



SORAINEN

BALTIC LAW FIRM OF THE YEAR

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SORAINEN TAX CARD 2011

Tax summary Estonia, Latvia, Lithuania and Belarus

Effective 1 Feb 2011



ESTONIA

CORPORATE INCOME TAX (CIT)

- Thanks to European Court of Justice decisions in the cases of Test Claimants in the FII Group Litigation (C-446/04), Oy AA (C-231/05), and Burda GmbH (C-284/06) the Estonian CIT system is now believed to comply with EU law.
- Estonia provides a unique CIT system as resident companies do not pay tax on retained or reinvested earnings. The tax obligation is deferred to the moment of distributing profits. CIT is levied at the gross rate of 21% on company profit distributions, dividends, gifts, fringe benefits, non-business expenditure and excessive capital reductions.
- Tax is payable based on monthly declarations.
- Unlimited carry forward of losses and unlimited depreciation for tax purposes.
- Dividends (there is no participation requirement), interest (not exceeding market interest rate) and royalties (payments within the EU and 25% participation) are not subject to withholding tax.
- Capital gains derived by a non-resident from sale of Estonian real estate or shares in and liquidation proceeds of “real estate companies” are subject to 21% income tax.
- Liquidation proceeds, capital reduction payments, and share buy-backs exceeding capital contributions are taxable at the company level.
- No traditional thin capitalisation rules, ie substantial debt financing with market rate interest is tax neutral.
- Taxation treaties with 47 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost plus, profit split, and transactional net margin.
- Liberal participation exemption for distribution of dividends received (10% shareholding required, if dividends received are subject to tax abroad or are received from the EU).

VALUE ADDED TAX (VAT)

- Standard rate – 20%. Reduced rate – 9%.
- Registration general threshold – EUR 16,000.
Reverse charge on internal supply available for real estate and scrap metal transactions.

PROPERTY TAX (PT)

- Rate of PT ranges from 0.1% to 2.5% of cadastral value of land excluding buildings. Rate is set by municipalities by 31 January each year.

REAL ESTATE TRANSFER DUTY

- Notarial and state duties may be up to 0.5% of transaction value.

PERSONAL INCOME TAX

- General flat rate of 21%, including capital gains.
- Tax deductions allowed for interest related to acquisition of personal residence.

SOCIAL SECURITY CONTRIBUTIONS

- Employer pays social tax of 33% from gross salary.
- Employer pays unemployment contribution of 1.4% and withholds employee’s unemployment contribution of 2.8% from gross salary.

CUSTOMS & EXCISE

- Mainly based on EU law.

LOCAL TAXES

- Sales tax at the rate of 1% has operated in Tallinn since 2009 but is to be abolished on 1 January 2012. Some other small local taxes, such as advertisement tax and boat tax, apply.

TAX AUDITS

- Tax audits can be performed going back 3 years from the date tax became payable.
- Limitation period 6 years for intentional violations of the law.

ADVANCE (BINDING) RULINGS POSSIBLE EXCEPT FOR TRANSFER PRICING

- Fee for companies – EUR 767.
- Fee for individuals – EUR 192.

LATVIA

CORPORATE INCOME TAX (CIT)

- Flat rate – 15%.
- Carry forward of losses for 8 years; transfer of losses within a group is possible.
- Accelerated depreciation (10%-70%) of fixed assets using the declining-balance method, except for concessions, patent licenses and trademarks, using the straight-line method over 5 or 10 years. For a new registered patent or trademark and new production equipment the cost base increases 1.5 times.
- Withholding taxes: on dividends (0% – mostly to EU, EEA and Latvian residents; in other cases – 10%), interest (0% – on payments to unrelated parties; for related parties – 10% (5% for EU and EEA entities and then 0% as of 1 July 2013)), management and consulting fees (10%, can be reduced to 0% under a tax treaty), royalties (15% – on literature or art; 5% – in other cases), use of property located in Latvia (5%), sale price of real estate located in Latvia or shares in “real estate companies” (2%), payments to “Black list” jurisdictions (15% – the SRS may grant relief); 0% for all payments to Lithuania.
- Notional interest deduction – on amounts of retained profits treated as loan equivalents.
- Thin capitalisation rules: debt-to-equity ratio of 1:4 or 1.2 times short-term interest rate as provided by the Statistics Department; the “less favourable” of the two criteria applies.
- Special taxation rules for employee private use of company vehicles.
- Taxation treaties with 50 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price, cost-plus and two profit based methods (transactional net margin method and profit split method).
- Taxable income may be reduced by gains from disposal of fixed assets, if the assets are substituted by similar new ones within 12 months.
- Liberal participation exemption for distribution of dividends received (0% shareholding required, if dividends are received from the EU or EEA; 25% participation elsewhere, except no participation exemption if received from “off-shores”).

VALUE ADDED TAX (VAT)

- Standard rate – 22%. Reduced rate – 12%.
- Registration general threshold LVL 35,000 (approx EUR 49,800).

PROPERTY TAX (PT)

- 1.5% of the cadastral value of land and buildings.
- Residential property is now taxed progressively at 0.2% – for cadastral value not exceeding LVL 40,000 (approx EUR 57,000), 0.4% – for cadastral value from LVL 40,000 to LVL 75,000 (approx EUR 106,700), and 0.6% – for cadastral value exceeding LVL 75,000.

INCENTIVES TO INVEST

- In Special Economic Zones in Rezekne and Liepaja or Free Ports in Riga and Ventspils, rebates can be obtained (after investing in production for exports) on: PT (80% to 100%), CIT (80%), VAT (0%), extended loss-carry-forward period up to 10 years.
- A special tonnage tax for Latvian shipping companies and reliefs for sailors.
- Reduction of CIT payable equal to 25% of the amount invested in large projects in specified industry categories between LVL 5 million (approx EUR 7.1 million) and LVL 35 million (approx EUR 49.8 million) and reduction of tax payable equal to 15% of the amount invested over LVL 35 million. Allowable tax savings must be claimed within a 16 year period.

REAL ESTATE TRANSFER DUTY

- 2%; capped at LVL 30,000 (approx EUR 42,900). No material notary fees.

PERSONAL INCOME TAX

- General flat rate of 25% also includes the self-employed. A 10% tax now applies to dividend and interest income and 15% to capital gains.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate: 11% of gross salary; employer rate 24.09% on top of gross salary.

NATURAL RESOURCES TAX

- Imposed on use of natural resources, pollution, and use of packaging materials.

TAX AUDITS

- Tax audits can be performed normally going back 3 years.

ADVANCE (BINDING) RULINGS POSSIBLE AT NO CHARGE

LITHUANIA

CORPORATE INCOME TAX (CIT)

- General flat rate – 15%. Reduced rate of 5% applies to small companies (income lower than LTL 500,000 (approx EUR 144,500), less than 10 employees).
- Unlimited carry forward of losses (losses from transfer of securities and derivative financial instruments may be carried forward for 5 years). Intra-group transfer of losses permitted (subject to specific requirements).
- Fixed assets depreciated using straight-line method; for certain groups of fixed assets, the double-declining method may also be used.
- Withholding taxes: on dividends (0% to foreign residents owning at least 10% shares for 12 months; in other cases 20%), interest (0% if paid to the European Economic Area, or to a country with which Lithuania has an effective tax treaty, in other cases – 10%), royalties (10%; reduced to 0% as of 1 July 2011 for payments within the EU), capital gains from sale and lease of Lithuanian real estate (15%), income from performing and sports activities (15%), annual bonuses to supervisory board members (15%); 0% for all payments to Latvia.
- Thin capitalisation rules: debt-to-equity ratio 1:4. Interest-free loans not included in controlled debt.
- Taxation treaties with 48 countries.
- Transfer pricing methods in use: comparable uncontrolled price, resale price and cost-plus, transaction net margin and profit split methods (the last two are supplementary methods).

VALUE ADDED TAX (VAT)

- Standard rate – 21%. Reduced rate of 9% applies to (i) heating energy, hot and cold water intended for heating of residential premises and (ii) hotels and special accommodation services (both apply until 31 December 2011) as well as on books and non-periodical press, which apply indefinitely. Reduced rate of 5% applies to fully or partially compensated pharmaceuticals and means of medical aid (applies until 31 December 2011).
- General VAT payer registration threshold – LTL 100,000 (approx EUR 29,000).

PROPERTY TAX (PT)

- Land tax: 1.5% of cadastral value of land.
- Real estate tax (on real estate other than land): 0.3%-1% of cadastral value of real estate. The exact real estate tax rate is established by the respective municipality.

INCENTIVES TO INVEST

- Free Economic Zones (FEZ) in Klaipeda and Kaunas. A company with investments of EUR 1 million (approx LTL 3.45 million) or more operating in FEZ is exempt from CIT for 6 years and pays CIT at the rate of 50% in the next 10 years.
- For entities running investment projects (under defined conditions) taxable profit is reduced by up to 50%.

REAL ESTATE TRANSFER DUTY

- No duty applies; notary fees apply (0.45% of transaction value, but no less than LTL 100 (approx EUR 30) and no more than LTL 20,000 (approx EUR 5,800) or LTL 50,000 (approx EUR 14,500) in case of transfer of multiple objects).

PERSONAL INCOME TAX

- General flat rate – 15%; reduced 5% applies to certain activities carried out by self-employed individuals; dividends are taxed at a rate of 20%.

COMPULSORY HEALTH INSURANCE CONTRIBUTIONS

- Employee rate – 6% withheld from gross salary; for employer 3% on top of gross salary.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate – 3% withheld from gross salary; for employer 27.98% on top of gross salary

NATURAL RESOURCES TAX

- Imposed on use of natural resources, pollution, and use of packaging materials.

TAX AUDITS

- Tax audits can be performed going back 5 years.

ADVANCE (BINDING) RULINGS NOT POSSIBLE

- Advance (binding) tax rulings are to be introduced as of 1 January 2012 at no charge.

BELARUS

CORPORATE INCOME TAX (CIT)

- General flat rate – 24%; dividends and income from sale of shares in Belarusian companies are taxed at 12%.
- Withholding taxes on income of foreign residents from Belarusian sources: dividends and income from sale of shares – 12%; royalties – 15%; interest – 10%; freight – 6%; other income (eg sale of real estate, securities, services (eg consulting, audit, management, insurance, advertising), agency contracts, contractual penalties) – 15%.
- Carry forward of losses is not possible.
- Fixed assets can be depreciated according to 1 of 3 methods at the discretion of the company: straight-line method, reducing balance method (sum-of-years' digits or declining balance method) or productive method.
- Taxation treaties with 62 countries.

VALUE ADDED TAX (VAT)

- Standard rate – 20%. Reduced rates – 10%; 0.5%.
- No special registration for VAT purposes.

PROPERTY TAX (PT)

- Land tax: Tax base is cadastral value of land. Rates vary significantly depending on the functional use of land.
- Real estate tax: 1% of the residual value of real estate; 2% may apply to objects of incomplete construction.

INCENTIVES TO INVEST

- Six Free Economic Zones. A company has to invest at least EUR 1 million. Certain taxes at reduced rates; profits from own production are exempt from profit tax for 5 years.
- High Technology Park (HTP). Residents – exempt from almost all taxes and duties.
- Beneficial tax regime if a business is operating in rural areas and small town centres.
- Simplified Taxation System. Companies that meet certain requirements on number of personnel and amount of gross revenues may pay a unified tax imposed on gross revenues. Depending on circumstances, tax rates are: 3%; 6%; 8%; or 15%.

PERSONAL INCOME TAX

- General flat rate – 12% (including dividends).
- Other rates apply to specific income: 15% on business income; 9% on income received from HTP residents under labour agreements.

SOCIAL SECURITY CONTRIBUTIONS

- Employee rate is 1% of gross salary; for employer approx 34-35% on top of gross salary.

CUSTOMS & EXCISE

- Excise duties are imposed on both import and manufacture of a list of goods. Customs are imposed on import; a limited number of goods are subject to export duties.

ECOLOGICAL TAX AND NATURAL RESOURCES TAX

- Ecological tax is imposed on volume of waste, emissions, waste-water discharges, and ozone-depleting substances imported to Belarus.
- Natural resources tax is imposed on volume of used natural resources (eg water, oil, sand, clay, salt).

TAX AUDITS

- Tax audits are performed normally going back 3 to 5 years.

ADVANCE (BINDING) RULINGS NOT POSSIBLE



SORAINEN

ESTONIA LATVIA LITHUANIA BELARUS

SORAINEN offers expertise in all key tax and customs areas in the Baltic States and Belarus, including:

- tax and customs advice and optimisation, including, but not limited to:
 - advance ruling requests;
 - transfer pricing compliance;
 - local and cross-border mergers;
 - managing the “effective tax rate”;
 - market entry strategies and structuring;
 - permanent establishment risks;
 - input VAT deductibility optimisation;
 - best use of tax benefits in special economic zones and free ports;
 - withholding tax and other direct tax optimisation possibilities;
- tax and customs disputes at all levels;
- tax due diligence and local tax compliance reviews.

Non-exclusive cooperation partner of World Tax Service (WTS) Alliance

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