residents are allowed to establish foreign currency accounts in foreign banks but must notify the tax authorities of their opening or closing. Resident legal entities must also submit quarterly reports on the movement of funds via their foreign bank accounts.

#### **Import/export of cash money**

Although the import or export of currency is not limited, both resident and non-resident individuals when importing or exporting foreign or Russian currency in cash and / or traveller's checks must declare them at the customs if the value exceeds the equivalent of USD 10,000 by filing a customs declaration.

#### **Liability for Violation**

The violation of foreign exchange control rules is considered to be a serious offence entailing substantial consequences. Thus, for conducting illegal currency operations or failure to repatriate foreign currency to the Russian Federation individuals, legal entities or their executives shall be fined from 75% to 100% of the amount of the respective transaction.

Criminal liability for non-repatriation is incurred if the non-repatriated amount exceeds RUB 6 million.

The fraudulent transfer of foreign or Russian currency to the account of a non-resident is also a crime.

## EMPLOYMENT REGULATIONS

### Labour Legislation

The main legal act regulating relations between employers and employee is the Labour Code of the Russian Federation. The provisions of Russian labour legislation apply to labour relations involving foreign citizens and foreign companies.

### Employment Contract

An employment relationship is based on an employment contract – an agreement concluded between an employer and an employee. The conclusion of an employment contract is a must.

An employment contract determines all mutual rights and obligations of employer and employee. It shall contain certain essential conditions and can contain additional ones.

Essential conditions include duty station, job description, commencement of employment, remuneration, working hours and leave, kind of work if applicable (travelling, shift work etc.), labour conditions, social insurance.

Additional conditions may include trial period, secrecy, work off period (if employee trains at the expense of employer), additional insurance etc.

Employment contract should be effected as termless (without time limit). Fixed term labour contracts (for no longer than five years) are admissible only in certain cases.

### Working Hours and Time off

The length of working week should not exceed 40 hours. The Labour Code stipulates shorter working week (e.g. for minors, disabled persons, in case of hazardous and/or dangerous work conditions etc.).

Limited overtime is permitted for certain workers, not to exceed four hours in two successive days or 120 hours per year. Overtime is payable at higher rates per hour or should be compensated by additional days-off.

All employees shall enjoy one or two days off a week – Sunday and another day (as a rule another day is Saturday). Exception can be made only for employers that cannot suspend work for days off because of technological or business reasons.

As a general rule, work is prohibited on public holidays (January 1 to 8, February 23, March 8, May 1 and 9, June 12 and November 4). If the public holiday coincides with a day-off then the latter is shifted to the nearest business day.

Employees shall be granted annual paid leave

not less than 28 calendar days. The Labour Code provides for additional paid leave in certain cases (e.g. hazardous and/or dangerous work conditions, especial character of work, irregular working hours etc.).

The part of annual paid leave that exceeds 28 days by request of the employee can be reimbursed with an indemnity payment.

In case of family circumstances or other valid reasons the employee can be granted additional unpaid leave.

### Wage

A minimum wage throughout the country is established by federal law. In 2014 the minimum monthly salary / wage is RUB 5,554. Constituent entities of the Russian Federations can establish higher minimum remuneration.

In Moscow according to the agreement between Moscow Government, Moscow Trade Union Association and Moscow Employers' Confederation the minimum monthly remuneration for 2014 is RUB 12,600 from January 1 and RUB 12,850 from July 1. However, in practice even in depressed areas real average labour remuneration is much higher than the legally established minimum. The average monthly salary / wage varies from RUB 18,000 – 25,000 (the northern Caucasus, some areas of South region, the Volga and Siberia) to about RUB 55,000 – 70,000 (Moscow and oil extracting regions of Western Siberia).

The Labour Code provides for higher remuneration for labour in hazardous and / or dangerous work conditions, in abnormal conditions (e.g. on days off, at night or overtime) and in areas with extreme climate conditions (the North and Siberia).

### Role of Trade Unions

Trade unions are empowered to control the observance of the labour law. According to the Labour Code, opinions expressed by trade unions should be taken into consideration when taking decisions. In certain cases the decisions taken without consensus with trade unions may be appealed to the courts.

### Status of Foreign Employees

There are quotas for foreign employees in Russia to support the principles of priority for Russian internal labour resources. These quotas are set out by the Russian Government annually in accordance with the demographic situation in particular regions of Russia.

To obtain the right to hire a foreigner it is necessary to get permission from the local department of

the Federal Migration Service by presenting the decision of the local department of the Ministry of Labour confirming the expediency of employing foreign labour.

To enter the territory of Russia the foreign employee should obtain a work visa. The latter can be granted on the ground of an invitation issued by the Migration Authorities upon the application of the Russian employer. Besides, before being allowed to work in the Russian Federation each employee or prospective employee must receive a work permit from the Migration Authorities.

Foreign employees can be recognized as so called highly qualified specialists if their annual salary is no less than 2 million Russian roubles. In certain cases this threshold can be lower (for example, see 'Skolkovo Innovation Centre' section of 'Governmental policy and incentives' chapter). The employer estimates the level of skills of the foreign employee at his own discretion. However, the skills of a specialist should be confirmed with documents.

The legal status of highly qualified specialist gives the following benefits:

- the quotas for foreign employees in Russia and other restrictions do not apply to highly qualified specialists;
- the employer does not need to obtain permission for hiring foreign employees;
- possibility for the highly qualified specialist to obtain Russian residence permit for the term of his/her contract in Russia (no need for visa to enter and to exit Russia);
- tax benefits for the employee (see 'Rates' section of 'Personal Income Tax' chapter).

# types of business organisations

## PRINCIPAL FORMS OF BUSINESS

Russian legal entities are divided into commercial and non-commercial organisations. The former include economic societies (companies), partnerships, production co-operatives and government/municipality-owned enterprises. It should be noted that all above mentioned business entities including partnerships have the status of legal entities according to Russian civil law.

Companies may be formed as joint-stock companies, limited liability companies and additional liability companies. Partnerships are divided into general partnership (or full partnership), trust partnership and economic partnership.

In addition, a foreign investor may either establish a representative office or branch of a foreign legal entity or enter a joint activity agreement, also known as simple partnership which is not a legal entity.

There is no local director requirements as well as local shareholders / partners requirements in Russia.

### Joint-Stock Company

A joint-stock company is a company with an authorised capital divided into a defined number of shares of par value. Shareholders are not liable for a joint-stock company's liabilities and bear the risk of losses arising from the company's activity only for the value of their shares.

There are two types of Russian joint-stock companies:

- open joint-stock company (OAO). The shares of OAO can be publicly traded without permission of other shareholders. The number of OAO shareholders is unlimited. The statutory minimum authorised capital of OAO is RUB 100,000;
- closed joint-stock company (ZAO). The number of ZAO shareholders is limited with 50. Should this number be exceeded, a ZAO must be transformed into an OAO. The statutory minimum authorised capital of a ZAO is RUB 10,000.

Shares of joint stock companies are regarded as securities. Initial and additional issues of shares are subject to registration with the Central Bank's Service on Finance Markets.

The constituent document of a joint stock company is its organization charter which, among some other details, should set forth the number, par value and categories (common / preferred) of shares, shareholders' rights, amount of authorised capital, governing bodies, shareholders' meeting procedures, branches and representative offices.

Dividends can be paid quarterly. The source of dividends is the profit after tax according to accounting data. There are some restrictions on dividend distribution.

The superior body of an OAO is the shareholder's meeting which should be held at least once a year. Decisions are to be adopted by a majority of participating votes, in some cases by qualified majority (75%). The shareholders who together possess more than 50% of votes must attend the meeting to secure a quorum. Votes are common shares. In certain cases preferred shares also vote.

If the number of voting shareholders is 50 or more then the formation of a board of directors (supervisory board) is a must. The minimum number of directors is 5 (7 if the number of voting shareholders exceeds 1,000, 9 if the number of voting shareholders exceeds 10,000).

The day-to-day activities of a joint stock company can be managed only by a sole executive body (general director) or by both a sole executive body and a collective executive body (directorate). The functions of a general director can be entrusted to a commercial legal entity.

Joint stock companies are restricted in settling some business transactions (so called major transactions and related parties transactions) which are subject to prior approval by governing bodies under special procedures.

Joint stock companies, especially the open type (OAO) are good for a large business with a great number of shareholders.



## Limited Liability Company

A Russian limited liability company (OOO) is also an entity with the authorized capital divided into shares. As distinct from joint-stock companies, the shares of an OOO are not considered securities which make them be outside the scope of the Russian securities' law. Thus, there is no need to pass the lengthy and complicated procedure of shares issue registration with the Central Bank's Service on Finance Markets. On other hand, the procedure for transferring OOO shares to another person is very difficult and burdensome.

Shareholders of OOO are known as 'participants'. The number of OOO participants cannot be more than 50. An OOO can have the only shareholder, but the latter cannot be a commercial organisation with the only shareholder (participant). OOO participants are not responsible for the liabilities of the latter but are responsible for losses only up to the value of their investments to the company.

The statutory minimum authorized capital is RUB 10,000.

OOO shares can be sold or otherwise transferred only to other participants. Third parties can acquire a share in OOO only if all other participants reject the purchase and if the charter of OOO admits such an event.

Except for general provisions to be set forth by a joint stock company's charter, the charter of an OOO shall also stipulate such specific things as the procedure and effects of a participant's withdrawal from the company (if the charter admits the withdrawal) and the procedure of share (part of share) transfer to another person.

The general meeting of participants, which is the superior body of OOO, adopts decisions by a majority of all shares, in some cases by qualified majority (2/3) or unanimously (e.g. decision on company wind up).

The board of directors (supervisory board) can but need not be formed. The number of members is not stipulated by the law.

Other provisions on the structure of OOO governing bodies are similar to an OAO.

As with joint stock companies, OOO are restricted in settling major transactions and related parties transactions which are subject to prior approval by governing bodies under special procedures.

An OOO is good for medium and small business established without an intention to frequently change the owners.

## Additional Liability Company

The law makes provision for so called 'additional liability company' which does not differ from an OOO with the exception of unlimited responsibility of its participants for the liabilities of the company. Such a legal entity can never be found in practice.

## General Partnership

A general partnership is a commercial legal entity, the members of which (partners) in accordance with the written partnership agreement carry out business activities on behalf of the partnership and have personal responsibility for its liabilities. No statutory minimum amount of general partnership capital is set forth. Please note that a Russian general partnership is a legal entity.

## Trust Partnership

A trust partnership is a commercial legal entity in which there are full partners and limited partners. Full partners are the same as partners in general partnership. Limited partners are investors who bear the risk of losses up to the amount of their investments and do not participate in the business activities of the partnership. No statutory minimum amount of trust partnership capital is set forth. Please note that a Russian trust partnership is a legal entity.

## Economic Partnership

An economic partnership (HP) is a new type of business entity introduced by the law in 2012 that has not become a frequent practice yet. The name 'economic partnership', which is a calque from the Russian language, does not reflect the idea and specifics of this business entity.

HP is a commercial legal entity established by two or more (up to 50) partners (legal entities and / or individuals) who take part in its management. As with joint stock companies and OOO, the partners of HP are not liable for its liabilities and bear the risk of losses arising from HP activity only for the value of their contributions therein. However, at the same time there is no statutory provision on the minimum capital of HP, which is typical of partnerships.

As opposed to joint stock companies and OOO, the law regulates the activities of an HP very loosely, leaving many points at the discretion of partners. They can freely stipulate an order and schedule of forming the capital of HP suitable for partners, allowing them to make contributions step-by-step. They also can by their own agreement set forth shares of participation in HP management and in profits distribution disproportionately to the partner's share in the capital of HP.

The constituent document of an HP is its charter.

The law does not prescribe any details of the structure of HP governing bodies. It is only set forth that an HP must appoint a sole executive body (general director or president). The latter shall be elected from among the partners in accordance with procedures and for the term set forth in the charter or, should the charter make no provisions for that, for the term of an HP activity. Only a natural person can be appointed HP general director. Thus, the law stipulates that there should be at least one natural person among the partners, who will be appointed its general director.

Although the shares in HP capital are not securities, there is only one requirement for the sale of a share: the transaction should be notarized.

The law provides some specific restrictions for HP:

- prohibition on the issue of securities;
- prohibition on contributing securities (with the exception of companies' bonds) to the capital of HP;
- prohibition on advertising own activity;
- HP cannot be established by means of reorganisation of another legal entity;
- HP cannot be a founder / participant of another legal entities (with the exception of unions and associations).

### Branches and Representative Offices

Russian law considers a representative office and branch of a legal entity as its separate unit located at a place other than the head office of the legal entity. Being a part of legal entities, branches and representative offices are not legal entities themselves. Branches and representative offices act on behalf of the legal entity. Actions taken by them are considered taken by the legal entity itself, which remains responsible for them.

A representative office can only represent the legal entity and protects its interests, while a branch can fulfil any function of the legal entity including its representation. They can be engaged in manufacturing and commercial operations.

Heads of branches and representative offices are appointed by the legal entity and act on its behalf by a power of attorney.

Branches and representative offices of Russian legal entities do not need special state registration (see 'Formal state registration of commercial organisations' section), but must be mentioned in the constituent documents of legal entities. Branches and representative offices of foreign legal entities need accreditation with the authorities.

### Joint Activity Agreements

The parties to a joint activity agreement form a so called simple partnership which is not a legal entity but represents the pooling of assets for the common conduct of business or other activities.

### FORMAL STATE REGISTRATION OF COMMERCIAL ORGANISATIONS

All legal entities established in Russia shall comply with the state registration procedure, i.e. to be entered in the state register of legal entities. State registration of commercial organisations is conducted by the Federal Tax Service of the Russian Federation.

For the purpose of state registration an applicant shall submit the following documents:

- the standard application form signed by the applicant (his/ her signature has to be notarised);
- decision to establish the legal entity in the form of record, agreement or other document (mainly the protocol of the founders' meeting or the resolution of the sole founder on the establishment of the company);
- the charter of the company;
- extract from the trade register (register of foreign legal entities) of the country of origin or other evidence of the legal status of a foreign founder, if any;
- the confirmation of payment of the state registration fee (RUB 4,000).

According to the law, state registration is due within five working days from the date of submitting the whole set of documents to the registration body. In practice registration procedure can take more time.

Companies (mostly OOO) can be bought off the shelf from specialised commercial organisations. This practice is not widespread for foreign investors, as the latter prefer the formation of a new entity. Recently registering and keeping ZAO and OAO available for sale has become rare.

The professional fees for company formation depends very much on the type of entity, place of registration and timing requirements. In Moscow the services on OOO incorporation cost some RUB 3,000 to 7,000 (only services, excluding state registration fee, notarization and authorised capital payment).

Besides legal registration, all Russian and foreign companies have to be registered as taxpayers (see 'Tax registration' section). Registration with Statistics Authorities and social security funds is also required.

## ACCOUNTING AND AUDIT REQUIREMENTS

### Accounting Requirements

All companies in Russia are required to keep accounting records in order to provide complete and reliable information on their activity for external and internal users. There are some alternative accounting requirements for small companies. Small companies may have simplified accounting records and present simplified accounts. The general balance sheet date is 31 December.

Current accounting regulations are based on the Law 'On Accounting' (2011), Russian Accounting Standards and various regulations issued by the Ministry of Finance. The legislation requires all companies to present annual and in some cases interim (quarterly) financial reports. All companies present financial reports to their shareholders / owners and to local statistic bodies and to tax authorities.

In addition, from 2012 onward the Federal Law 'On consolidated financial statements' requires the preparation of consolidated financial statements according to International Financial Reporting Standards by group holding companies whose securities are listed on stock exchanges.

The programme for the completion of reforming Russian accounting procedures in accordance with International Financial Reporting Standards now being implemented by the Russian Government with the aim to finally harmonize the rules of legal entities' financial reporting with International Financial Reporting Standards. The reform is expected to be completed in 2014-2015.

### Audit Requirements

In accordance with Russian auditing legislation, some companies are obliged to have their annual statutory financial statements audited.

Compulsory audit is stipulated for the following non-governmental organisations:

- all open joint-stock companies (OAO);
- issuers of securities listed at stock exchanges;
- banks and other credit institutions, insurance companies, commodity and stock exchanges, investment funds, charitable and other (non-investment) funds, etc.;
- other companies with either annual sales exceeding RUB 400 million for the reporting year or total balance sheet assets exceeding RUB 60 million for the reporting year (for the year preceding the audited year);
- companies that present and publish consolidated reporting;
- state and municipal unitary enterprises and companies where the state owns more than 25%.

# taxation

## GENERAL STRUCTURE OF TAXATION

International tax treaties of the Russian Federation have priority over the domestic tax law.

The basic legal act regulating taxation is the Tax Code of the Russian Federation.

The latter establishes a three-level tax system that consists of federal, regional (constituent entity of the Federation) and local taxes and duties.

Federal taxes:

- corporate profits tax;
- value-added tax;
- excise tax;
- personal income tax;
- mineral extraction tax;
- water tax;
- fauna user's duty;
- stamp duty.

Regional taxes:

- corporate property tax;
- transport tax;
- gambling tax.

Local taxes:

- land tax;
- individual property tax.

The Tax Code provides special tax regimes for small business and agricultural manufacturers. Such regimes imply simplified tax administration procedures and imposing a unified tax instead of corporate profit tax, corporate property tax and VAT. A special tax regime is also provided for production sharing agreements.

In addition, the following public fiscal payments shall be paid in connection with business activities:

- customs duty and fees;
- mandatory insurance contributions to the Russian Pension Fund, the Social Insurance Fund and the Medical Insurance Fund.

## TAX REGISTRATION

Taxpayers are individuals and organisations. The latter comprises Russian legal entities (see 'Principal forms of business' section) and foreign legal entities, companies and other corporations possessing legal capacity, as well as international organisations.

All Russian and foreign organisations have to be registered as tax payers with local tax offices at the location of the head office, their branches and representative offices, immovable property, means of transportation, banks that established bank accounts (only for foreign companies) and at the place of conducting mining operations. Individuals shall be registered at their place of residence.

## TRANSFER PRICING

Russian transfer pricing rules generally are in line with OECD Guidelines.

### Related Parties

Related parties are generally defined as organisations (see 'Tax registration' chapter) and individuals connected with each other so that their relationship can influence the conditions and results of their transactions.

The chief feature of relationship for organisations and legal entities set forth by the law is direct or indirect equity participation (more than 25% in their capital (in joint stock companies – through voting shares), including equity participation through a chain of majority participations (more than 50% at each link of chain).

Relationship of legal entities also occurs if the same person is the sole executive body (general director) for both of them or if the same persons (together with their next of kin – spouses, children, parents, brothers and sisters) are a majority (more than 50%) of their collective executive bodies.

Parties can be recognised to be related on other grounds by a court decision.

### Controlled Transactions

Controlled transactions are transactions between related parties (including transactions through formally independent intermediaries) if the total annual price of all transactions between them exceeds RUB 1 billion. For some domestic transactions this threshold is reduced to RUB 100 million. Cross-border transactions concerning international exchange commodities transactions and transactions between a Russian company and an offshore resident exceeding an annual limit of RUB 60 million are also subject to control. In some cases transactions between related parties are exempt from control.

## Fair Market Value

The fair market value will be defined as a price that lies within the range of market prices. To define the latter the prices of transactions of identical or similar goods conducted in comparable commercial conditions between non-related parties will be taken into consideration. The sample of comparable non-related transactions shall be put in ascending order and divided into four parts. The extreme prices of two central quarters form the range of market prices.

If the actual price falls outside the range of market prices then additional tax shall be charged basing on the nearest extreme value of the range. The deviation of an actual price from a fair market price shall not be taken into consideration for tax purposes if tax reassessment does not result in an additional tax charge.

Additional tax assessment can be applied to corporate profit tax. Mineral extraction tax can be reassessed only if one of the parties is the taxpayer and if the subject of transaction is extracted mineral taxable ad valorem (all minerals except oil, natural gas and coal). Personal income tax can be reassessed with regard to sole traders and private practitioners. VAT can be reassessed if one of the parties does not pay VAT.

## Pricing Methods and Priority

The following methods and their priority set forth by the law:

- comparable uncontrolled pricing method;
- resale price method;
- cost plus method;
- transactional net margin method;
- profit split method.

## Documentation and Notifications

Transfer pricing documentation shall be submitted at the request of tax authorities. The request can be made no earlier than on June 1 of the year following the year of controlled transactions. Documentation requirements are set forth by the Tax Code, the Ministry of Finance and the Federal Tax Service recommendations.

Taxpayers are required to notify the tax authorities about their controlled transactions not later than on May 20 of the next year. The content of notification is set forth by the Tax Code. The format is prescribed by the Ministry of Finance and the Federal Tax Service.

## Symmetrical Corrections

If additional tax is assessed on one party to a controlled transaction based on the fair market value calculated by the tax authority, then the other

party to the transaction can take this opportunity for symmetrical correction of its tax liability. Symmetrical correction is inapplicable for the other party if the first party applies fair market price for tax purposes by its own initiative.

## Advance Pricing Agreement

Transfer pricing rules make provision for the conclusion of advance pricing agreements with the tax authorities. The subject of agreement is types and / or lists of controlled transactions, goods and services, procedures / methods of pricing for tax purposes, list of information sources, expiration date of agreement, list procedure and date of submission of documents confirming the agreement.

## CORPORATE PROFIT TAX

### Taxpayers

Corporate profit tax (CPT) taxpayers are organisations (see 'Tax registration' section), i.e. Russian organisations (residents) and foreign organisations that conduct activities in Russia through permanent establishments and / or gain income from Russian sources (non-residents).

Organisations are regarded as Russian or foreign if they are formed, respectively, in accordance with Russian or foreign law. No other criteria of residency are provided by the law.

Types of Russian organisations (legal entities) are discussed in the 'Principal forms of business' section. It should be noted that general partnerships, trust partnerships and economic partnerships are legal entities and, hence, they are non-transparent from fiscal point of view. They are treated and taxed as separate taxpayers. This does not apply to a so called simple partnership which is not considered a legal entity.

### Object of Taxation

Residents are taxed on their profit that is defined as their worldwide income after deduction of expenses incurred.

The object of taxation for non-residents that conduct activities in Russia through their permanent establishments is income earned by the latter less their expenses. Other non-residents are taxed on their passive income derived from sources in Russia.

As a general rule the accrual method is applied. However, taxpayers (with certain exceptions) can use the cash method provided that average sale proceeds (excluding VAT) for 4 preceding quarters did not exceed RUB 1 million for each quarter.

Special rules are set forth to define object of taxation in certain cases. They are: dividends, trust administration of property, investments in the capital of other legal entity, simple partnership (see 'Simple partnership' section of 'Principal form of business' chapter), transactions on the securities market, REPO transactions and some other.

### Exempted Incomes

The Tax Code provides a rather long list of exempt income. In particular, assets granted to a company or partnership by its shareholders / partners are exempt for the former if the transfer of assets is aimed at the increase of net wealth. Regardless of the aim of an assets transfer, property obtained by a Russian organisation from a shareholder that owns more than 50% of the capital is exempt if the participation of the latter in the capital exceeds 50%, on condition that the property (except money) remains with the recipient for at least one year.

Some exemptions are established by applying a 0% tax rate (see 'Rates' section of this chapter).

### Deductions

The Tax Code provides as a general rule that expenses are recognized to be deductible if they are reasonable, incurred with the aim to gain profit and supported with documents.

Some expenses can be deducted only within certain limits. They include interest payments, representation expenses, advertising expenses (in certain cases) and some other.

The Tax Code provides a long list of non-deductible expenses. Among them are distributed dividends, contributions to the authorized capital of subsidiary, the cost of property transferred (services provided) free of charge etc.

The Tax Code provides a special order of costs deduction for some kinds of costs, such as: natural resources development, research and development, acquisition of land plots etc.

Manufacturing expenses are divided into direct (input materials and components, manufacturing personnel, depreciation of manufacturing equipment) and indirect (all other except non-operating expenses). Indirect expenses can be deducted immediately. Direct costs are distributed to work in progress and completed work according to the accounting policy.

### Depreciation

Depreciable assets are fixed assets (useful life more than 12 months and initial cost more than RUB 40,000) and intangible assets (exclusive intellectual property rights). The modernisation / reconstruction

of fixed assets increase their initial value. Land plots, natural resources, goods for sale, securities and some other items are not subject to depreciation.

Depreciable assets are divided into 10 groups depending on their useful life. When putting a fixed asset into operation a bonus depreciation can be applied, i.e. immediate deduction of 10% of initial value for all groups except groups 3 to 7 which are allowed 30% bonus depreciation.

Depreciation is calculated on monthly basis according to straight-line method or non-linear method. The method should be set forth by the accounting policy and cannot be changed more often than once in five years.

Under the straight-line method monthly depreciation is the product of the initial value by the depreciation rate that is the reciprocal value of the number of months of useful life.

Under the non-linear method monthly depreciation is calculated not separately for each item of fixed assets but for the total value of the whole depreciation group. Monthly depreciation for each group is the product of its residual value by the depreciation rate set forth by the Tax Code for each group. The value of newly received fixed assets increases the total value of their groups.

In certain cases accelerated depreciation can be applied by use of increasing multipliers. An increasing multiplier not higher than two can be applied to fixed assets operating in a corrosive medium, to high energy efficiency devices, by industrially organized agricultural complexes and by SEZ residents (see 'Special economic zone' section of 'Governmental policy and incentives' chapter). An increasing multiplier not higher than three can be applied to fixed assets in finance leasing (except amortisation groups 1 to 3), to fixed assets used only for science and technology activities and to fixed assets used only for hydrocarbons extraction at newly developed offshore fields.

### Losses

Losses can be carried forward for 10 years. This general rule also applies to losses incurred from the alienation of property and proprietary rights. However, losses incurred from the alienation of fixed assets shall be included in deductible expenses by equal shares within the period determined as the difference between its useful life and actual period of operation.

Losses from the assignment of receivables are deductible in following order: 50% of loss can be deducted at the date of the assignment. The rest of 50% can be deducted in 45 calendar days after the assignment.

Losses from the alienation of securities can be also carried forward for 10 years, but with the following restrictions. Losses from the alienation of listed securities can be set off only against income obtained exclusively from transactions with listed securities; losses from the alienation of other securities can be set off only against income obtained exclusively from transactions with listed securities.

### Thin Capitalization Rules

Thin capitalization rules apply to Russian legal entities that have debts of any kind to their foreign parent companies that directly or indirectly own more than 20% of its capital or to other Russian subsidiaries of those foreign parent companies. Issuing a guarantee for debt liability equates to a debt liability itself. Debt / equity ratio is 3/1 (12.5/1 for banks and finance leasing companies). The deductible limit of interest shall be calculated by the last day of each quarter and cannot be reconsidered by the end of calendar year (tax period). It is defined by the division of accrued interest by the capitalization rate. The latter is defined by the division of indebtedness by net worth (assets minus liabilities), participation factor and debt / equity ratio. The excess portion of interest cannot be deducted and shall be treated as dividends.

### Withholding Tax

Withholding tax shall be withheld from passive income of foreign organizations that have no presence and tax registration in Russia at the source of income (dividend, interest, royalty, real estate leasing and alienation, alienation of shares of Russian organisations possessing real estate in Russia, if the value of real estate makes up more than 50% of all assets value etc.).

### Rates

The standard rate of CPT is 20%. 2% shall be paid to the federal government and 18% goes to regional governments. Regions can decrease the regional rate for some categories of taxpayers, but not less than 13.5%.

The income of foreign legal entities that have no presence in Russia from sources in Russia is taxed at 20% except dividends (15%) and income from running and freighting transportation means and containers in international traffic (10%).

Dividends distributed to a Russian legal entity are taxed at 0% rate, provided that at the day of decision on dividends distribution the shareholder continuously possesses more than 50% in the distributor's capital, otherwise the rate is 9%.

A 0% rate is provided for the alienation or retirement of Russian legal entities' shares, provided that the taxpayer continuously owns them at least

five years and that the shares are not listed or the shares are listed and their issuer belongs to the high-tech (innovation) sector of economy.

Dividends paid by Russian legal entities to a foreign nominee shareholder are taxed at 30% rate if the beneficial owner is not disclosed.

A 0% rate is also provided for some categories of taxpayers (companies conducting medical and educational activities and, on certain conditions, agricultural manufacturers).

For the CPT rate for SEZ residents see 'Governmental policy and incentives' section.

### Incentives

Accelerated depreciation is provided for some kinds of business activities and categories of taxpayers (see 'Depreciation' section of this chapter).

R&D companies carrying out R&D activities included in the government-approved list can deduct 150% of qualifying costs for CPT purposes.

A 0% rate is provided for some categories of taxpayers (see 'Rates' section of this chapter).

The rate of CPT paid to regional governments can be reduced down to 13.5% (see 'Rates' section of this chapter).

### Tax Period

The tax period is the calendar year. Tax is to be assessed and paid in advance by reporting periods. Reporting periods are 1st quarter, half-year and nine months.

Taxpayers have a right to calculate and pay CPT advance payments on a monthly basis based on actual profits. In this case reporting periods are one month, two months, three months and so on till the end of year.

### Group Taxation

Russian companies can form a consolidated group of taxpayers (CGT) for joint CPT assessment and payment proceeding from their combined finance result.

The main condition for a CGT is not less than 90% direct or indirect participation of one of participants in all other participants. Another conditions: total amount of VAT, CPT, excise tax and mineral extraction tax paid by all participants for preceding year no less than RUB 10 billion, total sale proceeds no less than RUB 100 billion, total assets value as of December 31 of preceding year no less than RUB 300 billion. Each CGT participant shall not be in the process of reorganisation, winding up or bankruptcy and its net asset value must exceed its authorised capital.

A participant responsible before the tax authorities for CPT assessment and payment should be appointed in a CGT.

Certain legal entities cannot enter a CGT: SEZ residents, companies that apply special tax regimes, banks, insurance companies and non-governmental pension funds (if only all other participants are the same companies), professional participants in security markets (except banks), the participants in another CGT, companies exempted from CPT duties, medical and educational organisations applying a 0% CPT rate, gambling tax payers, clearing companies, consumer credit cooperatives and micro-financing institutions.

Mutual relations between CGT participants are stipulated by their agreement that should be registered by the tax authorities.

Besides the opportunity to utilise losses immediately, CGT gives to its participants a shelter from transfer pricing control with regard to transactions between them.

### **Avoidance of Double Taxation**

Russian domestic tax law makes provision for avoidance of double taxation by the method of tax credit. All worldwide income of a Russian company and all expenses incurred both domestically and abroad are considered for calculating profit. Amounts of corporate profit taxes paid abroad can be deducted when paying Russian CPT. The amount of foreign tax credit, however, cannot exceed the amount of the domestic tax on the income in question. The Ministry of Finance and the tax authorities insist that no carry-forward of excess credit is allowed.

Avoidance of double taxation is also provided by international tax agreements. In total 80 agreements are currently in force (see 'Tax treaties' section).

To apply the provisions of international agreements a foreign recipient of income shall produce to a Russian 'fiscal agent' (company that pays income) an official confirmation of its tax residency in its respective country.

### **VALUE ADDED TAX (VAT)**

#### **Taxpayers**

VAT taxpayers are organisations (see 'Tax registration' section), sole traders and importers, i.e. entities responsible for VAT levied on goods importation.

Although 'organisations' imply all of them, both resident and non-resident, it does not mean that all companies all over the world are liable for VAT

in Russia. VAT liabilities occur only if a company is registered with the Russian tax authorities. Meanwhile, there is no special VAT registration in Russia, but only a general tax registration which is possible only in case of 'physical' presence in Russia (see 'Tax registration' section).

Foreign companies without presence in Russia can render some services that are considered to be provided in the territory of Russia and, hence, are subject to Russian VAT. However, even in this case they do not need tax registration and have no VAT liability in Russia. All their VAT liabilities are entrusted to their clients that are registered with Russian tax authorities and, acting as withholding agents, shall charge VAT on provided services and withhold the tax from the receipts of the foreign supplier. The latter should only take special care about Russian VAT to ensure that the net of VAT price is indicated in the contract and that after VAT deduction the service supplier should receive the agreed price.

Taxpayers can be exempted from VAT (with the exception of importation VAT) if within three preceding months in succession their sale proceeds do not exceed RUB 2 billion. VAT exemption for the period up to 10 years can be granted to Skolkovo residents (see 'Skolkovo Innovation Centre' in 'Governmental policy incentives' section). Since exempted companies are deprived of an input VAT offset, exemption is not always an advantage. However, exemption is optional.

#### **Taxable Transactions**

Taxable transactions are, first of all, domestic sales of goods and service provision as well as the transfer of proprietary interests and intellectual property. Some business transactions, e.g. renting out, that strictly speaking are not services from the civil law point of view are equated with service provision for VAT purposes.

Free of charge transactions are subject to VAT as well.

VATable transactions also include self-provision with goods and services if their costs are non-deductible and own-account construction (construction for the company's own use and using its own resources).

In addition, the importing of goods is a VATable transaction.

Goods are considered to be supplied domestically if at the moment of shipment they are in Russian territory or if they are in Russia and are not transported.

Services directly related to movable or immovable property are considered to be provided domestically if the property is in Russian territory.



Services in the field of culture, art, education / training, physical culture, sport, tourism and recreation are considered to be provided if they are actually provided in Russia. Some services are considered to be provided in the country of the client. They are: the transfer of intellectual property rights, software development, consulting, legal services, accounting, engineering, data processing, R&D, provision of personnel, renting movable property (except automobile transport) etc. Special rules are provided for the place of provision of international transportation services.

### Exemptions

The Tax Code provides a very long list of exempted transactions. Some notable items are the sales of certain medical goods, certain medical and social services, municipal transport, banking, insurance, the sales of securities etc. They are divided into optionally exempted and unconditionally exempted.

### Taxable Amount

The taxable amount for VAT purposes is the sales price net of VAT itself plus excise tax, if applicable. For import VAT the taxable amount is the customs value of imported goods plus customs duty and fees and, if applicable, excise tax.

For free of charge and barter transactions the taxable amount shall be the fair market value of sold items determined under transfer pricing procedures (see 'Transfer pricing' section).

### Tax Period

The tax period for VAT is each quarter.

### Tax Rates

The general tax rate is 18%. A 10% rate is applied for some specific items (basic foodstuffs, certain babies and child stuff, print periodicals, certain medical goods, purebred livestock).

Exported goods and services related to exportation are taxed at 0% rate. Input VAT pertaining to exported goods or related services can be offset only after submitting a set of documents confirming a 0% rate validity (see 'VAT refund' section).

### VAT Refund

When calculating the amount of VAT to be paid to the state VAT taxpayers can offset the amounts of input VAT charged to them by their suppliers against output VAT that they charge to customers on their sales. If in some periods the total amount of input VAT exceeds the total output VAT amount, the difference shall be offset against other federal taxes due to the state or reimbursed to taxpayers by the state.

VAT levied on importation and VAT withheld by fiscal agents (see 'Taxpayers' section of this chapter) is also refundable for importers and fiscal agents.

An indispensable condition for the input VAT refund is the acquisition of goods/ services for conducting VATable transactions. Otherwise input VAT shall be regarded as a deductible expense.

Another important condition in general is possessing a VAT invoice. The latter is a special form of invoice provided by the Tax Code that supplier shall issue for VAT purposes. Such special VAT invoices can be issued electronically if both parties to a transaction possess compatible technical facilities.

## PERSONAL INCOME TAX

### Taxpayers

Individuals, both residents and non-residents, shall pay personal income tax (PIT). Residents are subject to taxation on their worldwide income and non-residents shall pay PIT only on their incomes from Russia based sources.

A resident is a person who stays in the Russian Federation for not less than 183 days within any 12 months running in succession. Citizenship as a general rule is irrelevant.

### Taxable Income

Taxable income includes all income of any kind, both in cash or in kind as well as in a form of 'financial benefit'. The latter requires some explanations.

Financial benefit can be of three kinds. The first one occurs when a person gets a RUB loan or credit and interest actually accrued on it is less than 2/3 of interest calculated based on the refinancing rate of the Central Bank of the Russian Federation (8.25% annually) on the date of interest payment. The difference between them is a financial benefit. For loans / credits in foreign currency actually accrued interest should be compared with the RUB equivalent of interest amount calculated based on a 9% annual rate, in other words financial benefit is a positive difference between the latter and the former.

The second one is financial benefit from acquisition of goods / services from related parties. The benefit is defined as a positive difference between fair market price and actual price. This, however, should be a rare case because of very high thresholds stipulated for controlled transactions (see 'Controlled transactions' in the 'Transfer pricing' section).

The third one is a financial benefit from the acquisition of securities and term transaction financial instruments. This kind of financial benefit is defined as the positive difference between market value of acquired assets and actual costs for their acquisition. This kind of financial benefit is considered to be obtained at the moment of acquisition.

For benefits in kind the taxable amount shall be defined as the fair market value of obtained items determined in accordance with transfer pricing procedures (see 'Transfer pricing' section).

Interest on bank deposits are considered taxable income only for the part exceeding interest calculated based on the refinancing rate of the Central Bank of the Russian Federation effective during the period of interests accrual plus 5% – with regard to RUB deposits or in a part exceeding the RUB equivalent of interest calculated basing on 9% annual rate – with regard to foreign currency deposits.

Assessment of income has some specific rules for income derived under insurance contracts, pension obtained from non-governmental pension funds, dividends, securities transactions and transactions concerning term transaction financial instruments, REPO transactions, securities loans and some other.

### **Tax Period**

The tax period is the calendar year.

### **Exemptions**

The Tax Code provides a rather long list of exempted income that mainly are of a social protection nature. Among them are government support payments, excluding sick leave payment; pensions paid by the Non-Budgetary Pension Fund of the Russian Federation, payments of compensatory nature as provided as federal, regional and local laws, alimony, scientific, cultural, educational grants from foreign organisations, one-off financial aid up to RUB 4,000 a year, payments made by employers to Russian recreation and resort facilities for the benefit of employees, medical treatment payments made by employers for the benefit of their employees, scholarships, business travel expenses reimbursed by employer to employee (per diem allowance within statutory limits, travel costs (including taxi to and from airport), airport fees and commission charges, luggage fare, accommodation expenses, business communication expenses) etc. Income gained by a resident from the sale of property (except securities and items used in business activity) is exempt if the property was owned by the taxpayer at least three years.

### **Deductions**

Certain deductions from income are provided for PIT taxpayers. Mainly, they are of social nature. In particular, monthly deductions in fixed amounts can be made by parents of children up to 18 years old. Donations, costs of education and medical services can be deducted on certain conditions.

Some deductions are related to the acquisition, construction or sale of dwelling.

Private practitioners, sole traders and other persons conducting business activities can deduct costs related to their activities.

### **Rates**

The general tax rate for residents is 13% (flat rate). A 35% withholding tax is applied to some income such as: winnings and prizes exceeding within one tax period RUB 4,000 won in advertising events, financial benefit in a form of economy on interest and excessive portion of bank deposit interest (see 'Taxable income' section of this chapter). Dividends are taxed at a 9% rate.

The general tax rate for non-residents is 30% (flat rate). Dividends are taxed at a 15% rate. The income of highly qualified specialists (see 'Status of foreign employees' of 'Employment regulations' section) is levied at a 13% rate. The 13% rate is also applied to income from rendering housekeeping services for individuals and wages of crew members of vessels wearing the flag of the Russian Federation.

Income from securities of Russian issuers (including dividends paid to Russian joint stock companies' shareholders) to foreign nominal holder are taxed at a 30% rate if the beneficial owner is unknown to the fiscal agent (payer of income).

### **Tax Administration**

Employers including sole traders, private practitioners and branches and representative offices of foreign organisations are entrusted with the duties of fiscal agents with regard to their employees, i.e. they must calculate and withhold PIT from their employees' salary / wages.

Employees have no PIT obligations with regard to their salary / wages unless their employers perform their duties as fiscal agents.

Residents must not file PIT tax returns if within a tax period they did not obtain other income except those from which PIT was withheld by fiscal agents. Non-residents must file PIT tax returns in any case.

The tax return shall be filed not later than on April 30 and PIT shall be paid not later than on July 15 of the following year.

## CORPORATE PROPERTY TAX

Corporate property tax shall be paid by organisations (see 'Tax registration' section) that possess taxable property.

Russian organisations pay the tax on their property qualifying as fixed assets (initial value exceeding RUB 40,000).

Foreign organisations that conduct business activities in Russia through permanent establishments pay corporate property tax on their fixed assets and / or property obtained under concession agreement. They must maintain records of taxable property in accordance with Russian accounting rules.

Foreign organisations that have no permanent establishment in Russia pay corporate property tax on immovable property and / or property obtained under a concession agreement.

Some assets are exempt from corporate property tax. Among them are land plots and vessels registered in the Russian International Register of Vessels. In addition, movable property taken on to the balance sheet from 1 January 2013 onward is not subject to corporate property tax.

The taxable amount is the average residual book value of taxable property. From 1 January 2014 onward with regard to some immovable assets with an administrative and commercial purpose the corporate property tax is to be levied not on their book value but on their cadastral value, which is more or less approximate to their market value. The same applies to immovable property of foreign organisations not related to their business activities through permanent establishments.

The tax period is the calendar year. The tax is to be assessed and paid in advance by reporting periods. Reporting periods are 1st quarter, half-year and nine months.

The rate of corporate property tax is 2.2%, unless lower rates are established at a regional level (by the entities of the Russian Federation). Special lower limits are provided for assets levied with corporate property tax on their cadastral value.

Certain corporate property tax incentives are established at the federal level and applicable throughout the country. Among them are exemptions for the property of SEZ residents (see 'Special economic zones' section of 'Governmental policies and incentives' section), Skolkovo Innovation Centre residents (with certain limits; see Skolkovo Innovation Centre' section of 'Governmental policies and incentives' section), bar associations and legal advice offices, orthopaedic enterprises and for newly

commissioned high energy efficiency devices (on certain conditions).

Regions can establish their own corporate property tax incentives.

## MINERAL EXTRACTION TAX

Taxpayers of mineral extraction tax are organisations and sole traders that are recognised to be users of subsurface resources in accordance with Russian laws. They are subject to special registration with the tax authorities.

The taxable object is minerals extracted from the subsurface in the Russian Federation and in the territories under its jurisdiction (continental shelf and exclusive economic zone), such as: combustible shale, coal, peat, hydrocarbons, ore, non-metallic raw materials (including building materials – sand, clay, gravel, limestone etc.), bituminous, gemstone etc.

The taxable amount is defined as the quantity of extracted minerals – with regard to coal and hydrocarbons (except hydrocarbons extracted on newly developed offshore fields on certain territories and within certain time limits) or as the value of extracted minerals – with regard to other minerals. Amount or value of extracted minerals is calculated in accordance with special procedures.

The tax period is the calendar month.

For different minerals the rates can be fixed as ad valorem or specific. Ad valorem rates are applied to coal and hydrocarbons.

Rates for coal (per ton):

- Lignite – RUB 11
- Anthracite – RUB 47
- Coke – RUB 57
- Others – RUB 24

Rates for hydrocarbons are:

Item	2014	2015 onward
Petroleum (RUB/ton)	530	559
Natural gas condensate (RUB/ton)	647	679
Natural gas (RUB/1000cub.m)	700	788

Rates for petroleum are multiplied by coefficients reflecting world oil market conditions, level of oilfield depletion and complexity of extraction.

Rates for natural gas are multiplied by decreasing coefficients if the taxpayer does not own the

facilities of Russian Integrated Gas-Supply System or is not a subsidiary (more than 50% directly or indirectly) of such an owner: 0.673 in 2014 and 0.701 in 2015 onward.

In addition, a 0% rate is fixed for associated gas and ultraviscous oil.

Special ad valorem rates from 0% to 30% are fixed for hydrocarbons extracted in certain areas of the country.

Specific rates vary from 3.8% (potassium salt) to 8% (standard ores of non-ferrous metals other than nephelines and bauxites, rare metals, multicomponent complex ores, diamonds and other precious and semi-precious stones).

## TAXATION SYSTEM FOR AGRICULTURE

The taxation system for agriculture, also known as the unified agricultural tax, is one of special tax regimes which can be voluntarily applied by agricultural producers. Application of taxation system for agricultural producers gives exemption from corporate profit tax and corporate property tax. Unified agricultural tax payers also are not recognised to be VAT taxpayers except for VAT levied on importation. This, however, is a questionable advantage, because together with delivrance from VAT the unified agricultural tax payer loses the right for input VAT reimbursement.

For the purpose of the unified agricultural tax agricultural producers are recognised to be organisations and sole traders that produce agricultural products on condition that proceeds from sales of agricultural products including initially processed own agricultural products are no less than 70% of all revenues. Fishery businesses can also apply the taxation system for agricultural producers on conditions that no less than 70% of their revenue is from sales of fishery products. In addition, they shall meet an additional condition: they should be a principal employer of a settlement that employs not less than half of the population of the settlement (together with employees' family members) or, instead of it, meet the limit of the average number of employees for the tax period that should not exceed 300.

The kinds of products recognised to be agricultural products and products of initial processing are defined by the Government.

The taxable amount is income less expenses.

Income comprises sales proceeds and non-sales income. The same exemptions are applied as for corporate profit tax purposes (see 'Corporate profit tax' section). In addition, dividend income

and income from government securities are also exempt.

Tax law provides the list of deductible expenses for unified agricultural tax purposes. Expenses shall be reasonable, incurred with the aim to gain profit and supported with documents.

Losses can be carried forward for 10 years.

No depreciation is provided for unified agricultural tax. Costs of fixed assets and intangible assets acquired before the transfer to the taxation system for agricultural producers are deducted in the following order. Assets with a useful life up to three years are deducted during the first year. Assets with a useful life exceeding three years and up to 15 years: 50% to be deducted during the first year, 30% to be deducted during the second year and 20% to be deducted during the third year. Assets with a useful life exceeding 15 years: within 10 years by equal shares. Costs of fixed assets and intangible assets acquired after the transfer to the taxation system for agricultural producers are deducted immediately.

The tax period is the calendar year. The reporting period is a half year.

Tax rate is 6%.

## SOCIAL SECURITY CONTRIBUTIONS

There is no payroll tax. However, social security contributions shall be paid to social insurance funds. There are two principal groups of social insurance contributions payers:

- employers, including organisations (see 'Tax registration' section) and sole traders – on payments to their employees;
- sole traders – on their business income.

Social security contributions include contributions to statutory pension, medical and social insurance funds.

Social security contributions are calculated for each employee individually, annually on a regressive basis as shown in the table below:

Tax base per employee	Tax rate
Up to RUB 624,000	30%
Over RUB 624,000	10%

## CUSTOMS DUTY AND FEES

Customs duty is levied on the import and export of goods to the territory of Russia.

The basic legal act that regulates the collection of customs duty and fees is the Tax Code of the

Customs Union (see 'International economic links and membership of international trade organisations' section).

The majority of customs duties are ad valorem. There are also specific duties for certain types of imported goods, which are based on the volume, weight or quantity of imported goods. Some duties have a combined rate mixing the above two types of duty rates and, therefore, the tax basis may differ.

The unified classification of goods for foreign trade purposes and the rates of import customs duty are established by collective decision of Belarus, Kazakhstan and Russia – the members of Customs Union.

Import customs duty is applicable to the majority of imported items. Base duty rates vary widely, from 0% for printed matter, some food products and some other imported items to 100% on ethyl alcohol.

The rates of export duty are established by the Government of the Russian Federation. The scope of dutiable exported items is much narrower. Mainly they are raw materials and semi-products (oil and oil products, natural gas, timber, fish, sea products etc.).

Customs duty is levied on customs value. The procedures of customs valuations of imported items have been established by a special agreement of Belarus, Kazakhstan and Russia. Exported items are evaluated under domestically approved procedures. In both cases the evaluation is based on contract price, although it can be disputed by the customs authorities.

Customhouse fees are collected for the arrangement of customs formalities. Their amounts are insignificant as compared with the customs value of goods.

Customs duty and fees are deductible costs.

## TAX TREATIES

The Russian Federation is the legal successor of the former USSR as a party to tax treaties, which may provide relief in the form of reduced or zero rate of withholding tax. At the moment Russia has tax treaties for the avoidance of double taxation with the following countries:

TAX TREATIES	DIVIDENDS %	INTEREST %	ROYALTIES %
Albania	10	10	10
Algeria	5/15	0/15	15
Argentina	10/15	15	15
Armenia	5/10	0	0
Australia	5/15	10	10
Austria	5/15	0	0
Azerbaijan	10	10	10
Belarus	15	10	10
Belgium	10	0/10	0
Botswana	5/10	10	10
Brazil	10/15	15	15
Bulgaria	15	15	15
Canada	10/15	10	10/ no restriction
Chile	5/10	15	5/10
China	10	10	10
Croatia	5/10	10	10
Cuba	5/15	10	5
Cyprus	5/10	0	0
Czech Republic	10	0	10
Denmark	10	0	0
Egypt	10	15	15
Finland	5/12	0	0
France	5/10/ 15	0	0
Germany	5/15	0	0
Greece	5/10	7	7
Hungary	10	0	0
Iceland	5/15	0	0
India	10	10	10
Indonesia	15	15	15

Iran	5/10	7.5	5
Ireland	10	0	0
Israel	10	10	10
Italy	5/10	10	0
Japan	15	0/10	0/10
Kazakhstan	10	10	10
Korea (North)	10	0	0
Korea (South)	5/10	0	5
Kuwait	0/5	0	10
Kyrgyzstan	10	0/10	10
Latvia	5/10	5/10	5
Lebanon	10	5	5
Lithuania	5/10	10	5/10
Luxemburg	10/15	0	0
Macedonia	10	10	10
Malaysia	15	15	10/15
Mali	10/15	0/15	0
Mexico	10	0/10	10
Moldova	10	0	10
Mongolia	10	10	No restriction
Morocco	5/10	0/10	10
Namibia	5/10	10	5
The Netherlands	5/15	0	0
New Zealand	15	10	10
Norway	10	0/10	0
Philippines	15	15	15
Poland	10	10	10
Portugal	10/15	10	10
Qatar	5	5	0
Romania	15	15	10
Saudi Arabia	0/5	0/5	10
Serbia and Montenegro (former Yugoslavia)	5/15	10	10
Singapore	5/10	7.5	7.5

Slovak Republic	10	0	10
Slovenia	10	10	10
South Africa	10/15	10	0
Spain	5/10/15	0/5	5
Sri Lanka	10/15	10	10
Sweden	5/15	0	0
Switzerland	0/5/15	0	0
Syria	15	10	4.5/ 13.5/ 18
Tajikistan	5/10	0/10	0
Thailand	15	10/ no restriction	15
Turkey	10	10	10
Turkmenistan	10	5	5
Ukraine	5/15	10	10
United Kingdom	10	0	0
USA	5/10	0	0
Uzbekistan	10	10	0
Venezuela	10/15	5/10	15
Vietnam	10/15	10	15

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