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I TAX FRAMEWORK FOR DOING BUSINESS IN BULGARIA

A LEGAL FORMS

Business activities in Bulgaria are carried out by sole entrepreneurs and traders, by companies or cooperatives. A sole entrepreneur is defined as an individual carrying on business activities. A sole trader is an individual who performs business activities as a trader within the meaning of the Commercial Law. The term »company« refers to business entities. In Bulgaria both types of companies as well as corporations and partnerships are recognized as legal entities. The term »cooperative« refers to a business organization consisting of a group of a variable number of individuals carrying out business activities for their mutual economic, social and cultural benefit. The cooperative is also recognized as a legal entity in Bulgaria. It should be noted that, according to the Bulgarian tax law, both companies and cooperatives are treated as non-transparent taxable persons subject to corporate income tax.

Overview of point A, more information on the next side:

FORMS	LIABILITY OF SHAREHOLDERS	MINIMUM CAPITAL (EUR)	MINIMUM OF FOUNDERS AND SHAREHOLDERS	REGISTRATION IN COMMERCIAL REGISTER (EUR)	TAX TREATMENT	TAX RATES
ET	no shares, personal liability of the sole entrepreneur		1	obligatory	tax liability of sole entrepreneur	15%
SD	unlimited and joint liability of the partners		2	obligatory	non-transparent, dividend taxation at the level of the partners	10%
KD	unlimited (general partner) limited (limited partner)		2	obligatory	non-transparent, see SD	10%
EOOD	limited	1 (2)	1	obligatory	non-transparent, see SD	10%
OOD	limited	1 (2)	2	obligatory	non-transparent, see SD	10%
EAD	limited		1	obligatory	non-transparent, see SD	10%
AD	limited	25,553 (50,000)	2	obligatory	non-transparent, see SD	10%
KDA	limited	25,553 (50,000)	3	obligatory	non-transparent, see SD	10%

According to the Bulgarian Commercial Act, there are the following types of companies in Bulgaria:

- General partnership (Sabiratelno druzhestvo – SD)
- Limited partnership (Komanditno druzhestvo – KD)
- Limited partnership with shares (Komanditno druzhestvo s aktsii – KDA)
- Joint stock company (Aktcionerno druzhestvo – AD)
- Limited liability company (Druzhestvo s ogranichena otgovornost – OOD)
- European Economic Interest Grouping (EEIG) (Evropejsko obedinenie po ikonomiceski interesi – EEIG)
- Societas Europaea (SE) (Evropejsko drugestvo – SE)

When a joint stock company (AD) and a limited liability company (OOD) are owned by a sole shareholder, the sole ownership is indicated by the abbreviation E (ednolicen = sole ownership) in front of the legal form (i.e. EAD and EOOD).

Business activities carried out in the form of cooperatives or partnerships are not common. The types of companies most likely to be used are the limited liability company (OOD or EOOD) and the joint stock company (AD).

Some information about the legal and tax framework of sole traders and companies is provided in the table on the side before.

B INCOME TAX ASPECTS

1 SOLE ENTREPRENEURS AND PARTNERSHIPS

1.1 UNLIMITED TAX LIABILITY AND INCOME

If a sole entrepreneur/trader, irrespective of his citizenship, is resident in Bulgaria, he is subject to unlimited personal income tax liability (i.e. resident taxation) on his worldwide income in Bulgaria (subject to tax treaties). An individual is deemed a resident of Bulgaria if his permanent address or center of vital interests is in Bulgaria, or he is physically present in Bulgaria for a period or several periods exceeding in total 183 days in any 12-month period.

Thus, income from the business activities of a sole trader or sole entrepreneur carried on in Bulgaria is subject to tax at the level of the individual. Foreign sole entrepreneurs are subject to Bulgarian taxation on their income derived from Bulgarian sources.

According to the Bulgarian Income Taxes on Natural Persons Act (hereinafter ITNPA), sole entrepreneurs running an operating business in Bulgaria may derive »income from business activities as a sole trader« and »income from other business activities«.

The »income from other business activities« comprises income from all kinds of business activities other than trade, particularly from the following categories of income:

- income from tobacco production and agriculture, fisheries;
- income from intellectual property rights and royalties;
- income from independent (professional) services;
- income from business activities in certain professions that are not subject to local patent tax.

The taxable »income from business as a sole trader« is taxed at a flat rate of 15%. The taxable »income from other business activities« is taxed at a flat rate of 10%. In the following, we refer only to the categories »income from business activities as a sole trader« (hereinafter referred to as »sole trader income«) and »income from other business activities«. On this basis, we will briefly present the tax treatment of the abovementioned categories of income.

According to the Bulgarian legislation partnerships (SD, KD and KDA) are defined as business entities that are regarded as non-transparent for tax purposes and profits. Partnerships are thus taxable at the company level, i.e. they are non-transparent entities for personal income tax purposes. Partnerships are treated as taxable persons, subject to corporate income tax, see I.B.2.

Please note that individuals can also derive income from non-operating activities such as real estate or capital investments. For this type of activity, see II.B and IV.

1.2 PRINCIPLES OF DETERMINATION OF THE SOLE TRADER INCOME TAX BASE

The sole trader income tax base under the ITNPA is determined according to the same principles as apply to partnerships and corporations (companies) according to the Bulgarian Corporate Income Tax Act (hereafter CITA).

The sole trader's annual taxable base is the taxable business profit according to the CITA, less the annual statutory social security and health insurance contributions paid by the sole trader. If a sole trader conducts business activities in the gambling (or shipping) industry, his income is subject to the regulations of alternative corporate tax. If a sole trader conducts business activities in the field of passenger transportation by taxicab, then according to the Local Taxes and Fees Act he is subject to tax on passenger transportation by taxicab as is any similar activity related to this kind of transportation. Any income subject to tax on passenger transportations by taxicab shall be excluded from the taxable income from a sole trader's business activity.

For sole traders in other branches, e.g. agricultural producers, deviating regulations apply under the CITA.

1.2.1 Expenses

Basically, all expenses incurred by a trade or business are tax deductible. However, certain restrictions apply (inter alia):

- business travel expenses of the sole trader are deductible up to double the amount of travel expenses stated by law (BGN 40 [approx. EUR 20]);
- expenses for representation are taxable with expense tax (this term includes entertainment expenditures and business meals); the taxpayer has to prove that the expenses were incurred for business reasons; the expenses must be sufficiently documented.

1.2.2 Carry-forward of losses

Generally, the deduction of losses suffered in the »sole trader income« category is regulated under the CITA. Tax losses may be deducted from the positive financial result over the following five years, but only up to the positive fiscal result.

1.2.3 Tax rates and tax payments

The personal income tax for sole traders and persons carrying out economic activities in the capacity of merchant within the meaning of the Commerce Act is levied at a proportional rate. The sole trader is liable to make a monthly advanced income tax payment in the amount of 15% under the regulation of the CITA. As of 1 January 2017, the monthly advance payments of the tax due for the months of January, February, March and April must be remitted no later than 30 April of the current calendar year. The annual tax payment is calculated from the tax base multiplied with the annual tax rate of 15%, less the tax advance payments for the fiscal year.

The taxpayer must declare his income in the annual tax returns, which he must submit to the competent tax office. Due to the impact of COVID-19, the tax return for the year 2020 must be submitted between 1 March and 30 June 2021. Sole traders must remit the tax on their expenses made in the preceding year by 30 June of the following year. If the annual tax re- turn is submitted by 31 March of the following year by electronic means, the taxable person enjoys a rate rebate of 5% of the balance of tax due under the annual tax return, but no more than BGN 500 (approx. EUR 250). There are two additional conditions for this rebate: the said person does not have any public obligations subject to enforcement at the time of submission of the return, and the balance of tax is remitted by 31 March 2021 for the income derived in 2020. As of 1 January 2019, the deadline for receiving the rebate has been extended to 31 March of the following year.

Furthermore, the sole trader must submit an annual activity report with the annual tax return. The annual activity report need not be submitted if the sole trader did not carry on business activities during the fiscal year. The definition of an enterprise which does not carry out business activities is provided in Section 1, item 30 of the Supplementary Provisions of the Accountancy Act and is applicable to the sole trader as well. Enterprises which did not carry out business activities during the fiscal period are such that simultaneously fulfill all of the following conditions:

- the enterprise did not carry out any commercial transactions during the fiscal period;
- no conditions for acknowledging the revenue according to the Accountancy Act and the applicable accounting standards arose during the fiscal period;
- the enterprise did not carry out any activities related to investments, manufacturing and/or sale of goods;
- the enterprise did not carry out any purchases of goods or services for the purpose of obtaining income or profit from them.

The possibility of non-submission of an annual activity report under the abovementioned conditions is also applicable to the corporate entities according to the amendments of CITA.

Instead of submitting an annual activity report, the trader must submit a declaration stating that no business activity was carried out. As of 2021, the declaration does not need to be submitted annually. Once submitted, the declaration does not need to be resubmitted as long as no business activity is carried out.

1.3 PRINCIPLES OF DETERMINATION OF THE TAX BASE OF THE INCOME FROM OTHER BUSINESS ACTIVITIES

The taxable base of the income from other business activities under the ITNPA is determined relative to the type of income.

The annual tax base is the taxable income (income less expenses) according to the ITNPA, less the annual statutory social security and health insurance contributions borne by the sole entrepreneur. The annual tax base has to be debited with the new tax relief for raising children or the tax relief for raising disabled children.

1.3.1 Expenses

Basically, for each type of income the tax deductible expenses are determined on a percentage basis:

- 60% of the income from agriculture (and tobacco production), where the production is unrefined, with the exception of ornamental plant production. According to Art. 29 ITNPA, the income from tobacco production is excluded from the deductible expenses;
- 40% of the income from agriculture, where the production is unrefined and refined, including ornamental plant production; the same percentage applies to income from forestry, fisheries, hunting;
- 40% of the income from intellectual property rights and royalties;
- 40% of the income from patent activities that are not liable to taxation under the local patent tax;
- 25% of the income from independent (professional) services, other self-employment (lawyers, translators, etc) and non-work activities.

1.3.2 Carry-forward of losses

Generally, the deduction of losses suffered in the »other business activities« category is not possible.

1.3.3 Tax rates and tax payments

The personal income tax for business activities other than those carried out as a sole entrepreneur or trader within the meaning of the Commerce Act amounts to 10%.

The taxpayer must declare his income in the annual tax returns and file them with the competent tax office between 1 March and 30 June of the following year. As of 1 January 2018, enterprises that are payers of income within the meaning of ITNPA are obliged to file their annual tax returns electronically only. As of 1 January 2020, self-insured persons are obliged to file the annual tax return only by electronic means.

The recipient of the income (a self-insured or not self-insured person) is liable to make a tax prepayment on their personal income from other sources as compensation for lost profit and damages of such nature; cash prizes and merchandise awards from competitions and contests which are not provided by an employer or a commissioning entity (orderer); interest, including such within payments under lease contracts; producer dividends distributed by cooperatives; exercise of intellectual property rights by succession. The tax rate is 10%. The tax must be withheld and remitted no later than the end of the month following the quarter in which the income was charged by the enterprise or the income was paid by the self-insured person.

As of 1 January 2017, a new tax relief for cashless payments is effective. The tax relief is 1% of the annual tax due on the total annual tax basis, but no more than BGN 500. The relief is granted if the following conditions are fulfilled:

(i) in the course of the year the taxable person acquired taxable incomes subject to tax on the total annual tax basis;
(ii) 100% of the incomes under item 1 were received by bank transfer;
(iii) the cashless payments made by the taxable person are 80% or more of the incomes under item 1.

Only taxable persons who have no public obligations which are subject to legal enforcement at the date of submission of the annual tax return or at the date of submission of an annual adjusting tax return can take advantage of tax reliefs.

2 Corporations

2.1 TAXPAYERS AND RESIDENCE

Generally, legal entities, inter alia partnerships and corporations, are regarded as non-transparent under Bulgarian tax law. Therefore, the income derived by legal entities is taxable at the level of the entity.

The following legal entities are liable to corporate income taxation if they undertake business in Bulgaria:

- local legal entities;
- foreign legal entities that carry out business activities in Bulgaria through permanent establishment, or carry out property administration, or derive income from sources in Bulgaria;
- sole entrepreneurs, tobacco and agricultural producers – for the withholding tax and in the cases determined in the Individual Income Tax Act;
- employers and contracting entities of management and control – over the tax on certain social contribution expenditures;
- associations without legal capacity, and insurance funds;
- for withholding tax aims – foreign organizational and economical vehicles (trusts, funds, etc) that autonomously carry out business activities and undertake and administer investments when the holder of the rights to derive income cannot be determined;
- the National Assembly of the Republic of Bulgaria in respect of the tax on the supplementary costs incurred by Members of Parliament.

Local legal entities comprise companies, incorporated under the Bulgarian Commercial Act or under (EC) No. 2157 and have a registered seat in Bulgaria, cooperatives, and non-profit organizations. Those legal entities are regarded as Bulgarian tax residents and are subject to unlimited corporate income tax liability, which provides for a taxation of income on a worldwide basis (subject to applicable tax treaties).

According to the CITA, non-resident companies are those that are not resident in Bulgaria. They are subject to tax on income and profits derived from Bulgarian sources.

2.2 PRINCIPLES OF DETERMINATION OF THE TAX BASE

Income of legal entities (OOD, AD, etc) is to be regarded as »business income« in any event, regardless of the nature of the income.

The CITA regulates four types of corporate income taxes:

- corporate income tax (»profit tax«);
- withholding tax;
- tax levied on certain types of expenses;
- alternative corporate tax (e.g. gambling, shipping).

The tax base of each type of corporate tax is determined as follows:

- the tax base of the corporate income tax is the taxable profit of the entity;
- the tax base of the withholding tax is the whole income of foreign entities from Bulgarian sources;
- the tax base of the tax levied on certain types of expenses is the total amount of those expenses;
- the alternative corporate tax is imposed on gambling activities, on some activities of state-owned enterprises, and on activities from maritime administration activities.

The following section refers to the tax base of the corporate income tax.

The tax base of the corporate income tax is the taxable profit. The taxable profit is determined by reference to the accounting profit in the manner stipulated in the CITA. As regards the determination of the accounting profit, legal entities are required to draw up annual financial statements in accordance with the »IFRS«. For small and medium-sized enterprises, the »Bulgarian Accounting Standards« (»Bulgarian GAAP«) are applicable. For corporate tax income purposes, particular adjustments of the accounting profit as provided by the CITA must be made:

- permanent tax differences;
- temporary tax differences;
- other elements according to the CITA.

Specific regulations exist for the determination of the taxable profit of permanent establishments.

The amendments to the CITA and ITNPA regarding the taxation of expenses for benefits in kind took effect on 1 January 2016 and has been applicable since then.

Employers have the opportunity to choose either a 10% one-off tax on expenses for benefits in kind under the CITA, or to tax the expenses as personal income in accordance with the ITNPA. The preferred option must be declared in the annual corporate income tax return for the respective year.

The basis for assessment of the tax on expenses shall be the sum of the expenses in kind, associated with own assets, leased assets and/or assets provided for use, provided for personal use, and/or associated with use on the part of staff, for the calendar year. For the purpose of determining the tax base of the one-off taxation of expenses for benefits in kind, the company's assets are divided into the following categories:

- Vehicles: upon determination of the tax base, the expenses shall be charged to the personal use by multiplying the total amount of all expenses related to the vehicle by:
  - (i) the proportion of the personal to the total use of the vehicle based on the mileage or the hours of the respective vehicle;
  - (ii) 50%
- Immovable property: area- or hourly-based proportion between the personal and the total use of the assets.
- Assets other than in the abovementioned categories: the tax base shall be 20% of the total amount of all expenses related to the respective asset, unless the taxable person can provide documents supporting another tax base amount.

2.3 CARRY-FORWARD OF LOSSES

In terms of taxes, the losses of corporations are basically treated similarly to the losses of sole entrepreneurs (see I.B.1.3). An ordinary loss occurs when deductible costs exceed the gross income subject to tax. Losses may be carried forward for a maximum period of five years following the year in which they were incurred. The receiving company has no right to carry forward the losses of the transferring company in the case of mergers, acquisitions, or divisions.

2.4 TAX RATES AND TAX PAYMENTS

Any profit derived by a corporation is subject to profit tax at a flat rate of 10%, regardless of whether the profit is distributed to shareholders or retained.

The corporate income tax should be assessed on a financial year (calendar or business year) basis. The annual activity report must be submitted together with the annual tax return, which is due by 30 September of the following year only by electronic means, and must be filed electronically. The CITA provides the option of submitting an adjustment statement for an adjustment statement to the annual tax return. This option can be used once without special permission of the tax authorities, by 30 September in the year of submission of the return. There is no obligation to submit an annual tax report and an annual tax return if the entity did not perform business activities during the tax period as per Section 1, item 30 of the Supplementary Provisions of the Accountancy Act (see I.B.1.2.3). However, a taxable person that has not carried out business activities as per the abovementioned regulation for the respective tax period must submit an annual tax return, if an obligation for taxation of the corporate income or of the expenses arises, or if the taxable person wishes to declare other data and circumstances in the draft of the declaration.

All taxable persons must make monthly or quarterly prepayments of corporation tax based on the projected tax profit for the current year. Prepayments shall not be made by taxable persons whose net turnover in the year prior to the preceding year does not exceed BGN 300,000, nor by newly incorporated taxable persons for the year of the incorporation, with the exception of any such persons newly incorporated as a result of a transformation under the Commerce Act. According to Art. 84, monthly tax prepayments shall be made by taxable persons whose net turnover in the preceding year exceeds BGN 3,000,000. According Art. 85, taxable persons who are not obliged to make monthly tax prepayments shall make quarterly tax prepayments.

According to the rules for remittance of the tax prepayments, monthly tax prepayments shall be remitted as follows: for the months of January, February and March: no later than 15 April of the current calendar year; for the months from April to November: no later than the 15th of the month to which the said prepayments apply; for December: until 1 December of the current calendar year. Quarterly tax prepayments for the first and second quarters shall be remitted on or before the 15th of the month directly following the quarter to which the said prepayments apply, and for the third quarter: not later than 1 December. No quarterly tax prepayment shall be made for the fourth quarter.

Taxable persons must remit the corporation tax for the relevant year on or before 30 June of the following year, after deduction of the tax prepayments remitted for the relevant year.

2.5 TAX INCENTIVES

Some of the rules for granting tax relief, representing state aid for regional development in the form of retained corporate income tax, have been changed. The tax shall be remitted only on the grounds of an order issued by the InvestBulgaria Agency, which certifies the maximum allowed amount of state aid for regional development (respectively the maximum allowed amount of the remitted tax), the intensity and term of the aid (the tax periods for which the tax remission is allowed), and confirms the stimulating effect of the investment project.

Advance payments of tax (the whole amount or part of it) can be remitted as of the month or the quarter following the month of issue of the order.

There will be no further possibility for tax remission in the form of a state aid for regional development for entities operating in industries such as transportation, energy, primary production, processing and subsequent offering on the market of agricultural products as stated in Appendix 1 to the Treaty on the Functioning of the European Union.

The scheme excludes the possibility of granting aid to entities which are closing down the same or a similar production activity in another Member State of the European Union or the EEA separately or at a group level two years prior to the date of applying for aid, or plan closing down within two years after the initial investment has been completed.

The CITA amendments also change the definition of initial investment and clarify concepts and rules for determination of the amount of the aid and of the acceptable expenses included in the investment project. The initial investment has to be made within four calendar years, including the year when the order of the InvestBulgaria Agency was received.

As of 1 January 2020, if the requirements regarding spending of remitted corporate tax have not been fulfilled, said tax shall be due in full for the respective year, in accordance with the general legal procedure. In case of tax relief representing minimum aid or state aid to farmers, corporate tax is partially due.

3 Reorganizations

The most feasible means of reorganization is the transformation. The transformation is regulated by the corporate law and the CITA, which provides for a special tax regime based on the EC Merger Directive. According to the CITA, the following types of reorganizations are applicable:

- mergers;
- divisions;
- transfers of a separate activity (assets and liabilities);
- exchanges of shares.

According to the CITA, the following rules, among others, are to be observed in the case of reorganizations:

- the accounting profits or losses that occur when assets and liabilities are written off as a result of the transformation are not recognized for tax purposes;
- the fiscal value of the assets and liabilities transferred is equal at the level of the absorbing company to the value that they had at the level of the absorbed company (»continuance/roll-over of book values«);
- the tax depreciation of the transferred assets must be calculated by the absorbing company in accordance with the rules that would have been used by the absorbed company had the merger not taken place;
- the acquiring companies have no right to carry forward any tax losses generated by the companies under transformation – except in the case of the takeover or merger of a business establishment within the country by a company from another Member State of the European Union;
- the acquiring or newly formed companies have no right to recognize for tax purposes any unrecognized expenses on interest payments and/or upon unrecognized exceeding borrowing costs in the transferring companies, resulting from application of the thin capitalization rule or the interest limitation rule;
- exemption from value added tax with respect to the transformation.

In the case of liquidation or insolvency, corporate tax is due on the date of the deletion from the Commercial Register. The corporate tax must be assessed on the basis of the tax profit for the period from the beginning of the year of deletion of the entity until the date of entry of the deletion. The payable corporate tax must be declared and paid from the entity's property within 30 days of the date of deletion by the person representing the entity during the last tax period. An identical approach has also been adopted with regard to the termination of the activity of permanent establishments or the termination of unincorporated entities.

4 Specific aspects for foreign investors

4.1 NON-RESIDENT SOLE ENTREPRENEURS

An individual who is not resident in Bulgaria is subject to limited tax liability only. Tax liability is limited to the following Bulgarian-source income, listed in the Bulgarian ITNPA:

- income from a legal employment relationship;
- income from business activities as a sole proprietor;
- income from other business activities;
- income from rent or any other granting of rights or property;
- income from the transfer of rights or property;

A 10% withholding tax rate is applicable – inter alia – on the following types of income: income from rent or other granting of the use of movable or immovable property; income from franchising contracts and factoring contracts; income from author's and license remuneration; income from remuneration for technical services; income from awards and remuneration for activities of foreign natural persons – public figures, scientific workers, eminent figures in arts, culture and sport, etc; income from management and supervision of establishments, and from the participation in management and supervisory bodies of establishments; income from sale or transfer of immovable property for consideration; income from the sale or transfer for consideration of stocks, shares and other financial assets; income from interests; income from cash prizes and merchandise awards that are not provided by an employer or a commissioning entity; income obtained by natural persons who are not registered as farmers in the form of state aids, subsidies and other support from the European Agricultural Guarantee Fund, the European [Agricultural] Fund for Rural Development, and the State Budget.

According to ITNPA, no tax shall be assessed at the date of acquisition of shares and interests acquired in return for non-cash contributions made to trading companies. The amendments of the act effective as of 1 January 2017 limit the scope of the cases of tax exemption of non-monetary contributions made to trade companies. Tax shall be assessed upon sale or exchange of the stock and shares acquired in return for non-monetary contributions. In this connection a special procedure for determining the price of the sale/exchange of stock and shares acquired in return for contribution of stock and shares to another company is regulated as of 1 January 2017. If, at the date of the entry of the non-monetary contribution in the trade registry, the income from the sale/exchange of the property, subject to the contribution, is taxable according to the provisions of the ITNPA, the price of the acquisition shall be the documented price of acquisition of the property which was initially the subject of the non-monetary contribution.

A 5% withholding tax rate is applicable on the income from dividends and liquidation shares.

For individuals who carry out business activities as traders within the meaning of the Commercial Act (including sole entrepreneurs/traders), the provisions of CITA are applicable regarding the taxation of income and the taxes withheld at the source.

Foreign natural persons resident in jurisdictions with a preferential tax regime (off-shore zones) are taxed with a 10% final tax for the income from sources in Bulgaria received from:

- remuneration for services or rights, except if the services or the rights are actually granted;
- penalties and damages of any kind, except for benefits accrued under insurance contracts.

4.2 NON-RESIDENT CORPORATIONS

A non-resident corporation (i.e. neither the place of management nor legal seat is in Bulgaria) that is comparable to a Bulgarian corporation is subject to limited corporate tax liability if it carries on business in Bulgaria through a Bulgarian permanent establishment. In this case, tax liability is limited to the income attributed to that permanent establishment. Any non-resident legal entity carrying out an activity through a permanent establishment in the country must specify, in the annual tax return, identification data on the owners, shareholders, or partners in the foreign legal entity, and on the amount of the participating interest, when the amount of said participating interest exceeds 10%. Further, income from Bulgarian real estate is subject to the limited tax liability if it belongs to the business of the foreign corporation. The corporate income tax rate is 10%.

Non-resident companies deriving a Bulgarian-source income not through a permanent establishment in Bulgaria are subject to a final withholding tax. A 10% withholding tax rate is applicable to the following types of income:

- income from financial assets and transactions with financial assets issued by local legal entities, state and municipalities;
- income from rent or other consignment of movables for use;
- remunerations for technical services;
- remunerations under franchising and factoring contracts;
- remunerations for managing and controlling a Bulgarian legal entity;
- income from real estate or transactions with real estate.

A 10% to withholding tax rate is applicable if foreign companies established in jurisdictions with a preferential tax regime (offshore zones) receive Bulgarian-source income from:

- remuneration for services or rights;
- penalties and damages of any kind, except for benefits accrued under insurance contracts.

Any income from interest payments, any copyright and license royalties do not attract a tax withheld at source if the payer and the recipient of the income are related parties. Two persons are related if one of them possesses at least 25% of the capital of the other person continuously for at least two years. Two parties are related if a third entity registered in the European Union has continuously held for at least two years at least 25% of the capital of both parties separately.

The regulations of CITA regarding exit taxation (see I.C.4) are applicable to income, subject to withholding tax, if a non-resident person through his permanent establishment in Bulgaria transfers this income to other parts of the enterprise located outside the country. This regime is applicable to any of the following cases:

- the respective transfer coincides with the usual transactions made through that part of the enterprise, which is located in the country, and intended for third parties; or
- the ordinary business activity, carried out through that part of the enterprise that is located in the country, consists of similar transfers to the other parts of the enterprise; or
- the service, either altered or unaltered, is intended to be rendered to a third party.

The term »Jurisdictions with preferential tax regime« is extended to those territories/states which are not EU Member States and do not exchange information with the Republic of Bulgaria on the grounds of Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation, which repeals Directive 77/799/EEC, and corresponds to the following conditions:

- there is no effective Double Taxation Treaty (DTT) or Agreement for Exchange of Information between the Republic of Bulgaria or the European Union and the respective territory/state;
- there is an effective DTT or Agreement for Exchange of Information between the Republic of Bulgaria or the European Union and the respective territory/state, and the latter refuses or is not able to exchange information on request;
- the due income tax or corporate tax, or the respective substituting taxes on incomes under Art. 12 (9) or Art. 8 (11) of the Income Taxes on Natural Persons Act, realized or to be realized by non-resident natural persons, is more than 60% lower than the income tax or corporate tax on said incomes in the Republic of Bulgaria.

C INTERNATIONAL BUSINESS-RELATED ISSUES

1 Tax treaties

Bulgaria has concluded about 70 double tax treaties in the area of personal and corporate income tax. In most of the treaties the exemption method applies, except for dividends, interest and royalties.

2 Transfer pricing

As of 1 January 2020, the Bulgarian Fiscal Code provides for mandatory preparation of transfer pricing (TP) documentation. The contents of the local file and the group master file are explicitly described in the text of the Code. The transfer pricing documentation must comply with the general provisions of the CITA and the Transfer Pricing Guidelines of the National Revenue Agency.

Bulgarian entities, as well as foreign entities acting through permanent establishments in Bulgaria, that participate in cross border related party transactions will be required to prepare TP documentation, if, as of 31 December of the preceding year:

- the book value of their assets exceeds BGN 38 million, and one of the following indicators is exceeded:
- their net sales income exceeds BGN 76 million, or
- the average number of employees exceeds 250.

Corporate income tax exempt companies as well as companies subject only to alternative taxes under the CITA are excluded from the mandatory TP documentation requirement. Bulgarian taxpayers participating in local inter-company transactions only are also released from said obligation. The local TP file should cover transactions exceeding the following thresholds, calculated on a standalone basis:

- sale of goods – BGN 400,000,
- all other transactions (e.g. royalty, service transactions, etc) – BGN 200,000,
- received/granted loans of over BGN 1 million or with a total amount of the accrued interest and other related income/expenses of over BGN 50,000.

The local file should be prepared by 31 March of the following year. The master file should be prepared no later than 12 months after the deadline for preparation of the local file. The first year for which a local file should be available is 2020 (i.e. the documentation should be prepared by 31 March 2021 latest). In case a local file has not been prepared (or submitted to the tax administration upon request), a fine can be imposed to the amount of up to 0.5% of the total value of the transactions that should have been documented.

The OECD Transfer Pricing Guidelines are not obligatory for Bulgaria, because Bulgaria is not a member of the OECD. However, the OECD Guidelines are used by the Bulgarian Tax Authorities to solve transfer pricing cases by incorporation of the OECD Transfer Pricing Guidelines in the Transfer Pricing Guidelines for the Bulgarian National Revenue Agency.

As of 4 August 2017, the amendments of the TSSPC regarding the automatic exchange of »country-by-country reports« (»CbCR«) of multinational groups of undertakings (MGUs) are effective. One group of data concerns transfer pricing agreements and binding opinions. Another change in this direction is the introduction of automatic exchange of CbC reports. The first CbC report, namely for the year 2016, had to be submitted by 31 December 2017. This requirement was introduced by Council Directive (EU) 2016/881 of 25 May 2016. Only MGUs which, according to their consolidated financial statements, have total income exceeding EUR 750,000,000 (BGN 1,466,872,500) for the tax year preceding the reporting tax year are obliged to submit such information. In case the ultimate parent undertaking is a Bulgarian local taxable person, it is obliged to submit a CbC report if the group, according to the consolidated financial statements of the group, has a total income exceeding BGN 1,466,872,500 (approx. EUR 750,000,000) for the tax year preceding the reporting tax year.

3 Controlled foreign corporations

The undistributed profits of controlled foreign corporations, incl. of permanent establishments, are included annually in the tax financial result of the Bulgarian company which has a direct or indirect participation in a foreign enterprise and are taxed under the general rules of the CITA. The regulations are applicable in the following cases:

- a taxable person within the meaning of the CITA (only local legal entities established under the Bulgarian law) has, either alone or together with its affiliated enterprises, directly or indirectly over 50 % of participation in capital, voting rights, or profits of a foreign enterprise;
- and when the tax actually paid by this foreign enterprise or permanent establishment is lower than the amount specified by Bulgarian law.

If a foreign enterprise is not subject to corporate taxation in its jurisdiction, it will not fall within the definition of CFC, and the new regulations will not apply thereto in any way.

All CFC incomes have to be included in the taxable amount of the Bulgarian taxable person. The amount of the income or profits of a CFC should be determined by the CITA and should be included in proportion to the Bulgarian taxpayer's participation in the CFC. CFC regulations do not apply when the CFC carries out a substantial business activity with staff, equipment, assets and premises in Bulgaria.

4 Exit taxation

As of 1 January 2020, the Corporate Income Tax Act (CITA) transposes the rules for exit taxation, described in Art. 5 of Council Directive 2016/1164 of the European Union (»Anti-Tax Avoidance Directive« – ATAD). The amendments add three types of scenarios which could lead to taxation in the case of transfer of assets outside of the country:

- transfer of assets from a head office in Bulgaria to a permanent establishment outside the country;
- transfer of assets in cases where an entity changes its tax residence – does not apply to assets which continue to be effectively connected to a permanent establishment in Bulgaria;
- transfer of a business activity carried out from a permanent establishment in Bulgaria to another country.

Taxation could arise in any of the scenarios described above only if Bulgaria loses its right to tax the result of the subsequent disposal of the transferred asset. The amended provisions are not intended for taxing the transfer of assets between two or more companies belonging to a multinational group. The result of each transfer will be calculated by subtracting the tax value of the transferred asset from its market value. The value for tax purposes of tax depreciable assets will be their acquisition cost less accumulated tax depreciation as at the time of transfer. The value for tax purposes of all other types of transferred assets will in essence be equal to their acquisition cost without taking into account the effects of subsequent evaluations and impairments. When the result of the above calculation is positive, the amount will be added to the accounting result. In case the calculation results in a negative value, the amount will also be taken into consideration, leading to a decrease in the taxable result.

CITA provides an option for the deferral of the additional corporate tax liabilities incurred in connection with exit taxation. Taxpayers could choose to pay the latter amount in five equal annual installments (the first of which is payable for the year of transfer). The deferral will be possible if certain conditions are met, one of which is that the recipient of the assets should be a permanent establishment or headquarters in an EU or EEA Member State. Temporary transfers of assets for periods of up to 12 months that meet specific criteria will not be subject to exit taxation.

5 Hybrid mismatches

The new rules implement Council Directive (EU) 2017/952, amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries. The rules aim to neutralize two types of mismatches resulting in tax avoidance in one or more jurisdictions. Hybrid mismatches are mismatch arrangements involving hybrid entities and hybrid instruments which may lead to:

- deduction without inclusion – accounting expenses/amounts leading to a decrease in the tax result in the payer's jurisdiction without a corresponding increase of the taxable income in the jurisdiction of the income recipient, or
- double deduction – accounting expenses/amounts leading to a decrease in the tax result in the jurisdiction of the payer and at the same time to such a decrease in the jurisdiction of the investor.

According to the law, a hybrid mismatch arises (i) between a taxable person and its associated enterprise, (ii) between other associated enterprises, (iii) between the head office of an entity and a permanent establishment (PE) of that entity, (iv) between two or more PEs of the same entity, or (v) as part of a structured arrangement.

The law lists the hybrid mismatches which result in deduction without inclusion, as for example a payment under a financial instrument, a payment to and from a hybrid entity, a payment to an entity with one or more PEs or to a PE not recognized for tax purposes, a conditional payment between a head office and its PE or between two or more PEs of the same entity.

In the case of payments under hybrid mismatches, the financial result is adjusted for tax purposes by the accounting expenses and revenues or by the amounts (when no accounting expenses or revenues have been reported) which would have been treated as taxable income or tax non-deductible expenses. The application of the rules depends on circumstances such as whether the taxable person is the investor or the payer, whether the tax result in the other jurisdiction was adjusted due to the hybrid mismatch, as well as other circumstances relevant to the adjustment for tax purposes.

The law introduces rules on mismatches related to taxable persons which are residents of more than one jurisdiction.

The law introduces definitions of a number of new concepts, such as »hybrid entity«, »double deduction«, »deduction without inclusion«, etc.

6 DAC 6 reporting obligation

The new rules of the Tax and Social Insurance Procedure Code implemented the DAC 6 Directive and officially entered into force as of 1 July 2020. An intermediary or relevant taxpayer (if the interme- diary is not released from his legal professional privilege) shall be subject to the reporting obligation. If certain conditions are met, the law provides for a waiver for intermediaries.

The report shall cover all taxes with the exception of VAT, custom duties, excise duties, social security contributions. The law provides for an electronic filling of the report. The executive director of the National Revenue Agency shall approve a standard form.

In the event that the report obligation is violated, the bill provides for penalties amounting to up to EUR 2,500 for natural persons and up to EUR 5,000 for legal entities. In case of repeated violations, the penalty shall be doubled.

The report must be submitted by 31 August 2020 and shall include the reportable cross-border transactions upon which the first action was taken between 25 June 2018 and 30 June 2020.

D VALUE ADDED TAX (VAT)

Taxable transactions, including those taxable at zero tax rate, carried out by a taxable person with place of supply in Bulgaria are subject to value added tax (VAT).

1 Taxable persons

A »taxable person«, according to the Bulgarian VAT Act is any person who independently carries out in any place any economic activity, whatever the purpose or result of that activity is. In this sense, foreign taxable persons (persons without a seat or fixed establishment in Bulgaria) may also be subject to Bulgarian VAT if they carry out taxable transactions in Bulgaria (see I.D.9).

2 Taxable transactions

2.1 SUPPLY OF GOODS AND SERVICES

According to the general provisions of Art. 6 (1) Bulgarian VAT Act, »supply of goods« is defined as the transfer of the right of ownership or the transfer of any right to dispose of goods as owner, with the term »goods« comprising, within the meaning given by the Bulgarian VAT Act, all movable and immovable assets, including electric current, gas, water, heat or refrigeration and such, as well as standard software.

Each taxable supply of goods or services made in return for payment is subject to VAT. The law stipulates that the following is deemed supply made in return for consideration:

- setting aside or submitting goods for the private use or consumption of the taxable person, of the owner, the factory or office workers of the latter, or for purposes other than the independent economic activity of the taxable person;
- providing services for the private use of the taxable person, of the owner, of the factory and office workers of the latter, or for purposes other than the independent economic activity of the taxable person.

The sole exceptions are such cases in which the abovementioned provision of goods or services has been caused by dire straits or force majeure.

According to the general provisions of Art. 9 (1) Bulgarian VAT Act, »supply of services« is any performance of services. »Services«, within the meaning of the Bulgarian VAT Act, are defined as everything that has a value and is not goods, money in circulation, or foreign currency used as legal tender. The supply of services may result from a positive action (e.g. rendering of services, the sale or transfer of rights to intangible property) or tolerating actions of other persons (e.g. lease of immovable property, use of rights and patents). The non-monetary contributions to an unincorporated partnership shall not constitute a supply of goods or services for VAT purposes.

A supply is also the withdrawal of goods or the use of goods by a taxable person for his private use or for use by his staff if the goods form part of the business assets of the taxable person and the VAT on those goods was totally or partly deductible.

No VAT taxable supply will be deemed to take place upon construction, improvement, or repair of elements of state or municipal infrastructure against no consideration. In this case the supplier should be able to deduct input VAT on the incurred expenses related to the infrastructure under the general rules of the law.

2.2 SELF-SUPPLY

»Self-supply«, within the meaning of the Bulgarian VAT Act, is defined as the dispatch or transportation of goods produced, extracted, processed, purchased, acquired, or imported on the territory of the country by a taxable person in the course of his business activity when the goods are sent or transported for the purposes of his business activity from or for his account from the territory of the country to the territory of another Member State.

2.3 IMPORTATION OF GOODS

The transfer of goods from a country outside the Community to Bulgaria is subject to import VAT.

The import of goods to which the exemption from customs duties under Regulation (EC) No. 1186/2009 applies have been exempt from VAT since 1 January 2011 because of amendments according to Council Directive 2009/132/EC.

According to the Bulgarian VAT Act, implementing Council Directive 2009/69/EC of 30 November 2010, there is an obligation to indicate the Bulgarian VAT number of the importer and the buyer's VAT number issued by the Member State for which the subsequent supply of goods is meant, or the VAT importer number issued by the Member State for which the subsequent delivery of goods is meant.

The regulations of the taxable amount upon importation of goods are unified to those of Directive 2006/112/EC. As of 1 July 2019, importers of certain goods (explicitly listed in Annex 3 of the Bulgarian VAT Act) can postpone the charging of VAT upon import under the following conditions, and namely:

- the customs value of each item declared in the import customs declaration is equal to or more than BGN 50,000 (approx. EUR 25,564.60)
- voluntary or compulsory registration of the importer in Bulgaria, at least 6 months prior to the import
- no payable and unpaid public liabilities collected by NRA.

2.4 INTRA-COMMUNITY ACQUISITIONS

An intra-Community acquisition is the acquisition of the right of ownership of goods or of any right to dispose of goods as owner, as well as the actual receipt of goods, in certain cases, that are dispatched or transported to the territory of the country from the territory of another Member State, where the supplier is a taxable person registered for VAT purposes in another Member State. On the one hand, the supplier carries out a tax-exempt intra-Community supply; on the other hand, the recipient effects an intra-Community acquisition, must pay VAT and may deduct the VAT under the general conditions. The receipt of goods within the territory of the country by a taxable person, which will be used for the purposes of the economic activity of the said person, are also regarded as an intra-Community acquisition for consideration where the goods in question are dispatched or transported by or on behalf of the taxable person from the territory of another Member State in which the person is registered for VAT purposes and where the goods were produced, extracted, processed, purchased, acquired, or imported within the framework of the economic activity.

3 Place of supply

The supply of goods and services will only be taxed under the Bulgarian VAT Act if the place of supply is considered to be in Bulgaria.

Generally, the »place of supply of goods« that are not dispatched or transported is the place where right of ownership of goods or of any right to dispose of goods as owner is transferred. In certain cases, e.g. supply of goods in accordance with a lease contract, the place of supply is where the actual handing over of the goods occurs.

The »place of supply of goods« that are dispatched or transported either by the supplier, the recipient or a third person is the place where the goods are at the time when dispatch or transport to the recipient commences.

Special rules are applicable for »distance selling«, where goods are supplied to private customers and are dispatched by or on behalf of the supplier, who is a taxable person registered for VAT purposes in an EU State other than that in which the dispatch ends, from one EU Member State to another EU Member State. In the case of distance selling, the place of supply is not the place of departure of the goods, but the place where the goods are located at the end of transport.

Amendments to Article 14 of the VAT Act provide that, as of 1 July 2021, the intra-EU distance sales rules shall apply, where the goods will have to be manufactured within the EU or released for free circulation. As of 1 July 2021, the new Article 14a, which regulates certain domestic supplies facilitated via an electronic interface, will enter into force. The new provisions aim to implement Regulation 2019/2026 as a part of the e-commerce package.

The »place of supply of services« is determined according to whether the recipient of the services is a taxable person (B2B transactions) or a non-taxable person (B2C transactions).

B2B transactions
In general, the supply of services is taxable at the place where the recipient has established his business or has a fixed establishment to which the service is supplied. However, there are several particular regulations for determining the place of supply of services, e.g.:

- services in connection with immovable property are carried out where the immovable property is located;
- cultural, artistic, scientific and similar services are supplied at the place where they are physically carried out.

B2C transactions
If the services are supplied to non-taxable persons, they are generally taxable at the place where the supplier has established his business. If the supplier has a fixed establishment from which the service is supplied, the service is taxable at the place where the fixed establishment is located. However, there are again several special regulations for determining the place of supply of services; e.g. the place of supply in the following cases is where the service is actually provided to a non-taxable person:

- services relating to transport handling of goods;
- services connected with the valuation, expert examination, or work on movable goods.

The place of provision of electronic communications services, radio and television broadcasting services, as well as electronically provided services, when the recipient is a non-taxable person, is within the territory of the country where the recipient is established, has a permanent address or usually resides.

As of 1 January 2019, the regulations of Council Directive (EU) 2017/2455 of 5 December 2017 as regards certain value added tax obligations for supplies of services and distance sales of goods are fully implemented in the Bulgarian VAT Act regarding the place of supply of communications services, radio and television broadcasting services, as well as electronically provided services, when a threshold of EUR 10,000 in case of such supplies for the current year is exceeded.

4 Taxable amount

The taxable amount is the amount on which tax is charged or not charged, depending on whether the supply is taxable or exempt. The taxable amount is determined on the basis of everything that constitutes the consideration that has been obtained by or is due to the supplier from the recipient or another person in connection with the supply, expressed in leva and stotinki exclusive of the tax under the Bulgarian VAT Act. Any payment of interest and damages of a compensatory nature are not considered a consideration for a supply.

Where the consideration is expressed entirely or partially in goods or services where the parties have not quoted a monetary amount, the taxable amount of each supply at the date of occurrence of the chargeable event is the taxable amount upon acquisition or the cost of the supplied goods, and in the cases of import, the taxable amount upon import or of the direct costs incurred for the supply of the service provided. Where the taxable amount cannot be determined according to this procedure, the taxable amount is equal to the market price. Art. 25 par. 3, item 7 of the Bulgarian VAT Act explicitly defines the taxable amount for fixed assets, goods and services used entirely or partly for private use.

As of 1 January 2019, the taxable amount in case of a concluded intra-community acquisition, determined at the beginning of the month in which the goods are separated or delivered, is the amount of the tax base upon acquisition or the cost price of the goods reduced by the costs of depreciation in the light of the usual economic life of the goods, credited with all other taxes and fees, all costs of the usual or customary packaging materials or containers.

5 Tax rates

In Bulgaria the following tax rates are applicable:

20%	standard VAT rate
9%	¬ a reduced rate of 9% for hotel accommodation, applicable since 1 April 2011, to all supplies of accommodation; ¬ supplies of books; ¬ supplies of takeaway food; ¬ supplies of common tourist services such as tour operators' services; ¬ supplies of foods intended for babies; ¬ supplies of baby diapers and other baby hygiene products; ¬ service for the use of sports facilities.
0%	¬ intra-Community supply of goods; ¬ cross-border transport of persons; ¬ cross-border transport of export goods; ¬ supply linked to international transport; ¬ supply linked to international goods traffic; ¬ work on and processing of goods to be exported outside the Community; ¬ supply of gold for central banks; ¬ supply linked to duty-free trade; ¬ certain zero-rated supplies of services provided by agents, brokers and other intermediaries; ¬ supply linked to the importation of services. ¬ supplies of COVID-19 vaccines and related services; ¬ COVID-19 tests and related services.

6 Exemptions

The numerous exemptions from VAT can be classified in two categories, depending on whether they preclude the deduction of input VAT or not. The most important exemptions are listed below:

Zero-rated supplies

Supplies that do not affect the right to deduct input VAT include:

¬ export of goods (goods are transported outside the Community);
¬ intra-Community supply of goods;
¬ cross-border transport of export goods;
¬ cross-border transport of passengers. Upon fulfillment of contracts for transportation of goods, the motor vehicles are not part of the luggage of the passenger (with respect to their drivers);
¬ work on and processing of goods to be exported outside the Community;
¬ supplies of COVID-19 vaccines and related services;
¬ supplies of COVID-19 tests and related services.

The following two additional conditions for zero-rating of certain supplies intended for consumption on board of vessels used for transportation of goods or passengers have been introduced:

¬ the vessels should be used for the transportation of goods or passengers in high seas and
¬ the vessels should not be used for entertainment, sports, or personal purposes.

Exempt supplies

VAT exemptions that preclude the deduction of input VAT include:

¬ supply linked to health care;
¬ supply linked to welfare and social security work;
¬ supply linked to education, sports or physical education;
¬ supply linked to culture;
¬ supply linked to religious denominations;
¬ supply of a non-profit making nature;
¬ supply of financial services;
¬ supply of insurance services and additional related services executed by brokers and agents;
¬ supply linked to land and building (option for taxation connected with the right to deduct input VAT possible);
¬ gambling;
¬ supply of postage stamps and postal services;
¬ supplies linked to health care provided by a person following a medical profession under the Health Act.

7 Input VAT deduction

A taxable person is entitled to deduct VAT paid on goods and services, importations, and intra-Community acquisitions if the following conditions are fulfilled:

- the acquired goods and services are used for the purposes of the taxable supplies effected by the registered person;
- the recipient holds a tax document drawn up in accordance with the requirements of Art. 114 and 115 Bulgarian VAT Act, wherein the tax is indicated on a separate line: in respect of supplies of goods or services for which the person is a recipient; or
- the recipient has issued a protocol under Art. 117 and Art. 163b Bulgarian VAT Act in the case that tax is executable by the person as a payer under chapter eight;
- no VAT exemption precluding VAT deduction is applicable.

The right to credit for input tax is not exercisable in respect of any mischarged tax.

Finally, the amount of the VAT liability in a taxable period consists of the VAT due on taxable transactions carried out by the taxable person less input VAT paid in the same period. The taxable person must pay the balance due or may claim a refund from the tax authority.

An option for adjustment of credit for input tax upon advance payment is provided. If a supply has been cancelled and the supplier has failed to issue a credit note certifying that supply has not been effected, the recipient must adjust the credit for input tax used, based on the invoice, whereby the advance payment is documented. The adjustment shall be made during the tax period in which the supply was cancelled. This requirement does not depend on the fact whether the supplier returned the advance payment or whether he issued a credit note. This adjustment is also applicable if the VAT registration of the supplier was terminated.

An adjustment is provided for in case of destruction, shortfalls in quantity, or waste. In case of destruction, shortfalls in quantity, or waste, the recipient of the goods must charge and remit to the state budget tax in the amount of the credit for input tax deducted in case of partial or proportional deduction of credit for input tax for any goods produced, purchased, acquired, or imported thereby for the purpose of its independent economic activity. The VAT due shall be charged during the tax period in which the respective circumstance occurred, by drawing up a protocol for determining the amount of the due tax and recording it in the purchase log and in the VAT return for the aforesaid tax period.

The VAT refund without previous audits is possible upon submission of the VAT return stating the amount to be refunded electronically, through the website of the National Revenue Agency, under the following conditions:

- indicated valid bank account in BGN;
- the taxable persons should be deemed low-risk taxpayers by the NRA;
- the taxable persons do not have any outstanding public liabilities;
- no offset of VAT against other due public debts.

8 VAT liability

In general, a taxable person carrying out a taxable transaction is liable for payment of VAT. The taxable person is obliged to pay the invoiced VAT to the tax authority.

Exceptions apply, inter alia, for supply of goods with installation/assembly and for supply of services carried out by a foreign taxable person (no seat and no fixed establishment in Bulgaria that is involved in the supply) to another (domestic or foreign) taxable person. In this case the VAT liability shifts from the supplier to the recipient (reverse-charge mechanism).

Chapter 17a of the Bulgarian VAT Act covers the character and the applicability of the institute of the cash accounting, unifying the provisions of the law to those of Directive 2010/45/EU. This regime is not obligatory and will be applied if the tax person files a written request to the tax office. Upon this written request, the competent tax authorities will issue a written permission for applying the regime. The permission shall be issued if the tax person fulfills certain conditions explicitly stated in the Bulgarian VAT Act.

- it is registered under the VAT Act;
- the taxable turnover does not exceed the amount of EUR 500,000 for a period of 12 consecutive months before the current month;
- the company does not have an assessment act issued due to the provision of Art. 122 of the Tax and Social Insurance Procedure Code;
- the company does not have outstanding or unpaid tax liabilities or unpaid social contributions.

The most essential part of the regime is the opportunity it provides for the supplier to pay the charged VAT when it receives full or partial payment.

VAT is liable in the tax period in which the payment has been received by the supplier. The right of tax deduction arises in tax period in which the full or partial payment for the supply to the supplier was made and must be exerted in the tax period during which the right arose or in one of the following 12 tax periods. As of 1 January 2019, the taxable person is not obliged to charge and effectively pay VAT for the goods and services which are available both on the date of deregistration and on the date of a subsequent registration, if they are both initiated within the same tax period. When there is an output tax payable for the last tax period, all deregistered persons are obliged to remit the tax by the end of the calendar month following the calendar month during which the VAT return for the last tax period should have been submitted.

To prevent tax fraud, the legislature provides in Art. 163a and Art. 163b of the VAT Act that the reverse-charge mechanism is applicable in case of supplies of the goods listed in application 2 of the Bulgarian VAT Act. Application 2 includes: seeds, wheat, rye, oats, corn (maize), rice, and other cereals. The amendments of the Act for 2019 provide an extension of the period for application of the VAT reverse-charge mechanism for supplies of cereals and industrial crops which are normally not used for final consumption in their unprocessed state, until 30 June 2022.

According to the amendment of the VAT Act effective as of 1 January 2017, upon supply effected in stages, the performance of each stage is considered a separate supply and the chargeable event for each separate supply occurs on the day on which the respective stage was concluded.

The following new treatment of the supply of goods or services in connection with commission agreements is effective as of 1 January 2017:

In case the commission agent acts on account of the principal with respect to sale of goods:

(i) the taxable event shall be classified in accordance with the general rules of the Bulgarian VAT Act, but may be no later than the date of the sale to the third party;
(ii) the tax base is the taxable amount of the supply performed between the commission agent and the third party, reduced by the remuneration of the commission agent.

In case the commission agent acts on account of the principal with respect to purchase of goods:

(i) the taxable event shall be classified in accordance with the general rules of the Bulgarian VAT Act, but may be no earlier than the date on which the purchase was made by the third party;
(ii) the tax base is the taxable amount of the supply performed between the commission agent and the third party, increased by the remuneration of the commission agent.

The supply of service between the commission agent and the principal shall not be deemed a separate supply of service; it shall be set off against the taxable amount of the supply between the commission agent and the principal.

Effective as of 1 January 2019, the Bulgarian legislation fully implements the provisions of Council Directive (EU) 2016/1065 of 27 June 2016 amending Directive 2006/112/EC as regards the treatment of vouchers.

As of 1 January 2019, the Bulgarian VAT treatment of supply of telecommunication, broadcasting, or electronically provided services supplied by taxable persons to non-taxable persons is in line with Council Directive (EU) 2017/2455 of 5 December 2017 and Directive 2009/132/EC as regards certain value added tax obligations for supplies of services and distance sales of goods (see I.D.3). Also, as of 1 January 2021, the one-stop-shop regime will apply.

Recent amendments to the VAT Act also provide for the possibility of applying the regime outside of the Union to all B2C services where customers are not established in the EU. The new rules will enter into force on 1 July 2021.

As of 1 January 2020, new rules are in force concerning the VAT treatment of supplies of goods intended for the continental shelf or exclusive economic zone, also applicable when the goods are placed under export or re-export procedure. VAT in this case will be self-charged by the taxable persons with a reverse-charge protocol and may be deducted as input VAT credit. Electronic notification to the revenue authorities is required.

9 Tax assessment

9.1 RESIDENT TAXABLE PERSONS

The registration requirement under the Bulgarian VAT Act apply to all taxable persons established within the territory of the country and who effect taxable supplies of goods or services. The registration can be mandatory or voluntary, i.e. a taxpayer who does not satisfy the conditions for compulsory registration for VAT may register on a voluntary basis. Any local taxable person with a taxable turnover of BGN 50,000 (approx. EUR 25,540) or more for a period not exceeding 12 consecutive months preceding the current month is obligated to submit an application for registration under the Bulgarian VAT Act within 7 days of the lapse of the tax period during which that person generated such turnover. In case the taxable turnover of BGN 50,000 is realized for a period no longer than 2 successive months, including the current month, the taxable person is obliged to apply for the registration within 7 days as of the date on which said turnover threshold is reached. The turnover realized by the transferring company or transferor, when they are not registered for VAT purposes, is added to the types of payments included in the taxable turnover. As of 1 January 2020, new rules are in force concerning the aggregated calculation of the VAT registration turnover in case of successive undertaking of the same economic activity in a single commercial site by related parties or by parties acting in coordination. Said rules will not apply when the economic activity is interrupted for more than one month. As of 1 January 2020, it is mandatory for foreign persons not established in the country and performing domestic taxable supplies (except for supplies subject to reverse charge) to register for VAT purposes prior to performing their first taxable supply, irrespective of the taxable turnover generated.

If the taxable person has failed to submit an application for registration, VAT for the taxable supplies with which it exceeded BGN 50,000 will be charged for the period from the moment of reaching the taxable turnover until the moment of VAT registration. The supply with which the taxable person exceeds the taxable turnover of BGN 50,000 shall also be charged. The taxable person is liable for the tax with respect to taxable supplies of services received, in case the tax is chargeable from the recipient, and with respect to IC acquisitions performed during this period. In case of dissolution of a legal person with liquidation, the deregistration procedure has to be initiated by the taxable person upon submission of application for deregistration to the NRA. In case of dissolution of a legal person without liquidation or dissolution of unincorporated association or the social insurance fund, the deregistration procedure shall be initiated by the revenue authority. Moreover, there is a legal possibility for the liquidator to decide whether the dissolved legal person will continue to be registered for VAT purposes until the date of its removal from the trade register. In this case the liquidator is jointly liable for the tax due during the liquidation period.

Furthermore, all non-taxable persons and taxpayers who are not registered on other grounds and who realize intra-Community acquisitions of goods, the total value of which exceeds TBGN 20,000 (approx. TEUR 10.210) in the current year, are subject to VAT registration. Further obligations to register arise in case of supply of services where the reverse-charge mechanism applies; however, taxable persons registered for that reason do not have the right to charge VAT or deduct input VAT.

10 Quick Fixes

As of 1 January 2020, foreign persons may not be required to register for VAT purposes when transferring goods from another EU Member State to a local warehouse under the »call-off stock regime«, provided that the conditions for applying this regime are met. In this respect, persons dispatching or receiving goods under this regime should maintain special electronic registers.

Special rules are introduced regulating which transaction in a supply chain the intra-Community transport will be ascribed to, where the goods are transported directly from the first supplier to the final recipient and the transport is organized by the intermediate supplier. In general, the transport will be ascribed to the supply performed by the intermediate supplier, which will qualify for an intra-Community supply (ICS), taxable with a zero VAT rate. An exception from the general rule will apply if the intermediate supplier provides their supplier with their VAT identification number from the country of dispatch of the goods. In this case, the transport has to be ascribed to the supply performed by the intermediate supplier, whereas the transaction made to the intermediate supplier will be taxable in the country where the transportation of the goods has started.

Two new conditions are introduced as condition for the application of the zero VAT rate to ICS: (i) the recipient of the supply provides their supplier with their valid VAT number from an EU Member State, other than the Member State where the transport starts and (ii) the supplier has filed a correct VIES return (EC sales list).

Certain changes are introduced with regard to the documents that should be collected by the supplier for evidencing the performance of ICS. Besides the documents for the supply as specified in the Rules for Application of the VAT Act (RAVATA), the supplier should also collect documents according to Regulation (EU) 2018/1912. It should be noted that the Regulation requires at least two non-contradictory evidences from a detailed list of documents that do not entirely overlap with the documents listed in the RAVATA.

If a partner in an unincorporated partnership is registered under the Bulgarian VAT Act, this partnership is subject to compulsory registration under the VAT Act as well.

For VAT purposes, persons registered under the Bulgarian VAT Act are obliged to keep the following ledgers: a purchase day book and a sales day book. In respect of the »call-off stock regime«, persons dispatching goods or receiving goods under this regime should maintain special electronic registers. For every tax period, fixed generally as one calendar month, the registered person must submit a VAT return, prepared on the basis of these ledgers.

The VAT return must be submitted electronically, in person or by proxy – on or before the 14th of the month following the tax period to which said returns and ledgers refer. A taxable person who has effected intra-Community supply of goods, supply of goods as an intermediary in a triangle transaction, supply of services with a place of supply in the EC, or who transfers goods forming a part of its business assets from the territory of the country to the territory of another EU Member State under the »call-off stock regime«, must submit a VIES declaration (recapitulative statements) with the VAT identification numbers of the recipient and the total value of all supplies made to them each month.

A taxable persons selling or purchasing liquid fuel for reselling purposes must provide the National Revenue Agency (NRA) with a guarantee valid for a period of one year, if the threshold of BGN 25,000 in a reporting month is exceeded. Security can be provided by government securities, an unconditional and irrevocable bank guarantee, or a cash deposit, no lower than 20% of the VAT base of the respective supplies of liquid fuels realized during the previous tax period (minimum BGN 50,000).

10.1 FOREIGN TAXABLE PERSONS

As of 1 January 2020, foreign persons not established on the territory of the country and performing domestic taxable supplies (except for supplies subject to reverse charge) have to register for VAT purposes prior to performing their first taxable supply, irrespective of the taxable turnover generated. Irrespective of the excisable turnover, a person who is established abroad and not established in Bulgaria, but who carry out taxable supplies of goods that are assembled or installed on Bulgarian territory by him or at his expense, is subject to registration for VAT. Further, a taxable person carrying out supplies on the territory of Bulgaria according to the VAT Law under the conditions of distance sales is obliged to register for VAT no later than seven days before the date of the tax event of the supply with which the total value of the distance sales throughout the current year exceeds BGN 70,000 (approx. EUR 35,760).

An obligation for VAT registration arises for all foreign non-taxable persons and taxpayers who are not registered on other grounds and who realize intra-Community acquisitions of goods (see I.D.9.1). A foreign taxable person who does not satisfy the conditions for compulsory registration for VAT may register on a voluntary basis. Foreign taxable persons who do not have their permanent residence, seat or fixed establishment in the EC or are not resident in a third country with which Bulgaria has signed legal assistance instruments must have a fiscal representative if they carry out supplies subject to Bulgarian VAT.

After registration, foreign taxable persons must fulfill the same VAT declaration obligations as resident taxable persons (see I.D.9.1). However, as of 1 January 2019, foreign taxable persons voluntarily registered in Bulgaria are not allowed to terminate the registration before the lapse of 12 months as of the beginning of the calendar year following the year of registration.

Taxable persons established within the EU may reclaim Bulgarian VAT that was invoiced to them by filing a refund application with the competent tax authority in the Member State of residence. Subsequently, after verification, the application is automatically submitted to the Bulgarian tax authorities. The following conditions must be fulfilled:

- the taxable person has no seat and no fixed establishment in Bulgaria;
- the taxable person has neither effected supply of goods or services, self-supplies nor carried out intra-Community acquisitions in Bulgaria or has rendered only certain supplies (i.a. only supplies for which the reverse-charge mechanism is applicable).

Taxable persons from non-EU Member States may claim a refund of input VAT by filing an application to the National Revenue Agency Sofia-Grad and using the official form. The following conditions must be fulfilled:

- the taxable person has no seat and no fixed establishment in Bulgaria or in the EU;
- the taxable person has neither effected supply of goods or services, self-supplies nor carried out intra-Community acquisitions in Bulgaria or has rendered only certain supplies (i.a. only supplies for which the reverse-charge mechanism is applicable);
- the country in which the taxable person is established is listed in the Ministry of Finance and Ministry of Foreign Affairs list of countries that refund VAT to Bulgarian taxable persons.

E OTHER BUSINESS-RELATED TAXES

1 Capital duty

There is no capital duty levied in Bulgaria. Real estate registration fees and notary fees (see I.E.2) are levied for contributions of immovable properties to the share capital of a Bulgarian company by the shareholder(s).

2 Stamp duties

In Bulgaria several different stamp duties are levied on certain legal transactions during administrative or court proceedings. Administrative fees are usually levied as fixed amounts. Judicial stamp duties are levied, inter alia, on civil procedures, non-litigation civil law procedures and land registry procedures, bankruptcy proceedings, registration proceedings, and administrative disputes. Court fees vary between BGN 50 and 4% of the amount in dispute.

3 Notary fees

Notary fees are levied on the transfer of immovable properties at a rate between 0% and 1.5%, applicable on the total amount of the transaction. The applicable rates are:

VALUE OF THE IMMOVABLE PROPERTY	%	NOTARY FEES
less than BGN 100	-	BGN 30
more than BGN 100 but less than BGN 1,000	1.5	BGN 30 + 1.5% applied to the amount exceeding BGN 100
more than BGN 1000 but less than BGN 10,000	1.3	BGN 43.50 + 1.3% applied to the amount exceeding BGN 1,000
more than BGN 10,000 but less than BGN 50,000	0.8	BGN 160.50 + 0.8% applied to the amount exceeding BGN 10,000
more than BGN 50,000 but less than BGN 100,000	0.5	BGN 480.50 + 0.5% applied to the amount exceeding BGN 50,000
more than BGN 100,000 but less than BGN 500,000	0.2	BGN 730.50 + 0.2% applied to the amount exceeding BGN 100,000
more than BGN 500,000	0.1	BGN 1,530.50 + 0.1% applied to the amount exceeding BGN 500,000; however, maximum fee limit of BGN 6,000

4 Customs duties

In general, all goods crossing the Bulgarian border are subject to customs duties. As an EU Member State, Bulgaria does not levy customs duties on the import of goods from other Member States. The customs tariffs for imports from countries outside the EU are determined by the Bulgarian Customs Law, which is harmonized with the EU Legislation.

5 Other excise duties

Excise duties are levied on tobacco, alcoholic drinks, energy products and electricity. These duties are non-recurring and are payable by the seller, who passes these costs on to the customer. The Excise Duties and Tax Warehouses Act (EDTWA) is aligned with the EU Legislation. As of 1 January 2010, no excise duty is levied on automobiles.

6 Digital service tax

N/A

7 Tax on insurance premiums

The Insurance Premium Tax Act, which came into force on 1 January 2011, provides a new taxation on the insurance premiums for insurance contracts on the territory of Bulgaria. The tax rate is 2% on the insurance premium less the determined deductions according to the IPTA. The insurer has the obligation to calculate and pay the tax within the tax period (the respective calendar quarter).

8 Local taxes and fees

Local taxes and fees are stipulated in the Local Taxes and Fees Act (LTFA). Since the beginning of 2006 (concerning the patent tax, since 2008), these taxes are collected by the municipality administration, not by the tax administration. The Municipality Council determines the amounts of the taxes and fees or the conditions for exemptions by issuing an ordinance or decision.

8.1 PATENT TAX (FINAL ANNUAL TAX)

Individuals and sole traders who perform patent activities as specified in the LTFA are levied with annual patent tax for the income from these activities. Individuals are not obliged for these activities to file a tax return under the procedure of the ITNPA. The conditions are:

- the individual's turnover in the previous year does not exceed BGN 50,000 (approx. EUR 25,000);
- the individual is not registered under the VAT Act, except for the registration for Intra-Community Acquisition and registration in case of supply of services the tax for which is chargeable on the recipient.

The patent tax returns are filed in the municipality on whose territory the commercial premises where the patent activity is performed are located, or in the municipality corresponding to the permanent address of the individual/sole trader. For non-resident individuals, the tax return is filed in the municipality corresponding to the permanent address of the proxy or in the municipality of Sofia.

8.2 PROPERTY TAX

According to the LTFA, owners of immovable properties in Bulgaria (buildings and land, with the exception of farmland and forests) are obliged to pay property tax, regardless of whether the immovable property is used or not. The tax is levied at a rate ranging:

- between 0.01% and 0.45% of the tax valuation of the immovable property.

In case of acquisition of real estate after 31 October of the respective year (i.e. after the deadline for payment of the tax on the property acquired earlier), a term of two months for payment of the real estate tax is introduced.

The tax is determined according to the tax valuation of the immovable property. The tax valuation of immovable properties owned by companies is to be based on the assessed value or book value of the property, whichever is higher.

8.3 PROPERTY TRANSFER TAX

According to the LTFA, the purchase of immovable property and corresponding rights, and of automobiles is subject to local property transfer tax. The tax is levied on the value of the property in the range of 0.1% to 3%.

Property transfer tax is also levied on the acquisition of property for free (as a grant), or as a result of the elapse of a prescribed time. An exemption is provided if properties are acquired as a grant between relatives of direct line and between spouses.

Contributions of properties to the share capital of a company by the shareholders are not subject to property transfer tax.

8.4 TAX ON VEHICLES

Tax on vehicles is levied on motor vehicles that are registered or subject to registration for use of public roads and highways in Bulgaria. The tax is calculated by the council of each municipality. The annual tax for cars and trucks with technically permissible maximum mass not exceeding 3.5 tons consists of two components (property and environmental). The percentage of tax relief depends on the engine power, the type of the vehicle, the relevance to the ecological standards and categories. The relief for vehicles that are relevant to the certain ecological categories is between 50% and 60%; there is no tax relief for older vehicles with engine power up to 74 kW with working catalysts that do not respond to the ecological standards. Exempt from tax are electric cars, motorcycles and mopeds, and electric vehicles with categories L5e, L6e and L7e under the provisions of Regulation (EU) No. 168/2013 of the European Parliament and of the Council.

The taxable person is the owner of the motor vehicle who pays the tax in two equal parts, by 30 June and 31 October of the year when it is due to the municipality where the permanent address or registered office of the owner of the vehicle is. Any taxpayer who prepays the amount of tax due for the whole year by 30 April enjoys a rate rebate of 5%.

8.5 INHERITANCE AND GIFT TAX

8.5.1 Inheritance tax

Individuals inheriting properties in Bulgaria are subject to inheritance tax. Tax rates apply depending on the beneficiary's degree of relationship to the decedent and the value of the property transferred. A surviving spouse and relatives in the direct line (children, grand-children, parents) are not liable to pay inheritance tax. Other individuals inheriting properties are tax liable for an inheritance share over BGN 250,000.

8.5.2 Gift tax

Gift tax is generally levied on the transfer of assets without consideration by the acquirers of the properties. This includes, inter alia:

- the donation of real estate situated in Bulgaria and corresponding rights;
- the donation of movable goods and automobiles above their value if the donation takes place in Bulgaria.

Progressive tax rates apply, depending on the recipient's degree of relationship to the donor and the value of the property transferred. Donations or transfer of properties for no consideration between spouses and relatives in the direct line are exempt from gift tax.

8.5.3 The inheritance and gift tax rates are

- in the range of 0.4% to 0.8% for property inherited by/donated to brothers, sisters, and their children;
- in the range of 3.3% to 6.6% for inheritances/gifts (donations) between unrelated persons.

8.6 TAX ON PASSENGER TAXI TRANSPORT

Carriers holding a certificate for registration issued by the Executive Agency Automobile Administration and a permit for passenger transport by taxicab issued by the mayor of the respective municipality are subject to tax on passenger transport by taxicab for any passenger taxicab transport activity performed by them or on their behalf. The municipal council determines the annual amount of tax on passenger transport by taxicab for the respective year, in the range of BGN 300 to BGN 1,000. The tax is due to be paid by the taxable person for each individual vehicle for which a permit for passenger transport by taxicab was issued.

9 Solar and wind energy production charge

The charge on income from solar and wind power installations is set out in the 6th paragraph of the Final Provisions of the State Budget Act for 2014, which made amendments in the Energy From Renewable Sources Act – namely, a newly created section V in chapter IV. This fee shall be 20% of electrical energy received from solar and wind power equipment and of the preferential price of the electricity from renewable sources.

The fee shall be withheld by the public supplier, respectively the end supplier.

The provisions regulating this fee have been deemed unconstitutional by Decision No. 13 of the Constitutional Court of the Republic of Bulgaria, but have not yet been revoked.

II SPECIAL AREAS OF TAXATION ON BUSINESS-RELATED ACTIVITIES

A HOLDING STRUCTURES

1 Participation exemption

Under the Bulgarian CITA, dividends derived by resident companies from a participation in another Bulgarian or non-resident corporation are exempt from corporate income tax, regardless of the capital ownership percentage and the holding period of the participation. There are the following exceptions to this participation exemption regime concerning:

- the dividends received as a result of a profit distribution made by companies qualified as an investment fund under the Special Purpose Investment Companies Act;
- dividend income reported by the Bulgarian company where dividends are paid by foreign companies outside the EU/EEA;
- any dividends representing hidden profit distribution;
- any dividends resulting from distribution of sums, insofar as these sums are expenses, recognized for tax purposes and/or leading to a reduction of the tax financial result of the distributing company, regardless of the way they have been accounted for by this company.

In this case, dividends are subject to taxation with a corporate income tax rate of 10% at the shareholder level.

However, the domestic participation exemption does not apply to capital gains of a company, e.g. OOD, AD, etc, resulting from the alienation or liquidation of the domestic participation in another Bulgarian corporation.

2 Outbound dividends

In general, dividends and liquidation shares distributed by Bulgarian entities in favor of resident unincorporated entities, non-resident legal entities or individual shareholders are subject to a withholding tax of 5%.

However, the CITA provides some exemptions from withholding tax. Withholding tax is not levied in the following cases:

- if the recipient is a legal entity that is not a trader within the meaning of the Bulgarian Commercial Act (e.g. OOD, AD, etc);
- if the recipient is a foreign legal entity, resident for taxation purposes in a Member State of the EU or in another state – party to the Agreement on European Economic Area;
- if the recipient is a local legal entity that participates in a company's capital as a state representative;
- the recipient is a mutual fund;
- in all the cases of hidden distribution of profit.

Effective as of 2015 are additions to the provisions for tax exemption concerning tax at the source of certain kinds of income. The following types of income are exempt from levying tax at source:

- income from interest on bonds and other debt securities issued by a resident legal person, the state or the municipalities and admitted to trading on a regulated market in the country or Member State of the European Union or EEA;
- income from interest on a loan granted by a foreign person – issuer of bonds or other debt securities – if all of the following conditions are met:
  - the issuer is resident for tax purposes in a country or Member State of the European Union or EEA;
  - the person issued the bonds or the other debt securities in order to provide the proceeds to a company deemed resident for tax purposes;
  - the bonds or the other debt securities are admitted to trading on a regulated market in the country or Member State of the European Union or EEA;
- income of EU Member State legal entities from interest payments, copyright and license royalties when the payer and the recipient of the income are related parties (if one of the parties owns at least 25% of the capital of the other person continuously for at least two years);
- income from interest payments on a loan, when no bonds are issued and the state or the municipalities are the borrower.

If a double tax treaty (DTT) is concluded between Bulgaria and the beneficiary's country of residence, the rate provided for by the DTT is applicable. The respective DTT may reduce or eliminate withholding taxation if certain administrative requirements are met (e.g. availability of a tax residence certificate, beneficial ownership declaration prior the payment or at least by the end of the year, etc).

The regulations of CITA regarding exit taxation (see I.C.4 and part I.B.4.2) are applicable for income, subject to withholding tax, if a non-resident person through its permanent establishment in Bulgaria transfers this income to other parts of the enterprise located outside the country.

3 Interest deduction and thin capitalization

3.1 INTEREST DEDUCTION

Interest expenses on the debt financing of the acquisition of a participation in a (resident or non-resident) corporation is tax deductible under certain rules according to the CITA, known as thin capitalization. The new interest limitation rule is in force as of 1 January 2019. This rule implements the regulation of Art. 4 of Council Directive (EU) 2016/1164 of 12 July 2016. The new regime is applicable in case of taxable persons whose borrowing costs exceed the equivalent BGN amount of EUR 3,000,000 in the respective year. In this case the amount of borrowing costs recognized for tax purposes cannot exceed the difference between the excess of borrowing costs and 30% of the positive tax financial result before interest, tax, and depreciation. The borrowing costs above this amount are treated as expenses unrecognized for tax purposes in the year of their reporting. Unrecognized borrowing costs are recognized until they are exhausted in subsequent periods without any limitation on the number of the years in which they may be recognized for tax purposes. Credit institutions are excluded from the taxable persons applying the new borrowing costs limitation rules.

3.2 THIN CAPITALIZATION

Specific provisions on thin capitalization are set out in the Bulgarian CITA, applicable to all loans, with the exception of interest expenses on loans from banks or finance leasing received from non-related lessors. However, if the loan is guaranteed by a related party, or granted by order of a related party and the borrowing costs do not exceed the amount of EUR 3,000,000 in the respective year, the interest expenses in this case are to be determined under the thin capitalization rules. An addition to the provisions for the regulation of thin capitalization is made. According to the amended provisions, as of 1 January 2020 the taxable person can treat as tax deductible a certain portion of interest expenses arising under a finance lease or a bank loan which are simultaneously guaranteed by the taxable person itself and by its related party. The tax-deductible amount which is not subject to the thin capitalization rules is determined on the basis of the ratio between the taxable person's own collateral and the total amount of the finance lease/loan. When the ratio is higher than 1, the whole amount of the interest expenses arising under the respective finance lease/loan is treated as tax deductible in the year of their accrual. For the purposes of the ratio calculation, the market value of the collateral at the time it was provided by the taxable person is taken into account. When a previously determined ratio changes (as a result of changes in the size of the collateral or the amount of the loan/lease), the new ratio applies as of the moment the change has taken place.

Interest expenses are deductible if the debt/equity ratio is positive and less than or equal to three. If it is higher than three or negative, the interest is non-deductible; however, it may be carried forward and deducted in the next years until they are exhausted, when for the respective year an accounting profit occurred before interest and the interest expense exceeds 75% of the accounting profit or loss before interest.

4 Non-resident shareholders

4.1 INTEREST AND ROYALTY PAYMENTS TO NON-RESIDENTS

Interest and royalties paid by a Bulgarian entity to a non-resident taxpayer are subject to a 10% withholding tax.

In accordance with the EC Interest and Royalty Directive, interest and royalties that are paid to associated companies or to their permanent establishments located in an EU Member State are exempt from the withholding tax in the state in which they arise. For the relevant exemptions according to the Bulgarian legislation, see I.B.4.2.

4.2 CAPITAL GAINS

Capital gains of a non-resident corporation (or individual) resulting from the alienation of a participation in a Bulgarian corporation are taxable in Bulgaria. They are subject to a 10% withholding tax. Double tax treaties usually prohibit Bulgaria from taxing if they contain an OECD Model type of capital gain provision.

If the capital gain was realized at the level of a Bulgarian permanent establishment of the non-resident seller, the gain is treated as business income of the permanent establishment and is subject to tax under the general rules.

5 Tax group

Bulgarian legislation does not provide for a tax group for corporate income tax purposes.

B REAL ESTATE INVESTMENTS

The general principles of taxation of Bulgarian resident or non-resident individuals and corporate investors also apply to real estate investors.

1 Resident investors

An individual person is deemed a tax resident in Bulgaria if he has his permanent address or his center of vital interests in Bulgaria, or is physically present in Bulgaria for a period or several periods exceeding in total 183 days in any 12-month period. Such a person is subject to Bulgarian personal income tax on his worldwide income, including income from real estate.

A corporate investor (including partnerships) is a tax resident in Bulgaria if he is incorporated under Bulgarian Law or under (EC) No. 2157, and is registered and has his seat in Bulgaria. Such a corporate investor is subject to Bulgarian corporate income tax on his worldwide income, including income from real estate.

1.1 INDIVIDUAL INVESTORS

Income from real estate can be the following:

- business income;
- income from rentals and leasing;
- income from sale, barter of real estate, and other real estate transactions;
- dividends from REITs (joint stock company with special investment purpose) incorporated under the Law on Special Purpose Investment (promulgated, SG. 46/2003).

Business income
If real estate activity qualifies as business income (see I.B.1.1), the general principles of business taxation apply (see I.B.1.2). Rentals and leasing payments and income from selling the real estate are fully taxable. Expenses (e.g. ongoing expenses and maintenance) are, in general, tax deductible.

A plot of land is not depreciable. Acquisition costs must be capitalized, and for buildings such acquisition costs may be depreciated over the useful life. The same applies to manufacturing costs of real estate. The costs incurred during the construction of a building, including subsequent costs of existing buildings, which constitute the value of the depreciable asset, are not recognized for tax purposes. According to the tax law, the maximum depreciation rates for real estate are 4% for buildings. Prepayments that refer to future periods must be deferred and are in general tax effective in the future period. The standard personal income tax rate applies to sole entrepreneurs (15%) and other business activities (10%).

When a taxable person carries out repairs of elements of technical infrastructure which are state or municipal public ownership and the respective accounting expenses are related to the activity of said person, these expenses are recognized for tax purposes. This rule applies also in the cases where the infrastructure is accessible for use by third parties. The general provisions of the CITA apply when the taxable person has a right to a contractual remuneration for his work. When a taxable person builds or improves elements of state or municipal infrastructure, the respective costs arising from that activity form tax depreciable assets. The accounting expenses incurred are not recognized for tax purposes. Where expenses are capitalized in an existing/new asset for accounting purposes, the order and the requirements of the CITA shall apply. If the expenses are not capitalized in an existing/new asset, they are treated as an individual tax depreciable asset in the tax category it would have been allocated to, had it been owned by the taxable person. Said asset is written off from the tax depreciation schedule only when it is fully depreciated for tax purposes. According to the new rules, in case that remuneration for building and improvement of the described technical infrastructure has been agreed, the general order of the law shall apply.

Income from rent and lease
If the activity does not qualify as a business activity, rental and leasing payments are taxed as »income from rentals and other payable surrender of use of rights and property«. The taxable income is determined by deducting a fixed expense rate of 10% from the gross income. The standard income tax rate (10%) applies.

Income from sale, barter of real estate, and other real estate transactions
If the activity does not qualify as a business activity, the acquisition and sale of real estate and comparable rights is generally taxable. Exemptions apply i.a. to one residential property, if the acquisition date and the sale date are more than three years apart; or to up to two properties, or to an unlimited number of agricultural and forestry land plots, if the acquisition date and the sale date are more than five years apart; these transactions are not taxable. The taxable income is determined by deducting a fixed expense rate of 10% from the gross income.

The tax base is the difference between the sales price and acquisition costs reduced by 10% fixed rate costs. The standard income tax rate (10%) applies.

Dividends from REITs
Dividends from a Bulgarian REIT joint stock company granted to an individual/company are subject to a 5% final income/corporate tax.

1.2 CORPORATE INVESTORS

The income of a company is always to be regarded as »business income« regardless of the nature of the income (e.g. income from real estate investment). The rules for business income are applicable. Rent and lease payments as well as capital gains are taxable.

The corporate income tax rate of 10% applies.

2 Non-resident investors

2.1 INDIVIDUAL NON-RESIDENT INVESTORS

Non-resident individuals are taxed with withholding tax on real estate on income from the following sources:

- income from rent and lease, if the immovable property is located in Bulgaria;
- income from the sale of real estate located in Bulgaria.

Furthermore, non-resident investors can draw dividends from REITs (joint stock company with special investment purpose) incorporated under the Law on Special Purpose Investment.

Non-resident individuals with Bulgarian-source real estate income must submit tax returns. With the submission of the tax return, a non-resident investor who is resident in the EU/EEA can choose to settle the tax like a resident, otherwise the withholding tax is applicable to the gross income. The standard income tax rate of 10% applies.

2.2 CORPORATE NON-RESIDENT INVESTORS

The income from immovable property situated in Bulgaria derived by non-resident companies (both partnerships and corporations) without a permanent establishment in Bulgaria is taxable as income from domestic sources and is subject, as gross income, to a 10% withholding tax. Furthermore, non-resident corporate investors who do not have a permanent establishment in Bulgaria can draw dividends from REITs (joint stock company with special investment purpose) incorporated under the Law on Special Purpose Investment, which are subject to 5% withholding tax; 0% in the case of a corporation established within the EU.

Companies that are resident in the EU/EEA may choose to settle the tax like a resident company with the submission of the annual tax return, i.e. the tax base is the net income.

The income from immovable property situated in Bulgaria derived by non-resident companies that have a permanent establishment in Bulgaria is taxable as business income on a net basis with a 10% corporate tax.

3 Real estate taxes

3.1 REAL ESTATE TRANSFER TAX – BY DONATION AND BY REMUNERATION

Transfer of real estate and comparable rights.

The real estate transfer tax is levied on transfers of immovable property (land and buildings) or on the transfer of limited property rights on immovable property located in Bulgaria. Taxable transactions include, inter alia, the sale, the exchange, the donation, or other complimentary transfer of (e.g. immovable) properties. A tax on gratuitous acquisition of properties is furthermore due upon acquisition of corporeal immovables and limited rights in rem thereto by prescription.

The taxable base is the appraisal (assessed value) of the property for the transfer of ownership in BGN. Generally, the assessed value in the case of transfer of immovable property is the agreed price or the price stipulated by state authority, or otherwise if the stipulated price is lower than the tax value of the property according to the provisions of the LTFA. The assessment of the tax value of the property is regulated in Attachment 2 of the LTFA. The tax shall be paid by the transferee of the property, or, in the case of exchange, by the person acquiring the more valuable property, unless otherwise agreed.

Tax exemptions in the case of property donations are granted, inter alia, for donations of property between relatives in the direct line (e.g. grandfather, father, grandchild) and between spouses. Further exemptions are given for the acquired property by, inter alia, the state, municipalities, Bulgarian health, educational, cultural and scientific organizations, certain donations, and charitable NGOs, etc.

Regarding the tax rates, the general principles of inheritance and gift tax and property transfer tax apply (see I.E.7.3 and I.E.7.5).

3.2 REAL ESTATE TAX

Real estate tax is levied on the following Bulgarian immovable properties, if the assessed tax value exceeds BGN 1,680 (approx. EUR 853) for the whole taxable property value:

- business and private immovable properties including properties in urban areas;
- plots of land and wooded areas outside of urban areas only when the build-up area and the adjoining premises are subsequently developed (e.g. used for residential, entertainment, business purposes, transportation, technical infrastructure, special establishments, etc).

The following properties are tax exempt: agricultural and forestry properties without buildings, areas of properties that are occupied by streets, railway, public water areas, the municipalities, in respect of any immovables constituting public municipal property, the buildings owned by foreign states that house diplomatic missions and consular posts, on a basis of reciprocity, etc.

The Municipal Council shall determine the amount of tax within the ranges stated in point I.E.7.2.

The taxable base is the assessed tax value of the property according to Attachment 2 of the LTFA as per 1 January of the year for which the real estate tax is due. The real estate tax will be announced to the person liable to pay tax by 1 March of the same year. The amendments in force from January 2015 envisage establishing a national database with information about the real estate, its owner, the tax relief, the tax due.

4 VAT on real estate

Tax exemption from VAT in connection with supply linked to real estate applies, inter alia, in the following cases:

- the letting out of land, the transfer of ownership or other limited rights over land with the exception of land with new buildings or stationary equipment) are generally tax exempt. The supplier may opt for VAT liability with 20% Bulgarian VAT;
- the supply of buildings, or parts thereof, that are not new, and the supply of building land, as well as the creation and transfer of other rights in rem thereto, is tax exempt. The Bulgarian VAT Act defines »new buildings« as any buildings that are in the stage of completion of »rough construction work« at the date on which the tax on the supply of said buildings became chargeable, or in respect of which the tax on the supply thereof became chargeable before the lapse of 60 months from the date on which a use permit was granted according to the procedure established by the Spatial Development Act. As of 1 January 2020, the definition of »new buildings« is extended with the following two hypotheses: (i) as a result of heightening and/or additional construction, part of the building is differentiated as a single property, which may be subject to a separate supply, and (ii) the amount of the incurred expenses for reconstruction, general renovation, and/or redevelopment is not less than one third of the market price of the new property;
- the letting out of a building or part thereof for residential use to a natural person who is not a merchant is an exempt supply. This regulation does not apply to provision of accommodation in hotels, motels, cottage villages and holiday villages, rented rooms in family houses, villas, houses, cabanas, camping sites, hikers' chalets, guest houses, inns, boarding houses, caravan parks, holiday camps, holiday accommodations owned by businesses for their employees, spa centers and sanatorium complexes.

In these cases the supplier may opt for VAT liability with 20% Bulgarian VAT. The existing rules for input VAT adjustments for new buildings, formed under the above-mentioned rules are amended so that a new 20-year adjustment period is deemed to start for the performed improvement. The seller is only entitled to a full input VAT deduction for services received related to the acquisition of real estate and the acquisition costs if he sells with application of VAT.

5 Real estate investment trust

Real estate investment trusts (REITs) in Bulgaria are special investment purpose joint stock companies under the terms and conditions of a special law: the Special Purpose Investment Companies Act. These companies may not acquire real estate or receivables that are subject to dispute. The law requires that property acquired by these companies belongs to the territory of Bulgaria.

The general principles of the treatment of dividends from Bulgarian REITs are real estate investment fund (tax) law, are very similar to the (tax) treatment of capital investment funds, and include income from renting and leasing, revaluation income and interest and earnings from cash (see IV.A.3). The real estate investment fund taxation applies to direct and indirect (e.g. through asset owning companies) holdings of real estate.

6 Structuring of real estate investments

A real estate investor can acquire Bulgarian real estate by way of an asset deal (e.g. direct acquisition of real estate), or a share deal (e.g. acquisition of a corporation owning real estate).

A Bulgarian corporation may directly acquire Bulgarian real estate. Generally, the interests accrued for the respective period are deductible. The thin capitalization and transfer pricing rules must be considered.

The direct acquisition (»asset deal«) of real estate is subject to real estate transfer tax according to point II.B.3.1.

The transfer of shares in companies owning real estate (»share deal«), bonds and other types of securities connected with real estate is not subject to transfer tax.

III EMPLOYEES AND BOARD MEMBERS

A EMPLOYEES

1 Resident employees

An employee is resident in Bulgaria for tax purposes if he fulfills at least one of the following conditions:

- his domicile is in Bulgaria;
- the center of his vital interests is located in Bulgaria;
- he is present in Bulgaria for a period or several periods exceeding in total 183 days during any period of 12 consecutive months ending in the respective calendar year;
- he is a Bulgarian citizen who is serving abroad as an official or employee of Bulgaria in a foreign state.

1.1 EMPLOYMENT INCOME

For purposes of the ITNPA, an employee receiving income under an employment contract is deemed to derive employment income. Employment income includes all remuneration, in cash or in kind, derived by an employed person and paid by the employer or by a third party, except the income designated in the legislation as non-taxable.

1.2 PRINCIPLES OF DETERMINATION OF THE TAX BASE

In general, employment income is calculated as the excess of taxable receipts over deductible expenses in respect of an employment. Cash expenditures reimbursed by the employer and certain payments rendered by the employer for various purposes, e.g. as business travel expenses, food vouchers, to pension funds, life insurance premiums, etc, do not constitute taxable employment income.

The taxable employment income received during the year of taxation is reduced by:

- the mandatory insurance contributions withheld by the employer at the expense of the natural person, in accordance with the Social Insurance Code and the Health Insurance Act;
- the mandatory insurance contributions, deposited abroad, which are at the expense of the natural person.

The advance tax on income originating from employment relationships are calculated monthly by the employer for the purpose of determining the monthly basis of taxation.

1.3 TAX RATE, ASSESSMENT AND SOCIAL SECURITY CONTRIBUTIONS

As regards the computation of the income tax rate, a flat personal income tax rate of 10% applies. In Bulgaria the annual salary is paid in 12 equal installments. The ITNPA provides that employers are obliged to withhold wage tax from gross salaries paid to their employees and to transfer the wage tax to the competent tax office. The personal income tax must be assessed and withheld monthly by the employer from the gross salary of his employees for the purpose of determining the monthly basis of taxation. The annual tax return has to be submitted between 10 January and 30 April of the year succeeding the year of acquisition of the income. An option for an adjustment statement to the annual tax return can be exercised in case of identifying errors by 30 September of the year of submission of the return. Any person who submits an annual tax return by 31 March of the succeeding year by electronic means enjoys a 5% rebate of the balance of the tax due under the annual tax return, not exceeding BGN 500, provided that said person does not incur any public obligations subject to enforcement by the time of submission of the return, and the balance of tax is remitted no later than 31 March of the year following the year of acquisition of the income.

The diplomatic representations of foreign countries are deemed as employers if the respective representation chooses to determine, deduct and pay to the state budget taxes on incomes under employment contracts signed with local natural persons in connection with the functions carried out by the representation in the Republic of Bulgaria.

Wage tax is considered to be a prepayment on the employee's final income tax and is credited against his assessed income tax liability. If an individual only generates income under a single employment contract, no obligation exists to file an income tax return.

The tax rate on incomes from interest payments on bank accounts is levied on the gross amount of the assets and is 8%.

Furthermore, the employer is obliged to withhold social security contributions from the gross salaries paid to the employees. However, in Bulgaria social security contributions are only levied up to the maximum contribution base, which is BGN 3,000 in 2021.

The minimum wage as of 1 January 2021 is BGN 650.

For 2021 the social security contribution rates for employed persons are as follows:

CONTRIBUTION	EMPLOYEE	EMPLOYER	TOTAL
pension fund			
¬ persons born before 1 January 1960	8.78%	11.02%	19.8%
¬ persons born after 1 January 1960	6.58%	8.22%	14.8%
common diseases and maternity fund	1.4%	2.1%	3.5%
unemployment fund	0.4%	0.6%	1%
contribution to the fund for work accidents and professional diseases	N/A	0.4-1.1%	0.4-1.1%
health fund	N/A	8%	8%

The social security contributions to the pension fund depend on the working conditions and the category of labor.

2 Non-resident employees

A non-resident is defined as an individual who spends less than 183 days in Bulgaria, is resident in another country or unit, but receives income in Bulgaria. Non-resident employees are taxed only on income from employment activities performed or utilized in Bulgaria.

The rules regarding the determination of the tax base, tax rate, assessment, and social security contributions are very similar to those that apply to resident employees (see III.A.1).

In general, the income tax base of a non-resident is the total amount of all income received in Bulgaria (the domestic income principle), less personal allowances.

B BOARD MEMBERS

1 Executives

Executive directors are, in general, taxed as employees of the respective company (see III.A). According to the Bulgarian ITNPA, legal relations under management and control contracts, including those with the members of managing and control bodies of undertakings, are employment relationships.

Moreover, employment relationships are also defined as legal relations, irrespective of the reasons for their formation, between partners and associated cooperators, and shareholders holding more than 5% of the capital of the joint stock company, for work carried out personally in the companies and co-operatives in which they are partners, associated cooperators or shareholders. For the determination of the annual basis of taxation and of the annual tax, the income from legal employment relationships in these cases is not included.

The tax rate is 10% on the income, including benefits in cash and in kind.

2 Non-executives

In general, non-executive resident directors of a Bulgarian legal entity are taxed in the same way as executive directors working on the basis of an employment relationship.

3 Non-resident board members

Non-resident executive directors are taxed only on income from employment activities performed or utilized in Bulgaria if they have an employment relationship with the respective company; the rules regarding the determination of the tax base, tax rate, and assessment are very similar to the treatment of resident directors (see III.B.1 and III.B.2).

Non-resident non-executive directors, members of boards of a company or working under management contracts are taxed with a 10% final withholding tax on the income of their remuneration in Bulgaria. The tax is payable prior to the end of the month following the month for which the income is charged and received by the individual. In those cases in which the income is generated by a person who is a citizen of a state with which the Republic of Bulgaria has concluded a treaty for the avoidance of double taxation, the tax is payable within a term of three months as of the beginning of the month following the month of income accrual.

C MUNICIPAL TAX

N/A

D SPECIFIC PROVISIONS FOR CROSS-BORDER EMPLOYMENTS

1 General provisions

1.1 TAX TREATY LAW

Foreign nationals carrying out their employment in Bulgaria are basically subject to taxation in Bulgaria, unless a double tax treaty assigns the taxation right to the other contracting state.

In most cross-border employments, DTTs include an assignment provision (most Bulgarian DTTs are concluded according to the OECD MC). According to the provisions of the DTT, the country in which the employment is performed (country of exercise) is generally assigned the taxation rights on the remuneration granted for this activity. However, the employment is taxable in the residence state only if the following criteria are cumulatively met: (i) the employee does not stay longer than 183 days during a calendar/tax year or 12-month period in the country of exercise, and (ii) the employer is not resident in the country of exercise, and (iii) the employer does not maintain a permanent establishment in the country of exercise.

1.2 SOCIAL SECURITY LAW

Foreign nationals coming to Bulgaria to perform their dependent activities in Bulgaria are basically subject to the same social security scheme applicable to Bulgarian employees. However, a different treatment may be claimed under EC Regulation 883/2004 or under a particular bilateral social security agreement that aims at preventing a person being subject to double social security schemes.

Persons resident in the EU are subject to the provisions of the new EC Regulation 883/2004, EC Regulation 987/2009, and the new Regulation 1224/2012, which replaced EC Regulation 1408/71 in May 2010 and the EC 574/72. They provide for the applicable social security regulation in the case of cross-border activities. Depending on a person's personal and professional circumstances, in many cases either the social security scheme of the home country or of the seconding country is applicable. The A1 form on the applicable social security provisions has to be requested in the competent country. Based on this form, no other country is entitled to levy local social security contributions.

For non-EU residents working in Bulgaria or Bulgarian nationals working in a third country, EC Regulation 1408/71 and EC Regulation 574/72, or a bilateral social security agreement are still applicable.

2 Specific provisions

2.1 EXPATRIATES

Apart from the general rules described under III.A.1, there are no special regimes or tax exemptions applicable to expatriates.

IV TAX ASPECTS FOR PRIVATE INVESTORS

A CAPITAL INVESTMENTS

An individual capital investor is resident in Bulgaria if he has his permanent address or his center of vital interests in Bulgaria, or is physically present in Bulgaria for a period or several periods exceeding in total 183 days in any 12-month period. A corporate investor is resident in Bulgaria if he is incorporated under the Bulgarian Law or under (EC) No. 2157, and has a registered seat in Bulgaria.

The tax regime for foreign and domestic capital investments was in detail discussed above. Here we can summarize that if non-resident companies receive income from dividends or liquidation quote, that income shall be levied with tax at the source at 5% only if the foreign companies are not residents of a Member State of the European Union or EEA. If the income from dividends or liquidation quote is received by individuals who are residents or non-residents, that income shall be levied with 5% final tax. In a nutshell, the tax regime for the capital investments made by companies or individuals who are residents for tax purposes in a Member State of the European Union or EEA is the same as the tax regime for resident companies and individuals.

B INHERITANCE AND DONATION TAX PLANNING

N/A

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