

## International Tax Russia Highlights 2017



### Investment basics:

**Currency** – Russian Ruble (RUB)

**Foreign exchange control** – Some exchange control restrictions apply to Russian residents (including Russian citizens and legal entities) and to foreign currency transactions, but none apply to the distribution of profits to a nonresident entity. Residents and nonresidents can hold bank accounts in any currency.

Russian residents (as defined under the currency control legislation) are required to notify the tax authorities upon opening, changing or closing personal accounts with banks located outside of Russia. Residents also are required to notify the tax authorities about the movement of funds in their foreign bank accounts (e.g. deposits).

**Accounting principles/financial statements** – Russian accounting standards apply and financial statements generally must be prepared annually.

Companies with securities traded on a stock exchange, banks, insurance companies, non-state pension funds, management companies of investment funds, investment unit trusts, clearing companies, federal state-owned and joint stock companies the shares of which are federal property (as per the list approved by the Russian government) and any other companies that prepare consolidated financial statements as required by the law or their registration documents are required to prepare consolidated financial statements under IFRS. This requirement is in addition to stand-alone statements prepared under Russian accounting standards. Annual consolidated IFRS financial statements must be audited, presented to shareholders and filed with the Central Bank.

**Principal business entities** – These are the public and nonpublic joint stock company, limited liability company,

partnership, sole proprietorship and branch of a foreign entity.

### Corporate taxation:

**Residence** – An entity is a Russian resident if it is incorporated in Russia, if its actual place of management is in Russia or if it is deemed to be a Russian resident under an applicable tax treaty.

**Basis** – Russian tax residents are taxed on worldwide income; foreign entities are taxed on income from commercial activities undertaken in Russia and on passive income from Russian sources.

**Taxable income** – Profits tax is imposed on a company's profits, which consist of business/trading income, passive income and capital gains. Normal business expenses may be deducted in calculating profits, provided they are economically justified, incurred in the generation of income and supported by adequate documentation.

**Taxation of dividends** – Dividends received by a Russian entity from Russian and foreign entities generally are subject to tax at a rate of 13% (but see "Participation exemption," below).

**Capital gains** – Capital gains are taxed as ordinary income at the normal corporate rate (but see "Participation exemption," below).

**Losses** – Losses (except for losses derived from activities subject to a 0% profits tax rate) may be carried forward for an unlimited period but cannot exceed a cap (for 2017-2020, the cap is 50% of the tax base of the current period). The carryback of losses is not permitted.

**Rate** – 20%

**Surtax** – No

**Alternative minimum tax** – No

**Foreign tax credit** – Foreign tax paid may be credited against Russian tax on the same profits, but the credit is limited to the amount of Russian tax payable on the foreign income.

**Participation exemption** – To qualify for the participation exemption for dividends, a Russian company must hold a participation of at least 50% for at least 365 days in a calendar year. A foreign investee must not be a resident in a "black list" jurisdiction.

A participation exemption is available for capital gains realized on the sale of unlisted shares and participations in Russian companies and listed shares in high-technology Russian companies (and, until 2023, listed bonds of Russian companies and listed investment units that are considered high-technology) acquired after 1 January 2011 and held for more than five years.

**Holding company regime** – No

**Incentives** – Various types of tax incentives are available in Russia. For example, a reduction in the profits tax rate to 15.5% (from the standard 20% tax rate), along with other benefits, is available for investment projects in many regions. Special tax regimes (e.g. regional investment projects, special investment contracts or "territories of advanced social and economic growth") allow benefits such as a 0% profits tax rate, and others. Companies that participate in the Skolkovo Innovation Center may benefit from a 10-year tax holiday. A 0% profits tax rate applies to a range of educational and medical services. A 150% deduction for profits tax purposes is available to all companies with qualifying R&D expenditure. Technology and software companies may benefit from reduced social security rates.

#### Withholding tax:

**Dividends** – Dividends paid to a foreign entity or to a nonresident individual are subject to a 15% withholding tax, unless the rate is reduced under a tax treaty.

**Interest** – Interest paid to a nonresident is subject to a 20% withholding tax, unless the rate is reduced under a tax treaty. Russian companies are exempt from the withholding obligation on Russian-source income of foreign legal entities within Eurobond-like structures, under certain conditions.

**Royalties** – Royalties paid to a nonresident are subject to a 20% withholding tax, unless the rate is reduced under a tax treaty.

**Technical service fees** – No

**Branch remittance tax** – No

**Other** – Other Russian-source payments made to a foreign company may be subject to withholding tax at various rates.

#### Other taxes on corporations:

**Capital duty** – No

**Payroll tax** – No

**Real property tax** – See under "Other," below.

**Social security** – The employer is required to make pay-related contributions for pension, social and medical insurance. As from 2017, the tax authorities (instead of social funds) will administer most social security payments. The social security contribution rates for 2017 are as follows: for pension contributions, 22% of an employee's remuneration up to RUB 876,000, plus 10% of any excess over this cap; for social insurance contributions, 2.9% of an employee's remuneration up to RUB 755,000 (the rate is 1.8% of an employee's remuneration in the case of foreign nationals temporarily staying in Russia); and for medical insurance, 5.1% of the full remuneration.

Mandatory accident insurance contributions are paid separately from the above insurance contributions to the Russian Social Insurance Fund, at rates ranging from 0.2% to 8.5% of the full amount of an individual's employment income, depending on the degree of inherent risk in the employee's occupation.

Income earned by foreign employees hired under the highly-qualified specialist regime is exempt from social security contributions (only accident insurance contributions are due).

Most foreign nationals, including citizens of the Eurasian Economic Union are subject to the same contributions as Russian nationals.

Employees are not obligated to pay social security contributions in Russia.

**Stamp duty** – Stamp duty may be levied on certain transactions and documents, but it usually is nominal.

**Transfer tax** – No

**Other** – Property tax is a regional tax, with rates established by the regional authorities (as well as tax exemptions not directly provided in the tax code). The tax base includes immovable fixed assets and certain movable fixed assets owned by the taxpayer, excluding land (which is subject to land tax). The tax base generally is calculated based on the depreciated book value of the assets as of the balance sheet date and the tax rate for the property cannot exceed 2.2%. For certain types of administrative, business and trading premises, real estate owned by foreign companies and not allocated to a permanent establishment in Russia and certain other premises, the tax base is the cadastral value of the real estate and the tax rate for the property cannot exceed 2%.

Land tax is a municipal tax, and its application is governed by local regulations and the tax code. The local authorities set the land tax rate. Under the tax code, these rates may not exceed 0.3% of the cadastral value of land that is used for agricultural purposes and dwellings, and 1.5% of the cadastral value of other land. The tax base is the cadastral value of the land as determined on 1 January of the reporting year.

#### Anti-avoidance rules:

**Transfer pricing** – Comprehensive transfer pricing rules, which are substantially in line with OECD principles, apply. Acceptable transfer pricing methods are the comparable uncontrolled price method, the resale price method, the cost plus method, the comparable profits method and the profit split method.

The rules include documentation requirements and allow for the possibility of obtaining an advance pricing agreement.

**Thin capitalization** – The maximum debt-to-equity ratio is 3:1 for related legal entities in general, and 12.5:1 for banks and leasing companies. Russian thin capitalization rules restrict the deductibility of interest on loans granted by certain foreign and Russian affiliated parties or guaranteed by such parties (loans guaranteed by affiliated parties but granted by non-affiliated banks can generally be excluded from the scope of thin capitalization rules). Excess interest is nondeductible by the borrower for Russian profits tax purposes and is recharacterized as a dividend distribution subject to dividend withholding tax.

**Controlled foreign companies** – A Russian (corporation or individual) is taxed on the undistributed profits of a CFC at a rate of 20% or 13%, respectively. The CFC provisions are applicable where an entity or an individual that is considered a Russian tax resident has an interest of more than 25% (10%, if more than 50% is owned, directly or indirectly, by Russian tax residents) in a nonresident entity.

A threshold exemption for inclusion of a CFC's undistributed profit in the tax base of a Russian entity or individual is set at RUB 10 million.

Where the CFC rules apply, the relevant profits of the CFC are computed based on its stand-alone financial statements if at least one of the following conditions is satisfied:

- The auditor's opinion with respect to the CFC's financial statements is presented and the opinion is not negative, and the auditor does not refuse to express this opinion; and/or

- The CFC is a tax resident in a country that has concluded a tax treaty with Russia, and the country exchanges information with Russia.

If the conditions for computing a CFC's profits based on its financial statements are not satisfied, the CFC's profits must be computed in accordance with the general Russian tax rules. In addition, the general rules can be used at the taxpayer's discretion (this approach, if chosen, must be used for five consecutive tax periods).

**Disclosure requirements** – Certain information must be disclosed to the tax agent on persons exercising rights to certain securities issued by Russian entities and accounted for in the depositary account of a foreign nominee holder (including certain types of shares and bonds), foreign authorized holder or depositary program. This information may be made available to the tax authorities in some cases. Where the information is not disclosed, a 30% withholding tax may be applied to the income derived from such securities (except dividends).

Russian tax residents are required to notify the Russian tax authorities of the following:

- A direct and/or indirect participation in a foreign company, if the participation exceeds 10%;
- The establishment of a foreign structure that is not a legal entity, as well as the control over such structures or actual rights to the income received by such structures; and
- Any interest in a CFC in which Russian tax residents exercise control.

In addition, foreign entities owning immovable property in Russia that is subject to property tax are required to disclose information regarding their direct and indirect shareholders to the Russian tax authorities.

Legal entities must determine and maintain information on their ultimate beneficial owners and update the data annually under Russian anti-money laundering legislation.

Russia has committed to the automatic exchange of information under the common reporting standard starting from 2018, with 2017 as the first reporting period.

Non-Russian financial institutions are required to report certain information to the Russian Federal Tax Service on Russian account holders on an annual basis (i.e. "Russian FATCA").

#### Compliance for corporations:

**Tax year** – Calendar year.

**Consolidated returns** – Russian companies forming a group with 90% (or more) direct or indirect ownership may file a consolidated corporate income tax return for

the preceding calendar year if total tax payments exceeded RUB 10 billion and revenue and assets exceeded RUB 100 billion and RUB 300 billion, respectively, calculated according to Russian accounting standards. Until 1 January 2018, there is a moratorium for registration of new consolidated groups of taxpayers, as well as for any changes to existing groups.

**Filing requirements** – The annual profits tax return must be filed by 28 March after the close of the previous tax year.

**Penalties** – Penalties generally are 20% of the relevant tax (or 40% if the default is intentional), plus late payment interest and fixed penalties. Criminal penalties also may apply.

**Rulings** – Rulings may be granted to large taxpayers if certain requirements are met. An advance pricing agreement may also be obtained under the transfer pricing rules.

#### Personal taxation:

**Basis** – Russian residents are taxed on their worldwide income. Nonresidents are taxed only on Russian-source income.

**Residence** – An individual is resident if he/she spends 183 days or more in Russia during a calendar year.

**Filing status** – Each individual must file a tax return; joint filing or assessment for spouses is not permitted.

**Taxable income** – Taxable income consists of any receipt (in cash or in kind) by an individual, or that is subject to an individual's discretionary disposal, subject to certain exceptions. Profits earned from self-employment activities generally are calculated under the same rules as profits derived by companies.

**Capital gains** – Income derived from the sale of shares of a Russian company, unlisted stock in a Russian company or listed stock in a high-technology Russian company where the shares are acquired after 1 January 2011 and held for more than five years, is exempt. Gains from the sale of other types of property, except for immovable property, by Russian residents is exempt after a three-year holding period. A five-year holding period applies to immovable property that is acquired as from 1 January 2016.

Special rules apply for income derived from transactions with securities issued by Russian entities and delivered by depositaries to foreign entities acting on behalf of an individual.

**Deductions and allowances** – Subject to certain restrictions, resident taxpayers may be able to claim tax deductions related to property and investments (in securities and in personal investment accounts),

charitable contributions, voluntary pensions, life insurance and medical and education expenses. A standard deduction applies to individuals with very low income.

A deduction up to RUB 2 million is granted on the acquisition of real estate; the deduction is up to RUB 3 million for mortgage interest. Taxable income from the sale of property (except for immovable property) that was owned for less than three years may be decreased by expenses incurred, or by a minimum deduction of RUB 1 million (for immovable property) and RUB 250,000 (for other property, except securities).

The minimum deduction applicable to the sale of nonresidential property is RUB 250,000.

**Rates** – A flat rate of 13% applies to Russian residents on most types of income, and a 30% rate applies to Russian-source income of nonresidents, unless the rate is reduced under a tax treaty.

Dividends are taxed at a rate of 13% for residents and 15% for nonresidents, unless the rate is reduced under a tax treaty.

A 30% withholding tax may apply to certain income from securities if the relevant information is not disclosed to the tax agent (see "Disclosure requirements" under "Anti-avoidance rules," above).

The employment income of highly qualified foreign professionals is taxable at a rate of 13% (even during periods of nonresidence for tax purposes), rather than the 30% rate that otherwise would apply.

Deemed income received by Russian residents from beneficial loans (i.e. where the interest rate on loans made in foreign currency is lower than 9%) is taxed at a 35% rate.

#### Other taxes on individuals:

**Capital duty** – No

**Stamp duty** – Stamp duty is levied, but it is usually nominal.

**Capital acquisitions tax** – No

**Real property tax** – Tax is imposed annually at rates ranging from 0.1% to 2% of the cadastral value or the total inventory value, adjusted by a "deflator" coefficient.

**Inheritance/estate tax** – No

**Net wealth/net worth tax** – No

**Social security** – Only a self-employed individual must contribute to social security since contributions are borne by the employer.

#### Compliance for individuals:

**Tax year** – Calendar year

**Filing and payment** – Tax on employment income is withheld by the employer and remitted to the tax authorities. In certain cases, individuals must report their income by filing a tax return no later than 30 April following the year of assessment, with any tax outstanding due by 15 July.

Foreign nationals leaving Russia must submit an exit tax return no later than one month before departure and pay any tax due within 15 days of the filing date.

**Penalties** – Penalties apply for noncompliance. No extensions are available.

#### Value added tax:

**Taxable transactions** – VAT is levied on the sale of goods, the provision of services deemed to be supplied in the Russian territory, the transfer of property rights and the import of goods.

**Rates** – The standard VAT rate is 18%; reduced rates of 10% and 0% may apply in certain circumstances (e.g. the export of goods).

**Registration** – A foreign entity cannot register for VAT purposes only; general tax registration is applicable for all

taxes. As from 1 January 2017, foreign entities providing e-services that are deemed to be supplied in Russia to private customers, as well as related foreign intermediaries, must register for tax purposes and account for and pay any relevant VAT.

**Filing and payment** – The general VAT return is filed on a quarterly basis. Payments are made in three equal monthly installments and due no later than the 25th calendar day of each of the three consecutive months following the reporting quarter (with certain exceptions, e.g. reverse charge VAT and VAT payable by foreign suppliers of e-services).

**Source of tax law:** Tax Code of the Russian Federation

**Tax treaties:** Russia has concluded 81 income tax treaties.

**Tax authorities:** Federal Tax Authority

#### Contact:

Elena Solovyova (esolovyova@deloitte.ru)

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