



Lex Mundi European Union: Accession States Tax Guide

BULGARIA **Penkov, Markov & Partners**

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A. General information

According to the International Monetary Fund's May 2006 assessment, Bulgaria has registered fast growth of investments and drop of unemployment which is due to strict fiscal policy. According to the assessment, the financial growth is expected to continue and reach 6 % a year.

The main goals of the fiscal policy are: 1) maintaining macro-economic stability; 2) maintaining and stimulation of economic growth; and 3) improvement of the living standard by means of decreasing the taxation pressure and social security. These goals are the basic principles in the Program for European Integration, Economic Growth and Social Responsibility, adopted by the Government.

The State's profits pursuant to the State Budget Act are mostly from taxes, i. e. taxes are the most important source of income for the state budget. As far as the proportion between direct and indirect taxes is concerned, profits from indirect taxes are bigger than profits from direct taxes.

B. Corporate income taxation

1. Which are the taxable entities?

The following entities are taxable under Bulgarian law:

1. Resident legal persons;

2. Non-resident legal persons which carry out economic activity in the Republic of Bulgaria through a permanent establishment or which receive income from a source inside the Republic of Bulgaria;
3. Sole traders: regarding taxes withheld at the source and in the cases specified in the Income Taxes on Natural Persons Act;
4. Natural persons who are merchants within the meaning of the Commerce Act: in the cases specified in the Income Taxes on Natural Persons Act;
5. Employers and commissioning entities under contracts for management and control: regarding the tax on the expenses on fringe benefits provided for in the Corporate Income Tax Act (CITA).
6. Unincorporated associations and the contribution payment centers established under the Social Insurance Code are treated as legal persons and are taxable for purposes of CITA;
7. Any non-resident organizationally and economically distinct formation (trust, fund and other similar formations), which independently carries out economic activity or performs and manages investments, where the owner of the income cannot be identified, is a taxable person for income from sources inside the Republic of Bulgaria.

2. How is the taxable income determined?

The tax financial result shall be determined by means of adjusting the accounting financial result for:

1. Permanent tax differences - accounting income or expenses, which are not recognized for tax purposes;
2. Temporary tax differences – they arise where any income or expenses are recognized for tax purposes in a year other than the year of accounting for the said income or expense; and
3. Other amounts provided for in the Corporate Income Tax Act.

3. What are the applicable tax rates?

The corporate tax rate is 10 %.

4. Are capital gains taxed separately?

The new Corporate Income Tax Act, effective as of 01.01.2007, introduces separate taxation of capital gains.

5. May losses be carried back or forward and to what extent?

Taxable persons have the right to carry forward the tax loss formed according to the procedure established by CITA. Where a taxable person has elected to carry forward the tax loss, the said loss shall be mandatorily carried forward successively until its depletion during the next five years. The taxable person exercise its right to election by means of deduction of the tax loss during the first year after incurrence of a tax loss, during which the person has formed a positive tax financial result, before deduction of the tax loss. Where the taxable person has not formed a positive tax financial result before deduction of the tax loss until the date of tax control, the person is presumed to have exercised the right to election in respect of carrying forward of a tax loss.

Any tax loss, formed during the current year in a country with which the Republic of Bulgaria has signed a convention for the avoidance of double taxation and the method of avoidance of double taxation with respect to profits is exemption with progression, shall not be deducted from the tax profits from a source inside Bulgaria or other States during the current of succeeding years. The tax loss referred to shall be deducted successively solely from the tax profits from the source outside Bulgaria from which the said loss has been incurred during the next successive five years.

Upon termination of the activity of a permanent establishment in a Member State of the European Community or of the European Economic Area, any tax losses from a permanent establishment, which have not been carried forward and have not been recovered shall be carried forward according to the standard procedure established by CITA until the five-year period since the incurrence of the losses has elapsed.

Where a taxable person has formed a tax loss and the loss or a part of it has its source outside Bulgaria in respect to which source the credit method for double taxation avoidance is applied, the loss which is not deducted during the current year shall be deducted during the next five successive years solely from the tax profits from the source outside Bulgaria from which the said loss has been incurred. Where the tax loss for the year has not been formed from a single source (foreign State or Bulgaria), such loss shall be allocated among the countries from which the loss has originated.

6. Are there any withholding taxes and at which rates?

The withholding taxes pursuant to CITA are:

- a) Withholding Tax on Income from Dividend and Shares in Liquidation Surplus – the tax rate is 7%; and
- b) Tax Withheld on Income of Non-Resident Persons – the tax rate is 10%.

7. Are there any preferential group taxation rules in force?

Group taxation is not permitted. Tax anti-avoidance rules cover transfer pricing and related persons.

8. Which are the anti-avoidance rules currently in force?

Where related parties enter into commercial and financial relationships under terms which affect the amount of the tax financial result and which differ from the terms between unrelated parties, the tax financial result shall be determined and taxed under the terms which would have arisen in respect of unrelated parties.

Where one or more transactions, between unrelated parties, has been concluded under terms the fulfillment of which leads to tax evasion, the tax financial result shall be determined ignoring the said transactions, their terms or legal form and taking into consideration the tax financial result that would be obtained upon the effecting of a customary transaction of the relevant type at market prices and intended to achieve the same economic result, but which does not lead to tax evasion. The following shall also be treated as tax evasion:

1. Any substantial excess of the quantities of raw materials used as production inputs and other production costs over the customary quantities and costs for the activity carried out

by the person, where any such excess does not result from circumstances beyond the person's control;

2. Any contracts for loan for use or other gratuitous provision for use of tangible and intangible benefits;

3. Any borrowing or lending at interest diverging from the market interest rate applicable at the time of conclusion of the transaction, including in cases of interest-free loans or other temporary gratuitous financial assistance, as well as debt write-offs or repayment of non-business debts for own account; and

4. Payment of any remunerations or compensations for any services, which have not been actually performed.

Where a transaction is concealed by another, fictitious transaction, the tax liability shall be assessed under the terms of the concealed transaction.

9. Which are the main administrative requirements to comply with the local tax authorities?

Taxable persons who owe corporate tax shall submit an annual tax return in a standard form regarding the tax financial result and the annual corporate tax due. The annual tax return shall be submitted on or before March 31 of the following year at the National Revenue Agency territorial directorate with jurisdiction over the place of registration of the taxable person.

Any taxable person shall remit the corporate tax for the relevant year on or before March 31 of the following year after deduction of the tax prepayments remitted for the relevant year.

10. With which countries have double taxation conventions already been concluded?

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Albania	10%	10%	5-15%
Algeria	10 %	10 %	10 %
Armenia	10%	10%	5-10 %
Austria	-	-	-
Belarus	10 %	10 %	10 %
Belgium	10%	5%	10%
Canada	10 %	10 %	10 %;15 %
China	10 %	7 %; 10 %	10 %
Croatia	5%	-	5%
Cyprus	7 %	10 %	5%; 10%
Czech Republic	10 %	10 %	10 %
Denmark	-	-	5%; 15%

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Egypt	12.5%	12.5%	10%
Finland	-	5 %	10 %
France	-	5 %	5 %; 15 %
Georgia	10 %	10 %	10 %
Germany	-	5 %	15 %
Greece	10 %	10 %	40 %; 10 %
Indian Republic	15%	15%; 20%	15%
Indonesia	10%	10%	15%
Iran	5 %	5 %	7,5 %
Ireland	5 %	10 %	5 %; 10 %
Israel	5 %; 10 %	7,5-12,5 %	7,5-12,5 %; 10%
Italy	-	5%	10%
Japan	10 %	10 %	10 %; 15 %
Kazakhstan	10%	10%	10%
Korea	10 %	5 %	5 %; 10 %
Kuwait	5 %	10 %	0 %; 5 %
Latvia	5%	5%; 7%	5%; 10%
Lebanon	7 %	5 %	5 %
Lithuania	10%	10%	0-10 %
Luxemburg	10 %	5 %	5 %; 15 %
Macedonia	10 %	10 %	5 %; 15 %
Moldova	10%	10%	5-15 %
Mongolia	10 %	10 %	10 %
Morocco	10%	10 %	7 %; 10 %
Nederland	-	5 %	5 %; 15 %
Norway	-	-	15%
People's Republic of Korea	10 %	10 %	10 %
Poland	10%	5%	10%
Portugal	10%	10%	10-15 %
Republic of Hungary	10 %	10 %	10 %
Republic of Malta	-	10%	30%
Republic of Slovenia	5 %	5 %; 10 %	5 %; 10 %
Republic of Turkey	10 %	10 %	10 %; 15 %
Republic of	10 %	10 %	10 %



THE WORLD'S LEADING ASSOCIATION OF INDEPENDENT LAW FIRMS

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends withholding tax rate
Uzbekistan			
Romania	15 %	15 %	10 %; 15 %
Russian Federation	15 %	15 %	15 %
Singapore	5%	5%	5%
Slovakia	10 %	10 %	10 %
South Africa	5 %	5 %; 10 %	5 %; 15 %
Spain	-	-	15%
Sweden	-	5%	10%
Switzerland	10 %	5 %	5 %; 15 %
Syrian Arab Republic	10%	18%	10%
Thailand	10-15 %	5-15 %	10%
Ukraine	10 %	10 %	5%; 15%
United Kingdom of Great Britain and Northern Ireland	-	-	10 %
USA	5 %	5 %	5 %; 7 %; 10 %
Vietnam	10%	15%	15%
Yugoslavia	10%	10%	5%; 15%
Zimbabwe	10%	10%	10%; 20%

The tax rates pointed out above are the maximum rates, provided by the conventions.

11. Are there any special laws providing tax incentives to certain tax entities?

Tax incentives are provided in the Corporate Income Tax Act and in some special laws. Such incentives are: 1) corporate tax retention (the right of any taxable person not to remit to the executive budget the amounts of corporation tax, which subsist in the patrimony of the taxable person and are spent for purposes prescribed by law); 2) any collective investment scheme, which has been admitted to public offering in the Republic of Bulgaria, and any licensed investment company of the closed-end type under the Public Offering of Securities Act, shall be exempt from corporate tax; 3) Special Purpose Investment Companies under the Special Purpose Investment Companies Act are exempt from corporate tax.; 4) tax incentives for hiring of unemployed persons and incentives for enterprises hiring people with disabilities; 5) incentives for agricultural producers: agricultural producers are allowed to retain 60 per cent of the corporate tax; 6) tax relief for carrying out manufacturing activities in municipalities with unemployment rate above the national average etc.

C. Individuals**1. Which are the taxable persons?**

Taxable persons under the Income Taxes on Natural Persons Act (ITNPA) are any resident and non-resident natural persons and any resident and non-resident persons, who are obligated to withhold and remit taxes under this Act. "Resident natural person," regardless of nationality, is any person who:

1. Has a permanent address in Bulgaria, or
2. Is present within the territory of Bulgaria for a period exceeding 183 days in any twelve-month period, or
3. Is sent abroad by the Bulgarian State, by bodies and/or organizations thereof, by Bulgarian enterprises, and the members of the family of any such person, or
4. Whose center of vital interests is situated in Bulgaria?

Any person, who has a permanent address in Bulgaria, but whose center of vital interests is not situated in Bulgaria, shall not be a resident natural person.

"Non-resident natural person" shall be any person who is not a resident person within the meaning of this Act.

2. How is the taxable income specified?

The types of taxable income of individuals depending on the source, are:

1. Income from employment relationships;
2. Income from economic activity in a sole-trader capacity;
3. Income from other economic activity;
4. Income from rent or from other gainful use of rights or property;
5. Income from transfer of rights or property;
6. Income from sources referred to in Article 36 herein, as well as income where final taxes are levied under this Act.

Any income derived from sources acquired by a taxable person during the tax year shall be taxable, with the exception of the income which is non-taxable by virtue of law. The ITNPA provides for some non-taxable income as well.

The taxable income and the taxable amount are determined for each source of income separately. The aggregate annual taxable amount shall be the sum total of the annual taxable amounts determined for each type of income depending on the income source, minus the tax relief provided for in this Act.

The following tax relief is provided under the ITNPA: tax relief for persons with reduced working capacity, tax relief for personal voluntary social and commercial insurance contributions, tax relief for personal contributions for contributory service upon retirement, tax relief for children, tax relief for donations.

3. What are the applicable tax rates?

Taxes are determined according to the following table (applicable to income from employment relationships):

Monthly Taxable Amount		Tax
Lower limit	Upper limit	
0	BGN 200	Nil
BGN 200	BGN 250	20 % in excess over BGN 200
BGN 250	BGN 600	BGN 10 + 22% in excess over BGN 250
Above BGN 600		BGN 87 + 24% in excess over BGN 600

The tax amount on the aggregate annual taxable amount shall be determined according to the following table:

Annual Taxable Amount		Tax
Lower limit	Upper limit	
0	BGN 2,400	Nil
BGN 2,400	BGN 3,000	20% in excess over BGN 2,400
BGN 3,000	BGN 7,200	BGN 120 + 22% in excess over BGN 3,000
Above BGN 7,200		BGN 1,044 + 24% in excess over BGN 7,200

4. Are the capital gains taxed separately?

Capital gains are not taxed separately.

5. May losses be carried forward or back?

The Individuals may not carry back and forward losses. Sole traders only may carry losses forward through the procedure under B 5 herein.

D. Capital

The main taxes on capital are:

- Real estate tax - the rate is set at 1.5 per mille of the assessed value of the corporeal immovables;
- Inheritance tax - Inheritance tax is levied on the estate of any decedent Bulgarian citizen located in Bulgaria or abroad when devolved by legal or testamentary succession, as well as on the estate located within Bulgaria where so devolved by any decedent foreign citizen. Inheritance tax is assessed separately in respect to each legal or testamentary heir as follows:
 1. Applicable to siblings and the children of siblings: 0.7 per cent per share in excess of BGN 250,000;

2. Applicable to persons other than those referred to in Item 1: 5 per cent per portion in excess of BGN 250,000.
- Gift tax and tax on gainful acquisition of property – donations of property are taxed at a rate of 0.7 per cent: on donations between siblings and the children of siblings and 5 per cent: on donations between any other persons. Where property is acquired for gainful purposes, the tax shall be at the rate of 2 per cent of the assessed value of the transferred property.

E. Indirect taxes

The indirect taxes are excise duties and VAT.

F. Other duties

Apart from municipal fees, the Local Taxes and Fees Act provides for transport vehicle tax.

G. Enforcement – Litigation procedure

1. All tax laws contain administrative penalty provisions, which provide fines mostly for violations of the respective law. Violations are considered to be the failure to submit tax returns before the required deadlines; declaration of circumstances leading to reduction of or exemption from fee, however non-payment the tax due is not such a violation. The consequences of non-payment are calculation of interest and enforcement of the duty.
2. There are two degrees of deciding tax disputes in the Bulgarian courts. The average time required for the final resolution and completion of the litigation procedure in a tax dispute is one year.