



Accountants &
business advisers

Doing business in Russia

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FBK Company



Founded in 1990, FBK Company is one of the oldest audit and consulting companies in Russia.

Throughout this period FBK has grown from a small firm to one of the largest Russian audit and consulting companies. Today supported by 900 professionals across the country, FBK is a proven market leader in Russia in terms of its total revenues and revenues gained from audit services.

FBK has offices working under its unified brand in Moscow, Kazan', Republic of Tatarstan (FBK Povolzhje), Zlatoust, Chelyabinsk region (FBK South Ural), Republic of Belarus (FBK Bel). FBK has regional partners in Siberian, Northwestern, Southern, Urals and Volga Federal Districts as well as in Republic of Kazakhstan and Uzbekistan.

Since 1995 FBK has been a member of PKF International Limited allowing FBK to engage professionals from over 245 member firms and correspondents in 440 locations in around 125 countries in joint efforts and employing unified techniques and quality standards. Sergey Shapiguzov, FBK President, is a member of the PKF European, Middle East and India Regional Board.

Why FBK?

FBK is a team of professionals working together to solve your problems. Our profound knowledge in local business processes and broad range of consulting services allows our clients to make investments in Russia in the most convenient and safest way, providing higher expected returns.

By utilizing FBK services you can be sure that all your problems will be timely and properly addressed and you will be provided with the best solution and results possible.

How should you structure your investment?

Structuring methods of investment vehicles and business in Russia, their intersection with other non-Russian interests, largely define the impact on costs and tax charges that the investor will have to face.

FBK has accumulated extensive experience in advising companies on various entities and arrangements that might be used to set up a business in Russia and help you identify the most tax-efficient structure for your business. When you are ready to take the profits from your investment we can advise on repatriation strategies or any other procedure at your discretion.

Services

Assurance and Business Advisory

- audit of Russian statutory accounts in accordance with both National and International Standards on Auditing;
- tax audit;
- tax accounting;
- preparation (restatement) of financial statements of Russian enterprises in compliance with the IFRS;
- compilation of financial statements in accordance with IFRS;
- reviews of financial statements prepared in accordance with IFRS;
- advisory services to the client's staff on preparation, application and interpretation of IFRS;
- elaboration of unique chart of accounts and accounting policies for needs of an individual client;
- advising on development and implementation of methodologies for preparation of international financial statements;
- special purpose audit;
- accounting and regulatory advice;
- set-up of accounting system;
- review of internal controls and recommendations to management.

Tax and Legal

- consultancy on corporate taxation and tax planning;
- legal analysis and compliance review;
- foreign legal entities consultancy;
- advice on Russian VAT and withholding tax;
- tax advice for expatriate specialists;
- tax audit of Russian and international firms;
- international tax planning;
- consultancy on civil, corporate and international law;
- consultancy on investment and customs legislation, advice on exchange regulation;
- transaction and investment structuring;
- full legal support of merges and acquisitions;
- review and preparation of contracts, agreements and other legal documents;
- representation of clients in court and arbitration court including representation in Constitutional Court of the Russian Federation and Supreme Court of the Russian Federation (litigation);
- forensic services.

Financial and Management Advisory

- strategic analysis and planning;
- business planning;
- business processes re-engineering and restructuring;
- management accounting and reporting;
- due diligence and feasibility studies;
- market research;
- brand-consulting;
- mergers and acquisitions;
- corporate strategy development.

Economic Analysis

- macroeconomic research;
- economic analysis and forecasting;
- regional (municipal) development consultancy.

Valuation

- business valuation;
- fixed assets revaluation;
- tangible and intangible assets valuation;
- real estate appraisal;
- construction expertise.

IT Consulting

- business process analysis, design and optimization;
- development of IT-strategy for the company;
- development of information systems requirements, consultancy on IT-product selection, holding tenders;
- IT-project management;
- implementation and support of corporate business applications;
- installation of computer-based tax accounting systems;
- company IT-audit;
- automation of the process of tax report preparation;
- IT-security audit.

Introduction



Geography

Russia occupies much of easternmost Europe and northern Asia, stretching from The Baltic Sea to the Pacific Ocean and from the Black Sea to the Arctic Ocean, being the world's largest country by land area (17 075 400 sq km). Extending for 60 933 kilometers, Russian border is the world's longest, bordering 14 sovereign states as well as South Ossetia and Abkhazia, which are both recognized as sovereign states by Russia: Norway and Finland in Northwest; Estonia, Latvia, and Belarus in West; Ukraine in Southwest; Georgia, Azerbaijan and Kazakhstan in South; Mongolia, North Korea and China along Southeastern land border. The Kaliningrad Region is an exclave on the Baltic Sea bordered by Lithuania and Poland. Russia's territory includes 9 time zones.

Moscow — Russian capital and largest city — is three hours ahead of Greenwich Mean Time. Other major cities are St. Petersburg, Novosibirsk, Nizhniy Novgorod, Yekaterinburg, Samara, Omsk, Kazan', Chelyabinsk, Rostov-on-Don, Ufa, Volgograd and Perm.

The climate of Russia's vast territory ranges from temperate to Arctic continental. Winter weather varies from short-term and warm along the Black Sea to long-term and frigid in northern Siberia.

Russia possesses a vast variety of natural resources, many of which are located far from industrial processing centers. The fuel resources that supported development of industrial centers in European Russia have been depleted, necessitating reliance on coal, natural gas, and petroleum from Siberian deposits. However, Russia still has an estimated 6% of the world's oil reserves and one-third of the world's natural gas reserves, making it a major exporter of both commodities. Rich deposits of most industrially valuable metals, diamonds, and phosphates also are found in Russia.

Siberia contains nearly 50% of the world's coniferous forests. Coastal and river waters have supported an extensive fishing industry.

Society

In January 2011, Russia's population was estimated as 142 905.5 million people. That total made Russia the eight most populous country in the world. Of the total, 73.7% live in cities and towns, and 26.3% live in rural areas. Some 88 million people (62% of the population) were of working age in 2010. Russia traditionally has had a highly educated population. According to the 2010 census, 99.5% of the population above 10 years was literate.

There are more than 180 different recognized ethnic groups in Russia, but the Russians (about 80%) contain the vast majority of the population. There are also the Ukrainians (2%) and such non-Slavic linguistic and ethnic groups as the Tatars (3.8%), the Bashkirs, the Chuvash, and numerous other groups in the Far North and in the Caucasus. Russian is the official language of Russia, although approximately 100 other languages are spoken in Russia.

Administratively, the Russian Federation consists of a great number of different federal subjects, making a total of 83 constituent entities. Each area is constituted as an "oblast" or region (46); specific areas of living of ethnic minorities usually have the status of republics (21), autonomous "oblasts" (1), and autonomous regions (4), or territories (9). The cities of Moscow and St. Petersburg are independent of surrounding jurisdictions; termed "cities of federal significance" they have the same status as the oblasts. Under the Constitution of the Russian Federation, republics, territories, oblasts, autonomous oblasts, autonomous regions, and cities of federal significance are held to be equal in their relations with the federal agencies of state power.

In 2010 the administrative units of Russia were grouped into eight regional administrative districts as a new layer between the above subdivisions and the national level. The federal districts and their centers are Northwestern Federal District (St. Petersburg), Central Federal District (Moscow), Volga Federal District (Nizhny Novgorod), Southern Federal District (Rostov-na-Donu), Urals Federal District (Yekaterinburg), Siberian Federal District (Novosibirsk), Far Eastern Federal District (Khabarovsk) and North Caucasian Federal District (Pyatigorsk).

Political and Constitutional System

Russia officially marks its independence day on June 12, (1991) the date of the Russian Republic's declaration of sovereignty from the Soviet Union.

The current constitution of the Russian Federation was adopted on December 12, 1993. It provides for a federal republic which government has separate and independent executive, legislative, and judicial branches. The amendments of 2008, have become the first substantial amendments to the Constitution and extended the terms of the President of Russia and the State Duma from four to six and five years, respectively. The president wields considerable executive power, nominates the highest state officials, including the Prime Minister (or Premier), who must be approved by the State Duma. The president can pass decrees (executive orders) without consent from Parliament. The President heads the armed forces and the Russian National Security Council.

The bicameral parliament, or the Federal Assembly, is divided into an upper house, the Federation Council, and a lower house — The State Duma. The Federation Council has 166 members (Senators), consisting of two representatives from the governments of each republic, territory, region, and area. The lower house of parliament is known as the State Duma comprised of 450 deputies, elected by proportional representation from nation-wide party lists among those parties which exceed 7% (5% in the 2003 and prior elections) barrier.

Main political parties are United Russia (315 seats), Communist Party of the Russian Federation (57 seats), Liberal Democratic Party of Russia (40 seats), Just Russia (38 seats), etc. 65 members of the State Duma are women.

With a new Constitution and a new parliament representing diverse parties and factions, Russia's political structure subsequently showed signs of stabilization.

According to The Russian Constitution, the Federal State retains important areas of competence including: foreign affairs; defense; justice; human rights and liberties; financial, monetary, credit and customs regulation, emission of money and guidelines for price policy, etc. Powers shared jointly between the federal and local authorities are less numerous. Regional jurisdictions are only allocated powers not specifically reserved to the federal government or exercised jointly. Those powers include managing municipal property, establishing and executing regional budgets, establishing and collecting regional taxes, and maintaining law and order.

Economy

Since 1991 highly structured Soviet system, nominally following the standards of five-year plans, was succeeded by ambitious restructuring aimed at encouraging private enterprise. However, large sectors of the state-owned enterprise system, especially

those in energy, transportation, communications, and heavy industry, remained under government control.

From 2000 to 2008, Russian federal budget showed steady growth each year. Tax revenues tripled between 1999 and 2002, increasing in more than 8 times between 2002 and 2008. The financial crisis of 2008–2009 has negatively affected Russian economy. Russian budget showed significant deficit in 2009–2010.

Following the tax reform of 2001, which established a flat 13% income tax rate, income tax revenues increased annually through the early 2000s. The 2001 reform also reduced the corporate tax rate from 35% to 24%, in 2010 the corporate tax rate was reduced again to 20%. In 2004 the maximal rate of value-added tax was reduced from 20% to 18%. The negative side of Russia's tax politics for the late 2000s is fluctuation of the social insurance contribution rate: after 2010 increase from 26% to 34%. As a result tax collectability reduced significantly.

In 2010 Russia's GDP was \$1.5 trillion (\$2.2 trillion in terms of purchasing power parity), making it the sixth largest economy in the world (by purchasing power parity). The official government forecast for 2011 was a 4.2% increase.

Russia's diverse mineral resources have given many of its products a strong position in world markets. Of particular economic importance are diamonds, of which in 2009 Russia accounted for 28% of world production; platinum group metals (26%); nickel (19%); aluminum (10.3%); and cobalt (4%). The oil and gas industries, among the largest in the world, provide key export commodities. Russia is a net exporter of electric power and one of the largest producer of electric power in the world (4th place).

Legal system

Since its adoption in a 1993 referendum the Russian Constitution is considered to be the primary and fundamental statement of laws in the Russian Federation. Article 15 of the Constitution reads that it “shall have supreme legal force and have direct effect, and shall be applicable throughout the entire territory of the Russian Federation”. Constitutional laws cannot become part of the constitution or amend its parts..

Statutes are the predominant legal source of Russian law, and may only be enacted through the appropriate legislative process. Codes are the basis for law on a matter, and they are usually supplemented with legislation to develop certain provisions. Codes are interpreted flexibly, and interpretation may be based on enumeration of “general principles” of the codes. Reasoning by analogy is also allowed.

The President has power to issue normative and non-normative decrees, provided they don't contradict the Constitution and laws. Government of the Russian Federation issues decrees and ensures their implementation following the provisions of the Constitution, Federal Laws and normative decrees of the President of the Russian Federation. Government agencies may enact regulations through their general competency limited to the extent of the constitution and relevant codes.

The Russian Supreme Court and Supreme Arbitration Court have authority to issue general explanations of the substantive law and procedural issues.

There is no judge-made common law, and decisions can only be cited to the constitution, statutes and regulations. Although court judgments are not considered to be future precedents, the courts of the Russian Federation have started recently to allude to court orders as to “settled judicial practice.”

Judicial Review allows courts to declare unconstitutional laws void. Constitutional Courts are therefore so called negative legislators. Courts of general jurisdiction may decline to apply any law that violates the Constitution or any normative regulation. The Supreme Court of the Russian Federation has jurisdiction to determine the constitutionality of regulations issued by government agencies.

The commonly recognized principles and norms of the international law and the international treaties of the Russian Federation are a component part of its legal system. If an international treaty of the Russian Federation stipulates other rules than those stipulated by the law, the rules of the international treaty are applied according to Article 15 of the Constitution.

Foreign relations

The improvement of Russia's foreign trade and foreign investment positions has been a central policy of the Russian Government. During the past 67 years Russia has made major steps toward its membership in the World Trade Organization (WTO). At the moment Russia has reached necessary agreements with major part of WTO Members and settled most of the issues on WTO membership.

The Russian Federation participates in many international organizations, such as: APEC, CIS, G8, IAEA, IHO, ILO, IMF, OSCE, UN and others.

Foreign Investment



General remarks

This Federal Law determines the principal guarantees of foreign investors' rights for investments, revenues and profits received thereon and conditions for entrepreneurial activities of foreign investors in the territory of the Russian Federation. The present law does not apply to relations connected with deposits of foreign capital in banks and other credit institutions and insurance organizations, which are subject to the special legislation of the Russian Federation, and to the non-commercial organizations in order to achieve some socially useful purpose, including educational, charitable, scientific or religious purposes. Some provisions don't apply to the technical research, industrial production or tourism and recreation zones residents' activities. In addition subsidiary and dependent companies of a business entity with foreign investment doesn't enjoy the legal protection and preferences established by the present law when performing their business activities in the territory of the Russian Federation. But a foreign investor, or a business entity with foreign investment established in Russia, in which foreign investors hold at least 10% of shares or contribution in the authorized capital of such entity, shall fully enjoy the legal protection.

The law "On foreign investment in the Russian Federation" stipulated the fact that both federal and regional laws regulate foreign investments in the Russian Federation. The subjects of the Russian Federation and local authorities within their competence may grant a foreign investor benefits and guarantees, perform financing and render other support forms for the investment project implemented by a foreign investor.

Basic definitions

Basic definitions in the sphere of foreign investment have been introduced by the Federal law.

Thus, *foreign investor* is defined as a foreign legal entity, a foreign organization not being a legal entity, a foreign citizen, a person with no citizenship who is permanently residing outside the Russian Federation, an international organization who may invest in the Russian Federation in accordance with an international treaty of the Russian Federation, and foreign states in accordance with the terms determined by federal laws.

Foreign Investment is an investment of foreign capital to an object of entrepreneurial activity in the territory of the Russian Federation in terms of the civil rights' objects belonging to a foreign investor if such civil rights' objects are not withdrawn from commerce or not restricted for commerce in the Russian Federation according to the federal laws, including money, securities (in foreign currency and in the currency of the Russian Federation), other kinds of property, property rights, incorporeal rights for intellectual activities' results in case they have a money value (intellectual property), and also services and information.

Direct Foreign Investment is an acquisition by a foreign investor of not less than 10% of a share, shares (a contribution) in the authorized (reserve) capital of a commercial organization founded or newly founded in the territory of the Russian Federation in the form of business partnership or business entity according to the civil legislation of the Russian Federation; an investment into the fixed assets of a foreign legal entity subsidiary founded in the territory of the Russian Federation; financial lease (leasing) of the equipment with the customs value of not less than 1 mln rubles carried out by a foreign investor acting as a leaser.

Priority Investment Project is an investment project the total amount of foreign investments in which makes not less than 1 bn rubles or an investment project where a minimal share (contribution) of foreign investors to the authorized (reserve) capital of a commercial organization with foreign investments makes not less than 100 mln rubles included into the list approved by the Government of the Russian Federation.

Law gives a definition of some other terms, such as *investment project*, *investment project payback time*, *reinvestment*, *aggregate tax burden*.

Guarantees for foreign investors

In general it can be said that the legal treatment terms of activities of foreign investors and use of profit gained from investment must be no less favorable than the legal treatment of activities and use of profit gained from investment that are accorded to Russian investors, with some exclusions established by laws as far as it can be neces-

sary in order to protect the principals of constitutional system, morality, health, rights, and legal interests of other persons, ensuring the country's defense and state security.

A foreign investor may invest in the territory of the Russian Federation in any forms not prohibited by the legislation and foreign investors are granted full and unconditional protection of rights and interests. A foreign investor is entitled to be indemnified for any damages incurred by him due to illegal actions or failure to act of state and local authorities or officers of such authorities.

The property of a foreign investor or a business entity with foreign investment is not subject to seizure, including nationalization and requisition except for the cases and reasons determined by the law or the international treaty of the Russian Federation.

In the event of new laws and legal regulations of the Russian Federation come into effect or existing laws and legal regulations of the Russian Federation amended and modified so that the overall tax burden on activity of the foreign investor or the business entity with foreign investor on implementation of priority investment projects increases, or the regime and restrictions in respect to foreign investment in the Russian Federation is established as compared with the overall tax burden and regime that existed in accordance with laws and legal regulations of the Russian Federation by the date when financing of the priority investment project at the expense of foreign investment began, then such new Russian laws and legal regulations as well as amendments and modifications made to existing laws and legal regulations shall not be applied to the foreign investor and the business entity with foreign investment who are implementing their priority investment projects at the expense of direct foreign investment during the complete investment project payback period, but not exceeding seven years from the date when financing of the investment project at the expense of foreign investment began, if goods, imported to the customs territory of the Russian Federation by the foreign investor and the business entity with foreign investment, are used according to the stated purposes of the investor for implementation of priority investment projects.

Conditions mentioned above (so called indemnity from legislation changes disadvantageous for a foreign investor) apply to a business entity with foreign investment if shares (contribution) of foreign investors in the authorized capital of such organization amounted to upwards of 25% as well as to a business entity with foreign investment, which is carrying out a priority investment project, irrespective of a contribution of foreign investors in the authorized capital. Differentiation of investment project payback periods depending upon their types are to be determined by the Government of the Russian Federation.

Insurance guarantee of due consideration by the court, the arbitral tribunal or the international court of arbitration of a dispute arisen in a connection with the performance of investment and a foreign investor's business activity in the territory of the Russian Federation and guarantee of using the revenues, profits and other legally acquired money sums in the territory of the Russian Federation and exporting the same from the Russian Federation are stipulated for.

A foreign investor may participate in privatization of objects of state-owned and municipal property and a right to land, other natural resources, buildings, structures and other immovable property is guaranteed.

Business Entities



It is possible to set up a Russian business through a variety of company forms and arrangements. The main types are set out below.

General remarks

Business in Russia may be conducted in various forms, with setting up a legal entity or not, via Russian subsidiary company and via branches and representative offices.

The fundamental concept underlying Russian Company law is that a company and its participants are separate legal entities. The company therefore has rights and duties independent of its shareholders&directors and can take legal actions in its own name.

The most common groups of legal entities under Russian legislation are commercial and non-profit organizations. Non-profit organizations may conduct entrepreneurial activity within the framework of limitations stipulated in their statutory documents, but only as it serves the purposes for which such organizations have been established. The Civil Code of the Russian Federation and other federal laws stipulate establishing non-profit organizations in more than 30 forms: religious and public organizations, non-commercial partnership, associations and units, charity foundations, etc.

In actual practice, the most common form of business organization in the Russian Federation is commercial organizations, among which the most widespread is the limited liability company. Less frequent forms are the full partnership, limited partnership, the joint-stock company (closed and open). Other forms of commercial organizations that exist in Russia are production cooperatives, state and municipal unitary enterprises, but these forms may be effective only for specific type of business.

Forms for conducting business activities by foreigners

Subject to some requirements, foreigners are free in Russia to pursue business activities on the same terms and conditions as Russian citizens. Additionally, foreign entities are free to establish and operate in Russia their branches and representative offices.

Full Partnership

The formation of partnership requires at least two founders (individual entrepreneurs or commercial organizations).

Each of the members of a full partnership is a liable jointly and severally with the remaining members and without limitation for all the liabilities of the partnership. The participant who has withdrawn from the partnership is liable for the partnership's obligations which have arisen before the moment of his retirement, on a par with the rest of the participants in the course of 2 years from the date of approval of the accounting report on the activity of the partnership over the year during which he has retired from the company.

The income of full partnerships is taxed on corporate level and additionally as income of natural or legal entities, which are members of such full partnership. Full partnerships are required to be registered in the Single State Register of legal entities.

The full partnership has the nominal capital.

The partners manage and represent the company themselves; no other company bodies are provided for. In the partnership agreement certain partners can be excluded from the management of the company.

Profit and losses are distributed among partners in proportion to their shares unless the partnership agreement stipulates otherwise.

Limited Partnership

A limited partnership, established by partners, acts in its own name in the economic exchange of goods and services. Its main feature is that at least one partner is fully liable for the partnership's liabilities (general partner — an individual entrepreneur or a commercial organization) and at least one further partner (limited partner) must bear the risk of losses connected with partnership activity within the limits of his contribu-

tion. Limited partners don't have the right to take part in the administrative and business management because of their limited liability. Although limited partners' interest is in receiving a part of the limited partnership's profit equal to their share in the nominal capital.

The general partners are entitled to manage and represent the company.

The regulations governing the nominal capital (share capital) and the reserve fund are as those for full partnerships.

Private Enterprises

Each natural person may conduct business as an individual entrepreneur (on unincorporated basis, without forming legal entities). They must be included into the Unified State Register of individual entrepreneurs. In such case the proceeds from business operation are subject to a personal income tax. Individual entrepreneur is liable for his obligation with all the property belonging to him except of the property upon which execution may not be levied (including the personal assets not related to conducting the business). As set by the Law foreigners may also conduct business in Russia as individual entrepreneurs.

Joint Stock Company

A joint stock company is a commercial organization which charter capital is divided into a definite number of shares certifying the rights of the company's participants.

The joint stock company may be established by one or more persons or companies who must execute the Charter. However, the JSC may not be started by one legal entity, which has only one participant. Russian legislation does not limit external company's participation in joint stock companies, except for specific branches as defense industry, banking, etc.

The company must be registered with tax authorities and special state body. Upon its registration the company obtains legal personality and from that moment its shareholders are protected from the liabilities of the company — a shareholder bears the risk of any loss limited to sums paid for the shares, no more. Also JSC must register the issue of their shares with divisions of the Federal Financial Markets Service. Transactions with unregistered shares are prohibited.

There are two types of JSC: Closed — ZAO (can't have more than 50 shareholders) and Opened — OAO (can have more than 50 shareholders). The main difference between them is that shareholders in Closed JSC have priority right to buy the shares being sold by other shareholders.

The minimum share capital for closed JSC is 100 times the minimum monthly wage (10 000 RUR) and for opened JSC — 1000 times the minimum monthly wage (100 000 RUR), of which at least 50% must be paid in during 3 months from the date of entry in the Unified State Register of legal entities. The remainder must be paid within one year. The share capital may be covered by in cash or in-kind contributions. Value of all in kind contributions is subject to a mandatory evaluation by certain persons — founders or appraisers. If the additional contribution to share capital is made in the form of property, market value of such property should be defined by an independent appraiser. The minimum nominal value of one share is 1 ruble.

All shares issued by JSC are nominal which exist in non-documentary form only as entries in a special shareholders register, maintained by the JSC itself or by an independent registrar (if the JSC consists of more than 50 shareholders). Title to such non-documentary securities transfers only at the moment of the making of the relevant entry in the shareholders register, not signing a treaty.

The governing bodies of a joint stock company consist of General Shareholders Meeting, Executive Body and Company Auditing Commission (all obligatory). An open JSC with more than 50 shareholders must have a Board of Directors.

In comparison to a limited liability company, a joint stock company features more advanced corporate instruments such as bonds, authorized but not issued capital, not voting shares etc. On the other hand, its operations and management are subject to more stringent requirements than the operations of a limited liability company.

Limited Liability Company

This type of company is most frequently used for doing business in Russia. It may be established by one or more persons or companies, but no more than 50 participants who must execute the Charter and the Founders Agreement. However, the LLC may not be founded by one legal entity, which has only one participant. The company must be registered with tax authorities. Upon its registration the company obtains legal personality and from that moment its participants are shielded from the liabilities of the company.

The minimum capital is 10 000 RUR and may be covered by cash or securities or in kind contributions (property, or property rights, and other rights having monetary value etc.). Value of all in kind contributions is subject to a mandatory evaluation by certain persons — founders or appraisers. If the contribution to share capital is made in the form of property to the amount more than 20 000 RUR, it should be appraised by an independent appraiser.

LLC and Closed JSC have much in common, but on the other hand there are substantial differences between them. The main difference is that Closed JSC but not LLC has the right to issue shares, and that LLC participants can withdraw freely, at any time with payment of the actual value of participatory share if it is prescribed by the Charter.

LLCs' are simpler to organize and manage than JSCs' — there is no need to register issuance of shares, keep register of shareholders, etc.

Representative Office

Foreign companies may also set up representative offices in Russia. However, pursuant to the Russian Civil Code, their role is limited, only to advertising and promoting of its foreign company, (representative offices may not conduct business activities). The representative office must be accredited in Chamber of Commerce and Industry or State Registration Chamber at the Ministry of Justice of the Russian Federation.

Branches of Foreign Companies

Foreign companies may set up a branch in Russia. The branch also must be accredited in Chamber of Commerce and Industry or State Registration Chamber at the Ministry of Justice of the Russian Federation.

The branch is entitled to engage in all lines of business allowed to be conducted by a company or by a sole proprietor. For a business enterprise, the pertinent business or trade license or permit must be obtained for the branch.

The branch manager has full powers of representation, like a managing director.

Business Finance



Raising adequate external finance is not always easy, especially for smaller businesses. However, with professional guidance the problem of obtaining adequate funding for an initial investment as well as for future growth and expansion should not prove difficult.

The size of the business concerned and the level of funding required will determine the sources of funding.

Equity finance

For certain levels of investment venture capitalists provide a common source of equity funding. The amounts of money available through this source can be significant but success in securing such funding may not be so easy. Venture capitalists demand a rapid and relatively high return on their investments and require evidence of a sound management track record and a clear exit plan.

In return they may provide not only financial support but also valuable relevant experience. Usually they are also part of the Board of Directors.

Obtaining a listing on one of the open markets may provide the solution for business seeking further expansion. A listing will not only provide access to capital and growth and a market for trading in shares, but will also increase public profile and credibility.

According to the current legislation only stock exchanges are empowered to carry out stock exchange dealings on securities obtained listing. Main Russian stock exchanges are:

- Moscow Interbank Currency Exchange (MICEX);
- Russian Trade System (RTS);
- Saint Petersburg Currency Exchange (SPCEX);
- “Saint Petersburg” Currency Exchange (SPBEX), etc.

Every stock exchange must provide a formation of a listing organization department.

Securities to be quoted must comply with certain requirements and conditions, such as:

- prospectus of securities issuances has been registered;
- report on overall securities issuance results has been registered;
- the issuer keeps all legislative directions on the security market.

Then if an issuer insists his securities to be included to the so called “A”, “B”, “V” and “I” (Quoted List “I” includes only stocks) Quoted List there are some complementary conditions for each Quoted List to fulfill.

For example, for Quoted List “A”:

- a three-year term of a company’s existence;
- a company not occurred losses during two last annual tax periods from last 3 years;
- the capitalized value of ordinary shares exceeds 10 billion rubles or the capitalized value of preference shares exceeds 3 billion rubles;
- monthly value of transactions on such securities came practically to 25 million rubles during the last three months etc.

Established financial control procedures are essential for a listing to be accepted.

The requirements for Quoted Lists “B” and “V” are less strict respectively.

Normally, special professional organizations will guide the company and will ensure compliance with the legal regulations.

This sphere is also regulated and contains provisions, aimed at protecting investors. So, a treaty concluded with such organizations can not modify the legal rules to their disadvantage. In cases when the provisions set out in the contract are less favorable to the investor than those in the legislation, such provisions are deemed null and void and are automatically replaced by the relevant provisions of the law.

Loan funding

Borrowing from a bank by way of overdraft remains the simplest form of external funding.

Overdraft is a credit granted by banks or lending agencies to the bank customer in compliance with the bank account agreement clauses in the absence thereof cash resources or its deficiency. To receive an overdraft the bank account agreement shall be concluded and special clauses must be included to it. Sum of money borrowed from

a bank by way of overdraft may be restricted within coordinated extension quota and an allowed quantity of overdrafts in the course of certain period of time.

However, as an overdraft can be called in at short notice, its use should generally be restricted to short-term cash flow funding, that's why it is called "operative crediting". Longer-term credit needs to be met by more secure loans, moreover since the interest rates will be higher.

Term loans

Fixed-term loans may provide a better solution to fund start-up costs, since repayment schedules and interest rates can be agreed and budgeted from the outset. Such loans are usually secured by a pledge on assets, such as property, debtors or plant and machinery. For smaller companies, the lender may also require personal guarantees from the directors or controlling shareholders.

Fixed or variable interest rates may be available with more complex arrangements available for larger loans including "caps", "collars", and "floors". These restrict the interest chargeable.

Credit may be granted to a borrower in a form of the "credit line", in other words by concluding a contract under which the bank undertakes an obligation to grant in future monetary means to a borrower in the amount stipulated by the agreement without any special negotiation. Two types of credit lines are known:

- providing for the extension quota;
- providing for the limit of indebtedness ("revolving credit line").

Other loans

Loans to assist the purchase of specific assets may come in different forms, varying from straightforward hire purchase of items through finance or operating leases. As each method will have different cost and taxation implications, advice should be sought on the most appropriate method for each situation.

Commercial credit

Contracts which execution is associated with the transfer to the other party of sums of money or other things defined by generic features may provide for the granting of

credit, including that in the form of advance, prepayment, deferment or installment payment for goods, works or services.

Unless otherwise stipulated by the contract of sale, the goods sold on credit from the time of their transfer to the buyer and to their payment are held in pledge by the seller for the guaranteed execution by the buyer of his duty to make payment for the goods.

When the buyer fails to make a regular payment for the goods sold by instalment and transferred to him within the period stipulated by the contract the seller has the right to refuse to execute the contract and demand the refund of the sold goods with the exception of cases where the sum of payments received from the buyer exceeds half of the price of the goods.

Credit against goods

The parties may conclude a contract providing for the obligation of one party to give to the other party things defined by generic features (the agreement on credit against goods) which can be a source of finance.

Financial Lease

It would be worth mentioning that leasing — one of the newest activities in the Russian Federation has huge future trends and opportunities at the cost of flexibility, high effectiveness and quick recoupment. Full-scale international development as the Russian one gives evidence of the significant economic importance of the leasing activity.

Experience shows that it's much simpler for any company to obtain needed assets by the way of leasing on the security of those assets than by its acquisition on loan proceeds.

The leasing contract is provided for in the Civil Code of Russian Federation and the federal law “On financial lease (leasing)”.

Under the leasing contract the lessor undertakes to acquire the property indicated by the leaseholder from the seller specified by him and to grant to the leaseholder this contract for charge in temporary possession and use for business purposes. In this case the lessor bears no responsibility for the choice of a subject of a lease and of a seller.

Any non-consumed things used in business except for land plots and other natural objects may be the subject of the contract of financial lease.

The risk of accidental destruction of, or accidental damage to, the leased property passes to the leaseholder at the time of the transfer of the leased property to him, unless otherwise stipulated by the contract of financial lease.

Financing against the assignment of a monetary claim (Factoring)

Special chapter regulating financing against the assignment of a monetary claim was created in the Russian Civil Code. In general, it is based on the Convention “On international factoring” although the Russian Federation doesn’t participate in it.

Some differences between those acts of no small importance may be designated.

The Civil Code of the Russian Federation in contrast to the Convention doesn’t provide for any limitation of the ceding monetary claim.

Russian legislation permits a “closed” factoring contract to be concluded whereas the Convention provides for an “open” factoring only when financial agent or the client must notify the debtor about the assignment of a monetary claim.

According to the existing legislation the client is not liable for the non-fulfillment by the debtor of the claim which is the subject of assignment in case the financial agent presents it for execution.

Although such contracts are not widespread in Russia analysts say that the situation on Russian financial market is highly favorable for factoring services development.

Regulatory Framework



Business and investors coming to Russia are required to comply with regulatory law.

This is a fast-changing area with compliance burdens increasing gradually. We have only mentioned a selection of these.

Registration

General remarks

A business company acquires legal capacity at the moment of its creation. It is considered created started from the day of its state registration.

Current legislation makes no provision for any special procedure of the registration of the companies with foreign investments. The registration is conducted according to the Russian law On State Registration of Legal Entities and Individual Entrepreneurs by tax authorities.

Under this law the procedure of the registration became more pared-down and simple. Firstly, registration of companies with foreign charter capital participation is the same as of Russian legal entities. Secondly, so called principle of “one window” replaced old rules according to which the applicant party was responsible for registering with social funds (the Social Insurance fund, the fund of Compulsory Medical Insurance, the Pension Insurance fund) and the State Statistic Committee, now registration with the Federal Tax Authorities is enough.

Registration process

When registering a company its founders must submit to the tax authorities the following documents:

- a state registration application signed by the applicant and drawn up according to the format approved by The Government of the Russian Federation;

- the decision whereby the legal entity has been formed (in the form of minutes, agreement or other document in compliance with Russian law);
- company's statutory documents (Charter, Statutory Agreement, etc.);
- certificate of Incorporation, or extract from the Trade Register of foreign legal entities of a relevant country of origin;
- a document confirming that the state fee has been paid.

Although it is not mentioned in the indicated law a company must confirm an actual address and in practice can be interested in executing some other documents not mentioned above.

All copy documents from a legal entity or a natural person must be notarized. Any document supplied in a language other than Russian must be accompanied by a translation and should be legalized (Apostil).

The registration authority has to register a company or a natural person as an individual entrepreneur in 5 days after proper documents have been submitted.

Special requirements

According to the general rule no any special requirements except for the prescribed in the Federal law “On state registration of legal entities and individual entrepreneurs” are demanded from applicants to establish a legal entity. But special regulations comprise some additional requirements for the state registration of legal entities which are set up to protect society, to create conditions for stabilization of the conducting business, to exclude applicants lacking experience, proper material and financial resources, and as a result incapable to carry out its functions professionally, from civil circulation.

In registration practice a company can be established without any need to meet additional requirements, but in fact to carry out certain types of activities it has to receive a license and in any way has to comply with additional requirements.

For instance, to establish a credit institution (a banking company) an applicant is to provide a registration body with business-program, auditor's conclusion on founders' accounting, documents confirming the proper performance of tax duties and sources of origin of assets transmitting to the stock capital, forms about candidates for the posts of the head of the organization and its chief accountant, deputy accountants of the organization and the head of the branch of the organization, deputy directors, chief accountants and deputy accountants of the branch, etc.

Included among information about candidates forms mentioned above are to contain reports about their special education, experience of guidance and convictions, lack and unavailability of which can be a reason for denial on state registration.

To carry out insurance activities a company must be registered as a so called subject of insurance. Requirements for such legal entities are rather strict and consist of those in the field of education, training and residence of its managing body.

Some special provisions require company's managing body to consist of Russian citizens only. For example, organizations conducting business in the field of aviation may be established if foreign part of charter capital is less than 49% and its managing body consists of Russian citizens.

Limitation of establishment of banking organizations also exists and provides for the quota of foreign investment participation in the Russian banking system set out by the special federal law.

Some business activities such as notarial practice, folk-medicine practice, operating in the business legal structure of credit consumer cooperatives, chambers of commerce and industry, conducting business as bankruptcy commissioners, etc. may be carried out by Russian citizens and/or Russian companies only.

And not least as applied to certain types of business activities circle of potential founders is restricted.

Thus Russian citizens, foreign citizens and stateless persons upon condition they are domiciled in the Russian Federation under the residential permit, companies and state organs may establish mass communication organizations. Public bodies, banks, credit institutions, insurance and investment companies and funds, social, religious and charitable organizations and natural persons which under the legislation can't conduct entrepreneurial business are not allowed to participate in establishment of commodities exchanges. Peasant (farmer's) economies may be set up by fixed related natural persons and not more than 5 non-related natural persons. Participation of organizations conducting business in the sphere of production of goods and services, banks and credit institutions in financial industrial groups is compulsory, but social and religious organizations are debarred from conducting such an activity.

In a limited number of cases the legislator prescribes companies being involved in certain business activities to be registered in determinate business legal structures.

A matter of particular interest for foreign investors is the fact that to be registered as individual entrepreneurs, any person has to submit to the registering body a copy of the document confirming the right of the natural person to reside provisionally or permanently in the Russian Federation.

Activities requiring a license

General remarks

It is a common rule for commercial organizations that companies have the civil rights and assume the responsibilities necessary to engage in any type of activities not prohibited by federal law.

But companies may engage in certain types of activities, as listed by law, based on a license. A license is understood as an official document which allows a particular type of activity to be carried out. If license terms include the principle that any such activity is a company's exclusive activity, the company does not, during the effective period of such license, have the right to conduct any types of activity other than those types stipulated by the license and those related thereto. Another rule is that licenses are issued separately for each type of activity.

In general activities under the license regulation are those which may cause damage to the persons' health, rights and lawful interests, to the defense of the country and the security of the state, to the common cultural property without such regulation.

The licensing process

Business and entrepreneurial activities that require licenses are listed in Federal Law of May 4, 2011 "On licensing Certain Activities". The law indicated above does not apply to the activity of banks or credit organizations, insurance, use of natural resources and the subsurface, the nuclear industry, professional activity in the stock market and certain other areas. These will remain subject to separate licensing rules under other legislation.

To receive a license an applicant is to comply with licensing requirements and conditions, which are stipulated for in legislation.

The licensing process is rather time-prolonged. The decision to grant or deny a license is made within 45 days of receiving an application which is supported by all required documents. The reasons for denial may be as follows:

- the documents contain unreliable or misstated information;
- the applicants don't comply with licensing requirements and conditions.

Under the law, the volume of goods, works, services manufactured or planned for manufacture may not be grounds for refusal to issue a license. This provision seeks to protect small businesses.

A legal entity's right to carry out the activity that is subject to licensing begins at the moment that the relevant license is issued or at another date as may be specified therein, and it ends if the license is annulled.

The period for which a license is valid is unlimited.

Legislation permits the holder of a license to conduct a designated activity within the whole territory of the Russian Federation. License issued by regional authorities will be valid in another region after notification of the authority of that region.

Tendencies of evolution of legislation on licensing

Basic tendency of evolution of legislation on licensing is the planned reduction of types of activities requiring a license.

The licensing of auditing, appraisal, design and construction of buildings and structures, performance of engineering surveys for construction of buildings and structures, tourist industry, livestock breeding, maintenance and repair of rolling stock and rail equipment, manufacture of elite seed, acceptance and transportation of aquatic biological resources (including fish and other aquatic animals and plants) fulfilled at sea, are discontinued at this moment.

The licensing of such activities were replaced by obligation to enter respective self-regulated organizations. These organizations establish special requirements for the members, control professional activity of its members and can bring them to responsibility.

Self-regulated organizations should act in accordance with the Federal law "On self-regulated organizations". Due to this law state authorities pass controlling and supervisory functions to self-regulated organizations (i.e. in sphere of auditor's, construction, evaluation activity etc.).

Among activities which are still licensed, the following should be named:

- development, production, testing and repair aeronautical engineering;
- operation of explosive production facilities;
- operation of chemically hazardous production facilities;
- geodesic and cartographic activity of federal significance;

- production and technical service of medical equipment (except technical service legal entities and natural persons in own needs);
- operation, production, test, storage, repair, utilization and trade of non-military and service weapons;
- organization of employment of Russian citizens abroad;
- medical activity (except activity in innovation center “Skolkovo”);
- pharmaceutical activity;
- sales of drugs, psychotropic substance and precursors;
- maintaining of cultural heritage objects of Russian commons;
- operation, production, testing, setting, assembly, technical service, repairing, utilization and implementation of weapon and military hardware;
- carriage of passengers by inland water and sea transport;
- carriage of passengers by air transport (except legal entities and natural persons in own needs);
- carriage of cargo by air transport (except legal entities and natural persons own needs);
- carriage of passengers by highway transport equipped for carriage of more than eight persons (except situations when such activities are exercised on the orders and for legal entities and natural persons in own needs);
- space activities and some others.

Licensing requirements and conditions

To receive a license to carry out different activities various requirements are established by legislation:

- requirements of the proper education, passing the qualification examination, training on probation, specialized training, career progressive program, academic degree, specialists' certificate;
- proper experience;
- prohibition of positions overlapping;
- proper business reputation;
- lack of bankruptcy proceedings over a stipulated period of time;
- requirement to be current on taxes;
- requirement of proper resources;
- lack of dismissal on discreditable basis;

- lack of convictions;
- health status;
- citizenship;
- residence.

Company regulations on mergers and acquisition

Mergers of companies are regulated by the Civil Code and special laws (for example, the Federal law On LLC, the Federal law On JSC).

The merger shall be effective as of the date of registration of the merger in the register appropriate for the seat, respectively, of the acquiring company or the newly formed company. An acquiring company or a newly formed company shall enter, as of the merger date, in all rights and obligations of the companies being acquired or merged, including the permits, concessions and other administrative decisions, unless otherwise provided by Law or pertinent decision.

The Civil Code provides that capital companies may merge with each other and with partnerships, under assumption that a partnership may not be an acquiring company or a newly formed company. The partnership may also merge with each other but only by the formation of a capital company.

The Civil Code also regulates the spin-off and transformation of the companies. The transformation procedure allows to transform any kind of commercial company to other commercial companies. Both spin-off and transformation procedures are in general similar to merger procedure.

Accounting law

Russian accounting is regulated by a system of legal acts which consists of four different levels of documents.

The first level of documents compiles the laws and other legislative acts regulating the way accounting is set up and maintained in entities. The Federal Law "On Accounting" occupies a major place among those. The regulation on accounting and reporting in the Russian Federation determines the procedures for setting up and maintaining the accounts and compiling and submitting the financial statements of entities, irrespective of their legal form, with some exception.

The Civil Code of the Russian Federation also is a major part of the system of legal acts on accounting, as it consolidates many issues regarding accounting. The Civil Code of the Russian Federation defines the existence of an independent balance sheet as one of the indications of a legal entity, establishes the necessity of approving the annual financial statements and instances where an audit opinion is required.

The Federal Law "On development of small and medium business in Russian Federation" determines the procedure by which small businesses should submit financial statements and also provides for accounting and reporting compilation according to a so called simplified procedure. The Federal Laws "On joint-Stock Companies" and "On limited liability Companies" establish accounting and financial statements compilation requirements, confirmation of the reliability of the data contained in the internal auditor's annual report of a company determine the procedure by which the annual financial statements are approved, as well as instances in which an audit opinion is required.

The second level of the system of legal acts consists of accounting regulations. At present, there are some Regulations (standards) on accounting which establish principles and general accounting rules. These documents also provide main concepts related to distinct areas of accounting and possible methods for accounting for business operations.

The third level of documents include methodical instructions on accounting, including recommendations in which specific procedures for applying principles and regulations of accounting are set forth for particular types of activities. This group includes methodical recommendations for planning, accounting and calculating the cost of goods (work, services) in construction, farming, science and research and development, methodical recommendations on taking inventory of property and financial obligations.

The fourth level of documents in terms of the accounting regulation system includes documents belonging to the company itself, which determine its accounting policy in all systematic, technical and organizational aspects. If there are some specific accounting methods that are not developed in a uniform manner, companies have the right to develop them independently and approve them with such an Order on accounting policy. The accounting policy adopted by the organization is applied consistently from year to year. Modification of the accounting policies may be effected in the event, when the legislation or the regulatory acts of charge of accounting regulation are changed. For the purpose of ensuring comparability of the accounting information, changes in the accounting policies shall be introduced from the beginning of a fiscal year.

Russian accounting is based on the double-entry method. Companies should use a working chart of accounts developed on the basis of the centrally-established Chart of Accounts.

Economic operations should be accounted for in the currency of the Russian Federation (rubles). Therefore, transactions in foreign currency are accounted for in rubles in amounts converted from currency amounts according to the exchange rate of the Central Bank of the Russian Federation effective as of the transaction date.

Facts regarding economic activities should be documented in Russian. Source documents prepared in other languages should be translated into Russian line-by-line.

Supporting documents must be available for all economic transactions performed by the company. These documents serve as source-accounting documentation on which the accounting should be based.

According to Russian legislation, companies prepare financial statements monthly, quarterly and annually on an accrual basis.

Annual financial statements include:

- the accounting balance sheet;
- the profit and loss statement;
- the appendices thereto as provided in the regulatory acts;
- the explanatory notes;
- the audit statement, confirming trustworthiness of the organization's bookkeeping reporting if it is mandatory.

A company's financial statements must present fully and reliably the company's economic and financial position, any change in this position as well as the financial results of the company's activities. A company's financial statements must include the results of the activities of the company's branches, representative offices and other structural subdivisions.

If the company has subsidiaries or associated companies, consolidated financial statements must be prepared in addition to the company's own financial statements. The consolidated financial statements must include figures from the reports of both companies located in the Russian Federation and abroad.

A financial year of a Russian enterprise is a calendar year.

Considering the fact that financial statements in Russia are prepared in accordance with statutory legislation which differs from international regulations, in order to present the financial statements to Western founders or investors, the statutory financial statements are normally brought into compliance with international standards.

Obligatory annual audits

According to current Russian legislation, annual audits are compulsory for the following entities:

- open joint-stock companies;
- banks and other banking institutions;
- investment institutions;
- insurance companies;
- commodity and stock exchanges;
- charities and other (non-investment) funds financed by voluntary contributions from legal entities and individuals;
- non-budgetary funds financed by obligatory contributions stipulated by statutory legislation from legal entities and individuals;
- companies which volume of proceeds from marketing products exceed 400 million rubles as at the end of the reporting period;
- companies which total assets of the balance sheet as at the end of the reporting period exceed 60 mln rubles etc.

Normally, a company in the Russian Federation is entitled to select its own auditor. An auditor may be a legal entity or an individual auditor who is a member of one of self-regulating auditor organizations.

In addition to a compulsory annual audit, companies may on their own initiative, engage an auditor to ensure that the financial statements are sufficiently reliable to attract additional investments, etc.

Expenses resulting from an obligatory or initiative audit can be deducted from the taxable profit.

Competition law

The competition legislation of the Russian Federation consists mainly of the Federal law “On Protection of Competition” The main purpose of this act is to prevent and suppress monopolistic activity and unfair competition, including the protection of competition from restrictions of state authorities and to ensure a uniform economic environment, free circulation of goods, to support fair competition and free entrepreneurial activity.

Three considerable spheres of anti-monopoly regulation can be designated:

- activities that may hamper competition carried out in the Russian Federation by Russian and foreign companies, state authorities and individual entrepreneurs;
- activities carried out outside the Russian Federation that nevertheless may cause restriction of competition on the Russian commodity or financial services markets.

To understand whether a company's activity limits competition is to analyze its position on the commodity or financial services markets.

There are two types of dominant position: individual and collective.

The individual dominant position

For entities with market share of 35% or less there is a conclusive presumption of non-dominant position, for entities (except financial organizations) with market share between 35 and 50% there is a presumption of non-dominance. Dominant position in such circumstances has yet to be proved by the Federal Anti-monopoly Service. It can be made involving different criteria such as the stability of the entity's market share, the market share of its competitors, barriers to market entry, etc. For entities with market share of 50% or more there is an impugnable presumption of market dominance.

The collective dominant position

Activity of each entity from a few entities (except financial organizations) can be recognized as dominant if the cumulative part of less than 3 or 5 entities on the respective market is more than 50% or 70% respectively, if during a long period the parts of the entities is almost permanent, or if commodity of the entities can't be replaced by commodity of other entities.

For financial organizations there are special regulations stated by the Government of the Russian Federation.

So, entities which occupy a dominant position are subject to some restrictions on their activities:

- the withdrawal of goods from turnover, the purpose or result of which is the creation or sustenance of a deficit on the market or a price rise;
- the creation of hindrances to the access to the market or exit from the market for other transactor's units;
- the violation of the price formation procedure established by normative acts;

- the fixation or the support of monopoly high or low prices;
- unjustified refusal to conclude a contract with particular buyer if there is a possibility of producing or delivering appropriate goods, etc.

Agreements or concerted actions limiting competition are prohibited. In occasional cases such agreements may be considered by the antimonopoly body as lawful if the beneficial effect exceeds greatly over its negative consequences for the commodity or financial service market.

Besides, two kinds of state control over establishment and reorganization of commercial entities and transactions with shares, property and rights in respect of the commercial legal entities depending on the total assets of the parties to the transaction, the total revenue of the parties and other conditions are possible:

- obtaining of preliminary authorization from the Federal Anti-monopoly Service;
- notification to the Federal Anti-monopoly Service.

Obtaining of preliminary authorization from the Federal Anti-monopoly Service is necessary in the cases of acquisition by a person (or a group of persons) of more than 25% of the shares in a company (this provision does not apply to the establishment of companies); acquisition by a person (or a group of persons) of more than 20% of the balance sheet value of the plant assets of a company; merger or consolidation of commercial companies if the aggregate value of the entities' assets exceeds 3 billion rubles or summary sales of the companies are more than 6 billion rubles per year or one of the entities are included in the register of entities with dominating position, etc.

Notification to the Federal Anti-monopoly Service is required in the following cases:

- merger or acquisition of commercial organizations (except financial organizations) if the summary asset value of them are more than 400 mln rubles;
- merger or acquisition of financial organizations if the summary asset value of them are not more than value stated by the Government of the Russian Federation;
- acquisition of shares, rights or assets of commercial organizations (except financial organizations) if the summary asset value of the acquirer and his group is more than 400 mln rubles and the summary asset value of the company which is acquired, which rights or assets are acquired is more than 60 mln rubles, etc.

Founders, participants of a commercial organization shall notify the Federal Anti-monopoly Service within 45 days after the state registration or making transaction.

Currency regulation

The federal legislation regulating currency transactions is based on the Law “On currency regulation and currency control” of December 10, 2003.

All transactions conducted inside the Russian Federation must be conducted in the national currency of the Russian Federation — rubles. Although in many cases drawing up a contract parties prefer to establish the ruble value equivalent to foreign currency. On standing order all transactions involving foreign currency have to be executed through banks having a license from the Central Bank of the Russian Federation for conducting foreign currency operations (authorized banks).

The Law “On currency regulation and currency control” empowers certain authorities such as the Russian Government, the Central Bank and Federal Service of Financial and Budget supervision to regulate the possession and the use of foreign currency by entities and persons inside the Russian Federation.

With that end in view currency regulation distinguishes resident and non-resident status. Residents are:

- Russian citizens and foreign citizens and stateless persons domiciled in the Russian Federation on the residential permit;
- legal entities established in accordance with the legislation of the Russian Federation and its branches and representative offices located outside the territory of the Russian state;
- diplomatic representations, consular offices of the Russian Federation and other official representations of the Russian Federation which are situated outside the territory of the Russian Federation;
- the Russian Federation, the subjects of Russian Federation and municipal formations which participate in such relations.

Non-residents are defined as individuals whose permanent place of residence is located outside of Russia, legal entities created in accordance with foreign legislation and their branches and representative offices located inside the territory of the Russian state, and any other natural and legal entities not qualified as residents.

Currency operations between residents are prohibited with the exception of those indicated in the legislation. Currency operations between non-residents may be done without any restrictions. Currency operations between residents and non-residents are free of limitation except for the currency transactions provided for by legislation.

Foreign entities must monitor the currency regulations very carefully since established penalties for violation of it are rather sizeable and can amount to sums of the currency operation.

E-commerce

The legislation of the Russian Federation establishes some rules which permit e-commerce to be realized in practice. Legislation on a matter can be divided into some groups provided general regulation and special provisions. The Constitution of the Russian Federation determines the fundamental provisions and constitutional backgrounds. Principles of the Civil Code of the Russian Federation on concluding treaties are rather flexible to provide for availability of documents signed with so called electronic digital signature. These rules didn't work some time before because of the absence of the procedure of checking out the legality of such electronic digital signature (except for established by parties themselves). Nowadays the Law "On Electronic Signature" dated as of April 6, 2011 is effective. It establishes some rules to be kept to recognize electronic documents signed with an electronic signature as equivalent to documents under the sign manual.

There are three types of electronic signature: simple, intensive non-qualified and intensive qualified, which have different legal effect. Intensive qualified electronic signature could be equivalent to documents under the sign manual unless otherwise is stated by Law. Simple and intensive non-qualified electronic signatures can be equivalent to documents under the sign manual in case stated in Law or in agreement of the parties.

Special certifying centers were created to control intensive qualified electronic signatures, which give to participants of electronic documents circulation certificates of signature keys. Certifying centers should be accredited by Government authorized agency.

Electronic signatures created in accordance with international legislation or standards will be recognized as equivalent to corresponding Russian electronic signature.

Other aspects of the electronic documents circulation are fixed in other laws such as the Federal law "On Information, Information technologies and Protection of Information", "On Communication" and "On Mass Communication Media", etc.

Conformably to the taxation of e-commerce, the Tax Code of the Russian Federation doesn't contain any specific rules. Some questions may arise because of the cross-border character of Internet recourses, necessity to qualify the place of e-activity under

conditions of absence of the taxation administration on electronic transactions concluded.

Money laundering

Federal law On Combating Money Laundering and Terrorism Financing of August 7, 2001 came into force on February 1, 2002. The present federal law is directly relevant to Russian citizens, foreign citizens and stateless persons, legal entities carrying out cash and real estate operations inside the territory of the Russian Federation in an effort to prevent, uncover and stop activity related to money laundering and terrorism financing. It prescribes a wide range of financial institutions (such as banks and non-bank financial organizations, securities market professionals, insurance and leasing companies) and other institutions (postal and other non-credit organizations that deal with the transmission of money, pawnshops, legal advisers, notaries, etc.) to inform a special central executive agency of any cash or deposit transactions involving 600 000 rubles or more, real-estate transactions involving 3 mln rubles or any other transactions deemed suspicious in the aspects of its relating to the criminal activity.

Organizations carrying out cash and real estate operations mentioned above are obliged to elaborate the rules governing a financial institutions' internal record keeping. The rules governing a financial institution's internal record keeping and the reporting of suspicious transactions include an obligation to perform increased due diligence on all complex or unusual patterns of transactions that have no apparent economic or visibly lawful purpose. Fact of no small importance is that such institutions are protected from any liability for breach of any restriction on disclosure of information recognized as official, bank, tax or trade secrecy or other information of restricted access imposed in accordance with the execution of the Money Laundering Law.

Organizations that fail to comply with the requirements of the Money Laundering Law may have their licenses revoked.

Different Taxes within Russia



General Remarks

The Tax Code of the Russian Federation establishes the following taxes and fees:

- federal taxes and fees which are collected throughout the Russian territory;
- taxes and fees of the subjects of the RF (regional taxes and fees);
- local taxes and fees.

Regional and local taxes are enacted on the respective territory by the decision of the regional or local legislative body within the list of taxes set by the federal law.

Federal taxes and fees include value added tax (VAT), excise taxes, personal income tax (PIT), insurance contributions, corporate income tax (CIT), tax on extraction of minerals, water tax, fee for the right to use fauna and aquatic biological resources, state duty. Regional taxes and fees are tax on property of organizations, tax on gambling industry, transport tax. Land tax and individual property tax forms local taxes of the Russian Federation.

The taxation system is uniform across the Russian Federation, only small differences may occur in regional and local taxes. Generally, foreign companies and individuals pay the same taxes as Russian legal and natural persons. Exceptions to this rule are businesses where taxation is regulated by international treaties concluded by Russia (conventions for the avoidance of double taxation).

The main taxes shall be observed above.

Corporate Income Tax (CIT)

Companies, including partnerships, pay corporate income tax. Russian tax law does not define residence but distinguishes between domestic and foreign enterprises. Domestic enterprises are those which are established under the laws of Russia and are taxed

on their worldwide income. Foreign legal entities are subject to CIT on profits derived from business activities carried on through a permanent establishment in the Russian Federation, or if a profit is obtained by a foreign legal entity in connection with its activity within the territory of the Russian Federation. Non-resident corporations deriving their profits from foreign trade with the Russian Federation are not deemed to have their income sourced in Russia.

Taxable Income and Tax Rates

The standard flat tax rate is currently 20%. 2% of it is paid to the federal government and 18% to republican authorities. The tax rate for the share transferred to regional authorities should not be less than 13.5%. Enterprises, except foreign legal entities, are obliged to make monthly advance payments of their quarterly liabilities. Advance payments are due not later than the 28th day of the corresponding month.

Resident enterprises have the option to pay tax monthly based on their actual profits. Payments are due no later than the 28th day of the following month.

According to the current tax law there are no special benefits provided for entities such as religious associations, state and municipal museums, libraries or specialised restoration.

The following are deducted from the taxable base:

- profits used to finance certain capital investment in production and non-production facilities;
- the costs of maintaining certain social facilities;
- profits spent for needs of public health, education, culture, sport;
- charitable contributions;
- profits spent on scientific research and development and also donated to approve research foundations.

Taxation of Dividends

Dividends are subject to a final withholding tax at the rate of 15% for dividends received and in relation to the income obtained in the form of dividends by foreign companies from Russian companies. Dividends are taxed at the rate of 9% received by Russian companies and individuals from Russian companies and foreign enterprises. Special rate 0% is applied for Russian companies which hold shares of Russian entities rate if:

- Russian company holds at least 50% of the capital of the payer and
- the participation has been held continuously for the past 365 calendar days.

Taxation of Interest

Enterprises may deduct interest on bank loans up to a maximum rate established by law, and interest on suppliers' credit relating to the purchase of materials, works and services. No deduction is permitted for interest on loans neither for the purchase of fixed assets, intangible assets and other non-working capital nor for the interest on overdue or deferred credit.

For a Russian creditor the interest received is taxed at general CIT rate.

Interest paid to foreign legal entity is subject to withholding tax of 20%, unless the double taxation treaty fixes the lower tax rate or tax exemption. The application of the treaty rate and exemption is conditional upon presentation of a "certificate of tax residence" issued by the tax authorities in the beneficiary's country. The person paying the interest withholds and remits the tax.

Loss Carry Forward

Current trading losses may be used to offset profits for the same tax year. Enterprises may carry losses forward for 10 years subject to certain conditions.

Thin Capitalization

The Russian Tax Code contains provisions on thin capitalization. Thin capitalization rules deductibility of interest may be restricted in full, inter alia, if the lender is the foreign parent partner which directly or indirectly owns more than 20% of the share capital of the Russian borrower or the lender is a Russian company which is considered to be affiliated with such foreign parent company.

If the amount of controlled debt is more than three times as high as the difference between the sum of assets and the amount of liabilities of Russian taxpayer at the last date of the accounting (tax) period, the maximum rate of interest subject to inclusion in expenses shall be calculated.

The positive difference between accrued interest and the maximum interest rate will be qualified for taxation purposes as a dividend paid to a foreign organization and it shall be subject to withholding income tax.

The debt-to-equity ratio should be determined on the end of every month and the year.

Transfer Pricing

The Russian Tax Code also contains provisions dealing with cross-border and internal transfer pricing. These restrictions apply to transactions between entities related through share capital (directly or indirectly — 20% stock threshold), barter and cross-border transactions.

If such transactions are concluded in circumstances differing from market conditions for more than 20%, taxable income of a Russian entity may be adjusted to arm's length when such income was disclosed lower than it would have been disclosed in the absence of pertinent relations between transacting parties. The transfer pricing restrictions apply to supply of goods and provision of services.

Value Added Tax (VAT)

VAT is levied on the supply of goods and services. The tax due to the budget is calculated as the surplus of output VAT over recoverable input VAT included in purchase invoices.

The standard rate of VAT is 18%.

Some supplies of basic foodstuffs and children's clothing and footwear are taxed at a reduced rate of 10%. Some imported medicines and equipment for medical and scientific research are exempt from VAT. Other exemptions include cultural and educational services, as well as services rendered by interpreters and lawyers.

In turn a zero VAT rate is levied on the export of goods. The 0% rate allows the supplier (exporter) to recover VAT inputs incurred on purchases from total amount of VAT owed to the budget.

A tax payer can decide whether he would like to have the surplus input VAT amount refunded by the tax authorities in cash via the VAT, or whether the surplus should be carried forward to the following months.

Insurance Contributions

Insurance contributions to the Pension Fund of the Russian Federation, the Fund of Social Insurance of the Russian Federation and the Funds of Obligatory Medical Insurance of the Russian Federation are implemented and replace the Unified Social Tax. The contributions are paid by the employers only and levied on the payroll of Russian employees. The aggregate amount of contributions is 34%. Special rates are established for certain groups of employers and professions.

Excise Tax

Excise tax is charged on particular groups of goods imported to Russia and produced domestically.

Excise tax is imposed on:

- ethyl alcohol, except cognac alcohol;
- alcohol containing products;
- beer;
- tobacco products;
- cars and motorcycles featuring engine power rating over 150 h.p.;
- petrol;
- engine fuels.

The excise tax is calculated either as a percentage of the value of goods produced (or the customs value) or on a quantity basis (constant rate per unit).

Personal Income Tax (PIT)

Personal income tax is levied on resident and non-resident individuals, whether they are or are not citizens of the Russian Federation. Individuals are considered to be resident if they spend more than 183 days in Russia during 12 consecutive months. Residents are subject to income tax on their worldwide income and non-residents on their Russian sourced income only.

Personal income tax rate is 13% but special rates are applied to some kinds of income, e.g. prizes, insurance proceeds, interest on certain bank deposits, deposits on foreign currency (35%). The tax rate is established in the amount of 9% to the income from the share participation in the activity of entities received in the form of dividends. Also, dividends and income of non-residents are taxed at 30%.

The following types of income are exempt from tax:

- state allowances and compensations;
- alimonies;
- grants for purpose of science, education, culture and art;
- medical expenses;
- scholarships, and some others.

Russian Tax Code knows such a category as standard, property, social and professional deductions, which must be granted under established conditions.

The tax year for individuals is a calendar year.

Generally, tax is due on a monthly basis. Employers (Russian organizations, individual businessmen and permanent representation of foreign entities) are obliged to calculate, withhold and remit to the budget tax due on their employees' remuneration. Individuals who receive income from abroad or who perform independent personal services are personally responsible for disclosing income.

At the end of the tax year each tax payer (except for those, who has only employment income) is obliged to file an annual tax return disclosing his aggregated annual income. The deadline for filing the annual tax liability is 30 April of the following year.

Tax on Property of Organizations

Resident enterprises and foreign companies that own property within the territory of the Russian Federation are liable to property tax. The rate is set by the regional authorities but can not exceed 2.2% of the time average cost of the property (only fixed assets). The foreign companies, which do not have permanent establishment in Russia, but own movable property, are not property taxpayers in Russia.

Other Taxes

The owners of transport facilities (cars, motorcycle, buses etc.) have to pay transport tax. This tax is imposed by territorial divisions of Russian Federation. The tax rate depends on the technical characteristic of transport. Taxpayers must pay the tax according to a contributory scheme determined by legislative bodies of regions of the Russian Federation.

Companies, organising gambling establishments are subject to tax on gambling industry. The tax rates are fixed and are not related to profit.

Local authorities can define some rules of local tax payment, but cannot impose taxes not stipulated by the tax legislation. Local taxes include tax on the property of individuals; land tax. Tax on the property of the individuals should be paid by owners of dwelling houses, flats, cottages, garages and other constructions. The tax rate varies from 0.1% to 2% according to its inventory costs.

Taxpayers of the land tax are organizations and natural persons that have land plots in their ownership, that have the right to use them on a permanent basis or the right of the life heritable tenure thereof. Tax rates shall be established by normative legal acts of representative bodies of municipal formations and may not exceed 0.3% of the cadastral value of land plots referred to agricultural land or occupied by housing stock and by units of plumbing infrastructure of the housing and communal complex, or allotted as personal subsidiary plots for gardening and may not exceed 1.5% of the cadastral value of other land plots.

Double Taxation Conventions

Please find the actual information on a matter in Appendix 1.

Special Provisions for Imports and Customs



General remarks

The import and export regulations are governed by the Customs Code of the Customs Union, Law on Customs Regulations in Russian Federation, Customs Tariff Law and by a number of implementing ordinances.

Customs procedures

In an effort to regulate customs relations the following customs procedures are established:

1. Issue for internal consumption;
2. Export;
3. Customs transit;
4. Customs warehouse;
5. Processing in the customs territory;
6. Processing outside the customs territory;
7. Processing for internal consumption;
8. Temporary importation;
9. Temporary exportation;
10. Re-import;
11. Re-export;
12. Duty-free trade;
13. Destruction;
14. Refusal in favor of the state;
15. Free custom zone;
16. Free warehouse;
17. Special customs procedure.

Companies are allowed to choose any customs procedure prescribed below or to modify it according to the regulations. But this has to be proved by the declarant that it fulfils the requirements of the declared custom procedure granting total or partial exemption from customs duties and taxes or the reimbursement of sums has been paid or non-use of economic prohibitions and limitations.

The list of documents required is determined by the Law on Customs Regulations in Russian Federation and it can be extended if reasonableness of the exemption can be confirmed.

Customs payments

According to Customs Code of the Customs Union when importing the goods into the customs territory of the Russian Federation the following customs payments are to be made:

- Import customs duty;
- Customs VAT;
- Excise duty;
- Customs charges.

Where goods are conveyed across the customs border of the Russian Federation customs payments should be paid since the moment of crossing customs border.

Tax base for the purposes of calculation of the customs payments are customs value of the goods and (or) their quantity.

The definition of customs value of the imported goods is made by consecutive application of the following methods of estimation:

- At the price of the transaction with the imported goods (a method 1);
- At the price of the transaction with the identical goods (a method 2);
- At the price of the transaction with the homogeneous goods (a method 3);
- Method of deduction (a method 4);
- Method of additions (a method 5);
- A reserve method (a method 6).

The basic method of definition of customs value is the estimation at the price of the transaction with the imported goods.

In a case the basic method can not be used, one of the methods listed above is applied. Thus each subsequent method of customs estimation is applied, if customs value can not be determined by use of the previous method.

Methods of deduction and addition (methods 4 and 5) can be applied in a return sequence under the discretion of the declarant.

The method 1: The price of the transaction is understood as the price actually paid, and the price subject to payment for the imported goods.

Thus the price of the transaction includes charges on transportation of the imported goods up to a place of their customs registration and the cost of packing (cost of packing materials and works on packing) and some other charges if they were not earlier included.

The price of the transaction can not be used for definition of customs value, if:

- there are restrictions concerning rights of the importer to this goods;
- the price of the bargain depends on observance of any conditions which influence can not be taken into account;
- the data used by the declarant at definition of customs cost, are not confirmed documentarily;
- the importer and the exporter are interdependent persons, except the cases when their interdependence has not affected the price of the transaction (this fact should be proved by the declarant).

The method 2: As the base for definition of customs value the price of the transaction with the identical goods is accepted.

Thus "identical" goods are understood as goods, identical in every respect with the estimated goods, including:

- the purpose and characteristics;
- the quality, presence of a trade mark and reputation in the market;
- the country of origin;
- the manufacturer.

Insignificant distinctions in appearance can not form the basis for refusal in consideration of the goods as identical if the rest parameters are similar.

The price of the transaction with the identical goods is accepted as base for definition of customs value, if these goods:

- are alienated for import in the territory of the Russian Federation;
- are imported simultaneously or not earlier than 90 days prior to import of the estimated goods;
- are imported on the same commercial conditions and at approximately same quantities, as the estimated goods.

The price of the transaction with the identical goods also includes charges on transportation of the imported goods up to a place of their customs registration and the cost of packing (cost of packing materials and works on packing) and some other charges if they were not earlier included

If the application of this method reveals more than one price of the transaction on the identical goods *the lowest of them* is applied to define customs cost of the imported goods.

The method 3: As the base for definition of customs value the price of the transaction on the goods, homogeneous with imported is accepted.

Thus "uniform" goods are understood as goods which are not identical in every respect, but have similar characteristics and consist of similar components. That allows them to carry out the same functions, as the estimated goods and to be commercially interchangeable.

To define the uniformity of the goods their following characteristics are taken into account:

- The purpose and characteristics;
- The quality, presence of a trade mark and reputation in the market;
- The country of origin.

Using this method basic positions of method 2 are applied.

The method 4: The definition of customs value using the method of subtraction of value is made if the estimated, identical or homogeneous goods are sold (alienated) in territory of the Russian Federation in a constant condition.

The base for definition of customs value using this method is the price of a commodity unit, on which the estimated, identical or uniform goods are sold in the greatest batch in the territory of the Russian Federation in the moment as much as possible approached to the moment of import (not later than 90 days from the date of import of the estimated goods), to the buyer who is not dependent on the seller.

The method 5: The base for definition of customs value using this method is the price of the goods designed by addition of:

- Cost of materials and other costs borne by the manufacturer in connection with manufacture of the estimated goods;
- The general expenses, typical for sales in the Russian Federation from the country-exporter of the goods of the same kind, including cost of transportation, cargo handling works, insurance up to a place of customs registration in the territory of the Russian Federation etc.;
- The profit usually received by the exporter as a result of delivery to the Russian Federation of such goods.

While using this method charges on transportation of the imported goods up to a place of their customs registration and the cost of packing (cost of packing materials and works on packing) and some other charges also should be taken into account.

The method 6: In a case the customs value can not be determined by the declarant as a result of consecutive application of the specified five methods or customs bodies reasonably consider, that these five methods of definition of customs value can not be used, customs value of the estimated goods is determined and proved based on the world customs practice.

Thus use of different ways of definition of customs value should correspond to the legislation of the Russian Federation and international principles of system of customs value estimation.

Customs bodies should give the declarant the price information available at their order.

As base of definition of customs cost using this method can not be used:

- The price for a home market;
- The price for the goods of a domestic origin;
- The price of the goods delivered from the country — exporter in the third countries;
- Other costs than the estimated cost for identical or homogeneous goods.

Investment Incentives

Russian customs legislation stipulates some special provisions for foreign investors regarding reduction of customs payments. However, such regime may be used only if the investor meets certain requirements.

If foreign investor declares these imports as charter capital contributions into the Russian subsidiary, in order to be exempted from taxation with customs duties, the goods imported as charter capital contribution should be:

- not excised;
- related to the basic production assets;
- imported within timing established by constituent documents for formation of the charter capital.

There is a special List of the basic production assets authorized by the Government of the Russian Federation. The registration of all documents necessary for getting customs duty relief will take about 6 months from the moment the decision on contribution to the capital of the subsidiary is made.

According to the Russian tax legislation the goods imported to Russia as charter capital contribution is not subject to Russian customs VAT only in case this contribution is formed with process equipment, completing and spare parts to it. A special List of process equipment, completing and spare parts to it was authorized by the Federal Customs Service.

However, the right of the Federal Customs Service to establish such List is very arguable. Thus, in such case it is necessary for importer to ask for special Conclusion from the Russian Ministry of Economics and Trade concerning the goods which were not included in that List.

Please note, that, the Federal Customs Service as well as the Russian Ministry of Economics and Trade rarely make the positive Decisions, so the procedure will be troublesome.

Special economic zones in the Russian Federation

The law “On special economic zones in the Russian Federation” signed by the President on July 22, 2005 is the core of the current government reform of special economic zones and its regime. The law finalized attempts to formulate a unique and comprehensive regime for special economic zones in Russia with the provision it does not apply to special economic zones established in the Magadan and Kaliningrad regions which operate under separate laws.

The law supposes introduction of a preferential tax regime and special import tariffs, and the main goal of the project is to stimulate investment on a mutually beneficial basis.

The law mentioned above does not hold any limitation on the number of special economic zones that may be created but in reality at the initial stage of the reform such limitation will exist.

The decision to create the special economic zone can be taken only by the Government of the Russian Federation.

Winning bidders are expected, within 30 days from the date of the Government's decision, to sign an agreement with the Federal government on the formation of a special economic zone.

At the moment of the technical research and industrial production zone's creation there should be no assets belonging to private persons except for the infrastructure, such as communication lines, electricity, water supplies and roads. All land plots inside the territory of the special economic zone should be owned by the state or subjects and municipal units of the Russian Federation (except for the port zone).

Special economic zones are created for a period of twenty years (except port special economic zone — for 9 years) and it can't be prolonged. But, the Government of the Russian Federation has power to liquidate special economic zones earlier under certain circumstances indicated in the legislation.

The Russian Federation is interested in development of its industry, production, science, technology and innovation, so, four types of special economic zones can be created:

- technical research zones for scientific projects;
- industrial production zones to develop industrial production.
- tourist and recreation zones for citizen's rest;
- port zones for international maritime communications.

The law permits commercial organizations (except for unitary enterprises) and individual entrepreneurs to settle in technical research and tourist-recreation zones but individual entrepreneurs are restricted from operating in industrial production and port zones. Those legal entities and individual entrepreneurs are to be registered inside the municipal unit territory where the special economic zone is established and to enter into an agreement with the governing state authority of a special economic zone. Pursuant to the agreement, residents of industrial production zones are obliged to make capital investment amounting to not less than 3 mln Euro within a specified period of time. A 1 mln Euro investment must be made within one year the agreement was signed. No such regulation on amounts of investment is established for residents

of technical research and tourist-recreation zones. Residents of port zones are obliged to make capital investment amounting to 10 mln rubles for building objects of the maritime infrastructure and 3 mln rubles for reconstruction. Governing state authority of a special economic zone is obliged to conclude an agreement on a land plot lease with the resident to create conditions such investment activity inside the territory of the special economic zone to be carried out.

Residents of special economic zones are divested of establishing its branches and representative offices outside the territory of special economic zones.

Special economic zones residents are entitled to use:

- tax benefits;
- free customs zone treatment.

Regional authorities are empowered to provide for additional tax benefits.

With respect to profit tax resident companies would enjoy an amortization with a double rate, accelerated admittance of research and development costs, the deduction of previous years' losses from current year profits without restrictions. Companies would enjoy property tax exemption over six years and exemption from land tax over five years. Companies operating in technical research zones would also be relieved of tax on property and land for five years. They would also enjoy a lower insurance contributions rate of 14%.

In fact companies and individual entrepreneurs registered in special economic zones will enjoy significant customs privileges. Special economic zones are pronounced to be free customs areas where external goods will be imported without payment of import customs duties and Value Added Tax. Russian goods will be imported to special economic zones on export conditions (without payment of export duties and Value Added Tax but with payment of excises, if any). Movement of goods to or out of the territory of special economic zones is subject to permission of the customs authorities.

Representative Office Tax Implications



The tax legislation of the Russian Federation is based on some concept definitions, which are to be applied the same way.

There is no any general legal term defining the concept “taxpayer” as it is used in the specific meaning defined in certain articles of the Tax Code of the Russian Federation. As a whole it can be interpreted as organizations and individuals who are under an obligation to pay taxes and fees, respectively.

Organizations are legal entities set up in accordance with the legislation of the Russian Federation (Russian organizations) and foreign legal entities, companies and other corporate organizations with a civil legal capacity, set up in compliance with the legislation of foreign states, international organizations, their branches and representative offices set up in the territory of the Russian Federation (foreign organizations).

Thus the Russian Federation relies on a definition of tax residence based on the place of incorporation, although some other factors may determine the organizations’ status.

Foreign companies have mainly the same rights and obligations as Russian companies. Consequently Russian law is applicable to foreign companies in the same way as to Russian ones.

Both Russian and foreign companies may operate through its separate subdivision means any territorially separated subdivision, in which location permanent places of employment are equipped. A separate subdivision of the organization is recognized as such, regardless of the fact whether its creation is reflected or not reflected in the organization’s constituent instruments or their organizational and order documents and regardless of the powers vested in the said subdivision. In this case the place of employment shall be deemed to be permanent if it is created for a term exceeding one month.

Specific legal status and tax obligations of foreign companies, its branches and representative offices varies subject to the aim of taking tax payer duties, calculating and discharging certain tax.

Value Added Tax (VAT)

In view of the fact VAT is levied on the supply of goods and services, items of taxation are fixed as:

- sale of goods, works, services in the territory of the Russian Federation, including the sale of subjects of a pledge and transfer of goods, results of performed works, rendered services under a compensation agreement or a novation, as well as the transfer of property rights, including that on gratuitous basis;
- the transfer of goods, performance of works, provision on services in the territory of the Russian Federation for own purposes, with minor reservations;
- performance of construction and erecting works for own consumption;
- importation of goods to the customs territory of the Russian Federation.

Providing for special provisions on the definition of the place of sale of goods or of works and services Tax Code of the Russian Federation allows ascertaining whether a company is to discharge tax obligations.

No special rules are established for foreign entities, with some reservations.

Foreign organizations are entitled to be registered with the tax bodies as taxpayers at the location of their permanent establishments in the Russian Federation.

Inasmuch as it is foreign organizations' right to register with the tax body special layout is provided to pay taxes by those not registered in the Russian Federation.

In the cases of selling works and services which place of sale is the territory of the Russian Federation, by taxpayers that are foreign persons not registered in the tax bodies as taxpayers, the payment of the tax is to be made by the tax agents simultaneously with the payment of the monetary funds to such taxpayers.

Tax agents are recognized as organizations and individual entrepreneurs registered with tax authorities, who purchase in the territory of the Russian Federation goods, works and services from the foreign persons. Tax agents are to compute, withhold from the taxpayer and pay to the budget the relevant amount of tax.

Subject to taxation are amounts of tax presented by the vendors to a foreign person being a taxpayer not registered with tax authorities of the Russian Federation when they said taxpayer buys goods, works, services, property rights or pays the foreign person when importing goods to the customs territory of the Russian Federation for his production purposes or for the accomplishment of his other activities.

The tax rate determined by tax agents is the percentage of the standard tax rate (18% or 10%) to the tax base taken as 100 and increased by the appropriate amount of the tax rate.

Corporate Income Tax (CIT)

In an effort to apply chapter of the Tax Code of the Russian Federation to corporate income tax taxpayers are understood as Russian organizations, foreign organizations carrying out their activity in the Russian Federation through their permanent representations, or other foreign organizations receiving income from sources situated in the Russian Federation.

In general profit derived by the taxpayer is seen as an object of the taxation for corporate income tax, although different interpretations of it are established for groups observed above:

- for Russian organizations — derived income reduced by the amount of the effected expenditures which are defined by the legislation;
- for foreign organizations carrying out their activity in the Russian Federation through their permanent representations — income derived through these permanent representations, reduced by the amount of the outlays made by these permanent representations;
- for other foreign organizations — income derived from sources situated in the Russian Federation.

For the purposes of the tax legislation on corporate income tax the permanent establishment of the foreign organization in the Russian Federation is interpreted as an affiliate, representation, department or bureau, an office, agency, or other set-apart subdivision or other place of activity of this organization, through which the organization regularly performs its business activity in the territory of the Russian Federation, involved in:

- the use of mineral wealth or other natural resources;
- the performance of the contract-envisaged works aimed at the construction, installation, assembly, mounting, adjusting, servicing and running of equipment;
- selling commodities from store-houses situated in the territory of the Russian Federation which are owned or rented by this organization;
- the performance of other works, rendering services and carrying out other kinds of activity, with stipulated reservation.

However, the activity involved in organizing such representation does not establish a permanent establishment of itself.

The foreign organization is not recognized as having permanent establishment if it performs an activity in the territory of the Russian Federation through a broker, a commission agent, a professional Russian security market trader or through any other person acting in the framework of his principal regular activity.

If a foreign organization has in the territory of the Russian Federation more than one department, the activity which is leading to the establishment of a permanent establishment, the tax base and the amount of the tax shall be calculated separately for every department.

Foreign organizations operating in the Russian Federation through a permanent representation pay tax according to the standard rate 20%, although some exceptions with certain types of activities are performed:

- 15% on income derived in the form of dividends from Russian organizations;
- 15% on income in the form of interest on government and municipal securities the terms of which issue and trading provide for the receipt of income in the form of interest, and also on income in the form of interest from the bonds with mortgage cover, issued after January 1, 2007;
- 9% — on income in the form of interest on municipal securities issued for a period of not less than three years, up to January 1, 2007;
- 0% — on income in the form of interest on government and municipal bonds issued before January 20, 1997.

Foreign organizations operating in the Russian Federation through a permanent establishment pay the advance payments.

The following kinds of income received by foreign organizations not connected with their business activity in the Russian Federation are referred to as the foreign organization's income derived from the sources in the Russian Federation and are subject to tax to be withheld from the source of the payment from the income:

- the dividends paid out to foreign organizations which are shareholders of Russian organizations;
- the income received as a result of the distribution in favor of foreign organizations of the profit or of the property of organizations, including in cases of their liquidation;
- the interest income from any kind of debt liabilities;

- the income from the use in the Russian Federation of the rights to the objects of intellectual activity;
- the income from sale of stocks (partner shares in the capital) of Russian organizations over 50% of which assets consist of immovable property situated in the territory of the Russian Federation, as well as of the financial instruments derivative from such stocks;
- the income from the sale of immovable property situated in the territory of the Russian Federation;
- income from letting out or subletting property used in the territory of the Russian Federation;
- income from international shipments, etc.

The rates of tax on income of foreign organizations not connected with activity in the Russian Federation through their permanent representation are established as 20% from any kind of income except for specially stipulated by the Tax Code of the Russian Federation.

Labour Law



General remarks

The objective of Russian labor law is to regulate the conditions of employment. Russian labor law provides for minimum standards of protection of the employees' rights. This role is fulfilled mainly by the Labor Code — the most important legal act in the area of labor law in Russia. A contract of employment may depart from the provisions of labor law to the advantage of the employee but can not modify the legal rules to their disadvantage. In cases when the provisions set out in the contract are less favorable to the employee than those in the labor law, such provisions are deemed null and void and are automatically replaced by the relevant provisions of the labor law.

Collective agreements may provide for more favorable terms and conditions for employee.

Contract of employment

There are following types of contracts of employment:

- Contract for an unlimited period- contract of unlimited duration.
- Contract for a limited period — contract for a predetermined period of time but no more than 5 years.

Remuneration

Remuneration should be negotiated individually with every employee. Internal regulation should provide for terms of establishment of remuneration.

Basic remuneration must be paid at least twice in every month according to rules and procedures in force at the given establishment of remuneration.

Remuneration (with few exceptions) must be calculated and paid in RUR. Foreigners may transfer their remuneration abroad once all the relevant taxes have been paid.

In principle, the employer and the employee are free to agree on whatever wage or salary they wish, but not less than minimum amount set by Federal Law (in 2011 it is 4 611 RUR).

Working Time

Working hours should not exceed 40 hours a week and 8 hours a day.

Overtime is allowed only under the following conditions:

- rescue operations, saving lives or health of humans or protecting property, environment or eliminating a technical breakdown;
- extraordinary requirements of the employer;
- for CEOs and CFOs.

In case of overtime, the employee is entitled to allowance at a rate of 150% for the first and second hours of the work and 200% for subsequent hours.

Executive employees are not entitled to extra remuneration or allowance for working overtime.

Employees are entitled to 28 calendar days of annual paid leave. The annual paid leave cannot be renounced or compensated for financially.

The Labor Code contains provisions on sick leave periods. Also the Labor Code allows 5 days off in case of extraordinary events such as childbirth, wedding, funerals etc.

Public Holidays

Official holidays are New Year's (January 1–5), Orthodox Christmas (January 7), Day of Motherland's Defender (February 23), Women's Day (March 8), Spring and Labor Day (May 1), Victory Day (May 9), the Day of Russia (June 12), Day of Nation Unity (November 4).

Legislation Regarding Foreigners

Foreigners in the Russian Federation always require a work permit and a residence permit.

Work Permit

Russian Law “On Legal Status of Foreign Citizens” stipulates that foreigners may only enter into an employment relationship if they have been granted a work permit.

Additionally, the employers, which hire foreign employees, must obtain permit for employing the foreigners except when they employ a highly qualified person specialist. According to the Russian laws the highly qualified person is considered to be a worker having higher education; professional experience, skills and the salary not less than 2 000 000 rubles per year.

The duration of the work permit depends on the duration of the contract (labor or civil law contract).

Residence permit

There are three types of residence permits under the law governing stays by foreigners:

- short-term (either for the period, stated by visa or a maximum of 90 days without visa);
- long-term (up to three years) and
- permanent residence permits (up to five years).

Social Security Law

Social security insurance in Russia comprises the following types of insurance: pension, social, sickness and disability insurance. The contributions are made by the employer. Employees in Russia do not make any social contributions at all and bear no financial obligations for them.

Appendix 1.

Double Taxation Conventions



The chart below shows the withholding tax rates on dividends, interest and royalties under tax treaties concluded by the USSR and the Russian Federation. The Russian Federation has announced that it will honour the international agreements existing between the USSR and other countries. The provided table is for general guidance only.

| | <i>Dividends</i> | <i>Interest</i> | <i>Royalties</i> |
|-----------------------------|------------------|-----------------|------------------|
| Non-Treaty Countries | 15 | 20 | 20 |
| Treaty Countries: | | | |
| Albania | 10 | 10 | 10 |
| Algeria | 5/15 | 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 | 10 | 0 |
| Brazil | 10/15 | 15 | 15 |
| Bulgaria | 15 | 15 | 15 |
| Canada | 10/15 | 0/10 | 0/10 |
| China | 10 | 10 | 10 |
| Croatia | 5/10 | 10 | 10 |
| Cyprus | 5/10 | 0 | 0 |
| Czech Republic | 10 | 0 | 10 |
| Denmark | 10 | 0 | 0 |
| Egypt | 10 | 15 | 15 |

| | <i>Dividends</i> | <i>Interest</i> | <i>Royalties</i> |
|-------------------------------------|-------------------------|------------------------|-------------------------|
| 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 |
| India | 10 | 10 | 10 |
| Indonesia | 15 | 15 | 15 |
| Iran | 5/10 | 7.5 | 5 |
| Ireland | 10 | 0 | 0 |
| Iceland | 5/15 | 0 | 0 |
| Israel | 10 | 10 | 10 |
| Italy | 5/10 | 10 | 0 |
| Japan | 15 | 10 | 0/10 |
| Kazakhstan | 10 | 10 | 10 |
| Korea, People's Democratic Republic | 10 | 0 | 0 |
| Korea, Republic | 5/10 | 0 | 5 |
| Kuwait | 5 | 0 | 10 |
| Kyrgyzstan | 10 | 10 | 10 |
| Lebanon | 10 | 5 | 5 |
| Lithuania | 5/10 | 10 | 5/10 |
| Luxembourg | 10/15 | 0 | 0 |
| Macedonia | 10 | 10 | 10 |
| Malaysia | 15/20 | 0/15 | 10/15 |
| Mali | 10/15 | 15 | 0 |
| Mexico | 10 | 10 | 10 |
| Morocco | 5/10 | 10 | 10 |
| Moldova | 10 | 0 | 10 |
| Mongolia | 10 | 10 | -1 |
| Montenegro | 15/5 | 10 | 10 |
| Namibia | 5/10 | 10 | 5 |

| | <i>Dividends</i> | <i>Interest</i> | <i>Royalties</i> |
|-----------------|-------------------------|------------------------|-------------------------|
| Netherlands | 5/15 | 0 | 0 |
| New Zealand | 15 | 10 | 10 |
| Norway | 10 | 10 | 0 |
| Philippines | 15 | 15 | 15 |
| Poland | 10 | 10 | 10 |
| Portugal | 10/15 | 10 | 10 |
| Qatar | 5 | 5 | 0 |
| Romania | 15 | 15 | 10 |
| Serbia | 15/5 | 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 | 5 | 5 |
| Sri Lanka | 10/15 | 10 | 10 |
| Sweden | 5/15 | 0 | 0 |
| Switzerland | 5/15 | 0/5/10 | 0 |
| Syria | 15 | 10 | 13.5/18 |
| Tajikistan | 5/10 | 10 | 0 |
| Thailand | 15 | 10 | 15 |
| Turkey | 10 | 10 | 10 |
| Turkmenistan | 10 | 5 | 5 |
| Ukraine | 5/15 | 10 | 10 |
| United Kingdom | 10 | 0 | 0 |
| United States | 5/10 | 0 | 0 |
| Uzbekistan | 10 | 10 | 0 |
| Venezuela | 10/15 | 5/10 | 10/15 |
| Vietnam | 10/15 | 10 | 15 |

Appendix 2.

Chart of Accounts



SECTION I. Non-Circulating Assets

| The designation of account | Account number | The designation of control account and control account number |
|---|----------------|--|
| Fixed assets | 01 | In accordance with sorts of fixed assets |
| Depreciation of the fixed assets | 02 | |
| Profitable investment in material valuables | 03 | In accordance with sorts of material valuables |
| Intangible assets | 04 | In accordance with sorts of intangible assets and costs on research, development and technological works |
| Depreciation of the intangible assets | 05 | |
| ..... | 06 | |
| Equipment meant for mounting | 07 | |
| Investment in non-circulating assets | 08 | <ol style="list-style-type: none"> 1. Acquisition of land plots 2. Acquisition of nature utilization objects 3. Construction of objects belonging to fixed assets 4. Acquisition of objects belonging to fixed assets 5. Acquisition of intangible assets 6. Conversion of young animals into adult herd 7. Acquisition of adult animals 8. Performance of research, development and technological works |
| Deferred taxation | 09 | |

SECTION II. Inventories

| The designation of account | Account number | The designation of control account and control account number |
|--|----------------|---|
| Materials | 10 | 1. Raw and other materials 2. Purchased semi-products and completing parts, structures and parts 3. Fuel 4. Package and packing materials 5. Spare parts 6. Other materials 7. Materials transferred for outside processing 8. Construction materials 9. Inventory and household implements 10.Special rigging and overalls in stock 11.Special rigging and overalls put into operation |
| Animals' growing and fattening | 11 | |
| ..... | 12 | |
| ..... | 13 | |
| Reserves against reduction in the cost of material valuables | 14 | |
| Provision and acquisition of material valuables | 15 | |
| Deviation in the cost of material valuables | 16 | |
| ..... | 17 | |
| ..... | 18 | |
| Value added tax on acquired valuables | 19 | 1.Value added tax on acquisition of fixed assets 2. Value added tax on acquired intangible assets 3. Value added tax on inventories |

SECTION III. Cost of Production

| The designation of account | Account number | The designation of control account and control account number |
|-------------------------------------|----------------|---|
| Primary production | 20 | |
| Semi-products of own manufacture | 21 | |
| ..... | 22 | |
| Subsidiary production | 23 | |
| ..... | 24 | |
| General-production outlays | 25 | |
| General-economic outlays | 26 | |
| ..... | 27 | |
| Production spoilage | 28 | |
| Servicing productions and economies | 29 | |
| ..... | 30 | |
| ..... | 31 | |
| ..... | 32 | |
| ..... | 33 | |
| ..... | 34 | |
| ..... | 35 | |
| ..... | 36 | |
| ..... | 37 | |
| ..... | 38 | |
| ..... | 39 | |

SECTION IV. Finished Products and Goods

| The designation of account | Account number | The designation of control account and control account number |
|---------------------------------------|----------------|--|
| Production, works and services output | 40 | |
| Goods | 41 | 1. Goods in stock 2. Goods in retail 3. Used and empty package 4. Purchased manufacture |
| Trade markup | 42 | |
| Finished products | 43 | |
| Sale expenses | 44 | |
| Factory shipments | 45 | |
| Finished stages of outstanding works | 46 | |
| ..... | 47 | |
| ..... | 48 | |
| ..... | 49 | |

SECTION V. Monetary Assets

| | | |
|--|----|---|
| Cash | 50 | 1. Organization's cash 2. Operative cash 3. Monetary documents |
| Settlement bank accounts | 51 | |
| Currency bank accounts | 52 | |
| ..... | 53 | |
| ..... | 54 | |
| Special bank accounts | 55 | 1. Letters of credit 2. Cheque-books 3. Deposit accounts |
| ..... | 56 | |
| Money orders on the way | 57 | |
| Financial investment | 58 | 1. Shares and stocks 2. Debt securities 3. Granted loans 4. Contributions under a simple partnership agreement |
| Reserves against devaluation of financial investment | 59 | |

SECTION VI. Settlements

| The designation of account | Account number | The designation of control account and control account number |
|---|----------------|---|
| Settlements with suppliers and contractors | 60 | |
| ..... | 61 | |
| Settlements with custom and customers | 62 | |
| Reserves against risky debts | 63 | |
| ..... | 64 | |
| ..... | 65 | |
| Settlements on short-term credits and loans | 66 | In accordance with sorts of credits and loans |
| Settlements on long-term credits and loans | 67 | In accordance with sorts of credits and loans |
| Settlements on taxes and fees | 68 | |
| Settlements on social insurance and security | 69 | 1. Settlements on social insurance 2. Settlements on pension insurance 3. Settlements on obligatory medical insurance |
| Settlements with staff for remuneration of labour | 70 | |
| Settlements with advance holders | 71 | |
| ..... | 72 | |
| Settlements with staff for other operations | 73 | 1. Settlements on granted loans 2. Settlements on reparation of damages |
| ..... | 74 | |
| Settlements with founders | 75 | 1. Settlements on contributions to authorized (pooled) capitals of organizations 2. Settlements on disbursement of an income |
| Settlements with different debtors and creditors | 76 | 1. Settlements on retirement and personal insurance 2. Settlements on claims 3. Settlements on interest and other income due 4. Settlements on deposited funds |
| Deferred tax liabilities | 77 | |
| ..... | 78 | |
| Intraeconomic settlements | 79 | 1. Settlements on allocated property 2. Settlements on on-going operations 3. Settlements on an agreement on the trust management of property |

SECTION VII. Capital

| The designation of account | Account number | The designation of control account and control account number |
|---|----------------|---|
| Authorized capital | 80 | |
| Owned stocks (shares) | 81 | |
| Capital reserves | 82 | |
| Capital surplus | 83 | |
| Profit and loss surplus/ outstanding losses | 84 | |
| ..... | 85 | |
| Purpose-oriented financing | 86 | In accordance with sorts of purpose-oriented financing |
| ..... | 87 | |
| ..... | 88 | |
| ..... | 89 | |

SECTION VIII. Financial Results

| | | |
|---|----|--|
| Sale | 90 | 1. Proceeds 2. Cost price of sale 3. Value added tax 4. Excise 5. Profit and losses from the sale |
| Other receipts and expenditures | 91 | 1. Other receipts 2. Other expenditures 3. Other receipts and expenditures balance |
| ..... | 92 | |
| ..... | 93 | |
| Shortages and losses from spoilage of valuables | 94 | |
| ..... | 95 | |
| Reserves against impending expenditures | 96 | In accordance with sorts of reserves |
| Expenditures of future periods | 97 | In accordance with sorts of expenditures |
| Receipts of future periods | 98 | 1. Received receipts against future periods 2. Inpayments free of charge 3. Impending inpayments of debts on last years shortages 4. Difference between sums callable from guilty persons and balance sheet value of shortages of valuables |
| Profits and losses | 99 | |

OFF-BALANCE ACCOUNTS

| The designation of account | Account number | The designation of control account and control account number |
|--|----------------|---|
| Leasehold fixed assets | 001 | |
| Commodity material values accepted for storage | 002 | |
| Materials accepted for processing | 003 | |
| Goods accepted for sale on a commission basis | 004 | |
| Equipment accepted for mounting | 005 | |
| Strict accountability forms | 006 | |
| Insolvent debtors' liability written off as losses | 007 | |
| Objects accepted for providing for the discharge of obligations and payments | 008 | |
| Objects issued for providing for the discharge of obligations and payments | 009 | |
| Accumulated depreciation | 010 | |
| Fixed assets granted on lease | 011 | |

Appendix 3.

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