



Lex Mundi European Union: Accession States Tax Guide

SLOVENIA Vidovic & Partners

CONTACT INFORMATION:

Natasa Vidovic

Vidovic & Partners

Tel: 386.1.500.73.20 - Fax: 386.1.500.73.22

E-mail: vp@vidovic-op.si

A. General information

Due to the relatively strong growth in the EU in the past year, which lasted through the last quarter of the year 2006, the growth of Slovenian trade in goods continued, amounting to 16% in comparison to the same period in the year 2005. However, there was a great deficit in the current account of the balance of payments because of the extremely high amounts of payments of dividends and undistributed profits to foreign investors.

The lowering of tax rate on the paid wage -unique in the world- has lowered average burden from 5,1% in the year 2004 to 4,2% in the year 2006.

General government revenue (GGM) has rose by real 5,8%, and the biggest contribution to this was made by the tax on income of legal persons, which has grown for more than one half compared to the year before.

GGM from VAT have increased by 4,5%.

Real growth of the GGM from excise duties was 1,1%.

GGM from the direct taxes and social security contributions on wages rose by real 2,3 %, while the social security contributions, it rose by real 3,4 %.

GGM from personal income tax rose by real 6,1%.

Table 1: Structure of taxes.

Type of tax	Share (in %)
Personal income tax	14,9
Tax on income of legal persons	7,9
Turnover (sales tax), VAT, excises	32,7
Customs duties and import charges	0,4
Social security contributions	34,8
Other income	9,3
Sum	100

As shown above, the real tax burden has grown notably in the past year. New tax legislation was adopted this year, which is supposed to increase the competitiveness of Slovenian economy. However analysis shows that there will be no significant improvement and that these are actually "cosmetic" corrections, such as tax on income of legal persons being lowered by one percentage point and the slightly decreased tax rate on the paid wage, which is specific for.

B. Corporate income taxation

1. Which are the taxable entities?

All legal entities are taxable entities. The forms of business entities which are subject to Corporate Income tax are the following:

1. Commercial companies (general partnership, limited partnership, joint stock company, Limited Liability Company and economic interest grouping) and other legal entities which perform for profit activities. Commercial companies acquire the status of a legal entity by registration in the Slovene Court Register.
2. Resident permanent business entity (the headquarters of the management, branch office, agency, workroom, mine, quarry, construction place, where building or fitting activities are performed for more than 12 months) of non-resident entrepreneur. If the business entity in the Avoidance of Double Taxation Treaty with the specific country is defined differently, then the legislation of the Avoidance of Double Taxation Treaty has to be directly used.
3. Representative office of non-resident entrepreneur for agencies business within air traffic and other traffic (pursuant to the International Agreements).

2. How is the taxable income determined?

The taxable income is determined as the difference between income and tax deductible costs. The taxable profit is the difference between income and expenses defined pursuant to stated Profit Tax Act and expenses which should be declared in Tax Applications of companies and are also stated at the Profit Tax Act.

The Taxable Base represents the profit that is reduced for the profits from the foreign county if from that profit the appropriate tax was paid in that foreign country.

3. What are the applicable tax rates?

The applicable tax rate is 23%. The rate is going to decrease in the following years: In particular, in 2008 the applicable tax rate is going to be 22%, in 2009 21% and in 2009 onwards the applicable tax rate will be 20%.¹

4. Are capital gains taxed separately?

The capital gains according to Corporate Income Tax Act are not taxed separately.

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

Losses may only be carried forward. They may be carried forward fully. The Tax Losses could be transferred in the following years for undefined period of time² under the following conditions: (i) the capital structure directly or indirectly hasn't been changed for more than 50% , (ii) the Taxpayer hasn't been active for already two years before the change of the capital structure or (iii) the Taxpayer has essentially changed the main activity in two years before or after the capital structure has been changed. Losses may not be carried back.

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

Yes. The rate is 15% (on dividends, royalties, interest, some rents, taking account of EU directives). Taking into account the Double Tax Convention (DTC) treaties, the withholding tax could be decreased.

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

No. There are no preferential group taxation rules in force.

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

Transfer pricing rules based on OECD model (all OECD methods of transfer pricing and the combination of them are permitted), 25% threshold for their application.

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

Yearly submission of corporate income tax return.

¹ According to the article 36 of new Profit Tax Act ("ZDDPO-2"; Official Gazette of the RS, No. 117/06 which came into force on 1 January 2007). According to article 29 of the old Profit Tax Act the Tax Loss could be transferred for 7 years (Official Gazette of the RS, No. 33/06 which came into force on 1 January 2006) under the condition that the capital structure hasn't been changed for more than 25%.

² According to the article 36 of new Profit Tax Act ("ZDDPO-2"; Official Gazette of the RS, No. 117/06 which came into force on 1 January 2007). According to article 29 of the old Profit Tax Act the Tax Loss could be transferred for 7 years (Official Gazette of the RS, No. 33/06 which came into force on 1 January 2006) under the condition that the capital structure hasn't been changed for more than 25%.

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

Slovenia has already concluded double taxation conventions with the following countries: Austria, Belgium, Bosnia and Herzegovina, Bulgaria, Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Greece, Croatia, India, Ireland, Italy, Canada, China, Latvia, Lithuania, Luxemburg, Hungary, Macedonia, Malta, Moldova, Germany, Netherlands, Norway, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Slovakia, Spain, Serbia/Montenegro, Sweden, Switzerland, Taiwan, Turkey, Great Britain and North Ireland, USA.

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

We have no special laws providing tax incentives to certain taxable entities.

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

The taxable persons are (i) residents who are taxed according to their worldwide income and (ii) non residents who are taxed only for their Slovenian-sourced income.

The Taxpayer is a natural person that has his permanent address in the Republic of Slovenia and has revenues generated in the Republic of Slovenia (RS) or in a foreign country.

The Taxpayer is also a non-resident natural person, if he/she on the territory of RS reaches the investment incomes that are specified in the Law.

2. How is the taxable income specified?

Income from employment, capital gains, distributed earnings, interests, rents, other income.

3. What are the applicable tax rates?

The applicable tax rates are: 16%, 27%, 41%

In the Slovenian Income Tax Act there is a separate chapter about dividends (distributed earnings) and other incomes which are reached on basis profit participation³ The Tax basis is the dividend. The tax rate is 25%.

Interests on loans, given to natural or legal persons are taxable at a rate of 25% (received interest from positive state of bank account or from life insurance are excepted; by long-term saving in banks the Taxpayer has the possibility to decide whether he will pay the income on a yearly basis or in the end; the sum of all interests which is received by bank deposits is decreased for EUR 1.000 at the end of the year⁴).

³ Income Tax Act ("ZDoh-2"; Official Gazette of the RS, No. 117/06).

⁴ Article 133, Income Tax Act ("ZDoh-2"; Official Gazette of the RS, No. 117/06)

The rents are also taxable at rate of 25% (incomes from land-leasing, lease of apartments and business room, parking places and other places for recreation, the lease of equipment, vehicles and other property; the tax base could be lowered for 40% of standardized costs⁵).

4. Are capital gains taxed separately?

The capital gains are taxed separately. The tax rate for capital gains is 20%. After 20 years of ownership, no income tax on capital has to be paid⁶. As capital we can define: real, stocks and shares in companies, cooperative societies and other forms of organizations, investment coupons⁷. The tax is paid as final withholding tax when the capital is expropriated. Application for the assessment of the Capital Gain Tax has to be sent to Slovene Tax Authorities in 15 days after the Capital has been sold.

The Capital Gain Tax Rate decreases after each completed five years of capital ownership as follows:

- a. after five years of ownership the Tax Rate is 15%
- b. after ten years of ownership the Tax Rate is 10%
- c. after fifteen years of ownership the Tax Rate is 5%.

5. May losses be carried forward or back?

Losses can not be carried forward or back.

D. Capital

In outline, which are the main taxes on capital, if any?

The capital gains tax at 20%, decreasing for 5% every 5 years. After 20 years no capital gains tax is due.

Gifts are also taxed under certain conditions. Tax rates vary according to the value of gift and the kind of relation between donor and recipient.

E. Indirect taxes

In outline, which are the main indirect taxes, if any?

The main indirect taxes are: VAT, excise duties, customs duties.

⁵ Article 77, Income Tax Act ("ZDoh-2"; Official Gazette of the RS, No. 117/06).

⁶ Article 96, Income Tax Act ("ZDoh-2"; Official Gazette of the RS, No. 117/06). According to Art. 125 of Income Tax Act ("ZDoh-1-UPB1"; Official Gazette of the RS, No. 54/04 ; in force as of 1st of May 2004) the Capital Gain Tax was paid at the tax rate 25% as payment on account and it was increasing also the tax base in the yearly Income Tax Statement but for instance according to article 89 the Capital Gain was not taxable if you were the owner of the real estate for at least 3 years and you were leaving there or use it for business activities. Before the 1st of May 2004 the Capital Gain Tax was paid at the tax rate 30%. (Art. 62, "ZDoh"; Official Gazette of the RS, No. 71/93).

⁷ Article 93, Income Tax Act ("ZDoh-2"; Official Gazette of the RS, No. 117/06).

F. Other duties**In outline, are there any other taxes, if any?**

There are also such taxes as 6, 5% insurance business tax⁸, Motor vehicles tax⁹, Ecology tax¹⁰.

G. Enforcement- Litigation procedure**1. In outline, which are the existing measures in order to ensure compliance with the tax legislation?**

The existing measures in order to ensure compliance with the tax legislation are penalties, fines and legal action.

2. What is on average the duration of the litigation procedure for the final resolution of tax disputes?

Slovenia has two different degrees of deciding a certain tax dispute in the courts. The average time required for final resolution of each case before each court is 3 to 5 years.

⁸ Insurance Business Turnover Tax Act ("Zakon o davku od prometa zavarovalnih poslov – ZDPZP"; Official Gazette of the RS, No. 57/99).

⁹ Motor vehicles Tax Act ("ZDMV-UPB1"; Official Gazette of the RS, No. 97/04). According to the article 6 it is paid at the tax rate 1% if the tax basis (selling price inkl. VAT) is till 1 mio SIT/ca. EUR 4.173 and it increases with the tax basis. Max. tax rate is 13% if the tax basis is over 6 mio SIT/ca. EUR 25.038. For the used vehicles the tax rate is 5%.

¹⁰ Ecology Tax Ordinance for environment pollution because of formation of used cars ("Uredba o okoljski dajatvi za onesnaževanje okolja zaradi nastajanja izrabljenih motornih vozil"; Official Gazette of the RS, No. 87/05).

APPENDIX**INCOME TAX RATES**

Corporations	Partnerships	Individuals	Other entities
23%	As individuals	16%,27%,41%	None

LIST of DTC AGREEMENTS

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends Withholding tax rate
Austria (not effective yet)	5% 5%	10% 5%	5% 5%
Belgium	10%	5%	5%, 15%
Bosnia And Herzegovina	7%	5%	5%, 10%
Bulgaria	5%	5%	5%, 10%
Canada	10%	10%	5%, 15%
Croatia	5%	5%	5%
Cyprus	10%	10%	10%
Czech Republic	5%	10%	5%, 15%
Denmark	5%	5%	5%, 15%
Estonia	10%	10%	5%, 15%
Finland	5%	5%	5%, 15%
France (effective 1.1.2008)	0% 5%	0% 5%	5%, 15% 15%
Germany	5%	5%	5%, 15%
Greece	10%	10%	10%
Hungary	5%	5%	5%, 15%
India	10%	10%	5%, 15%
Ireland	5%	5%	5%, 15%

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends Withholding tax rate
Italy (not effective yet)	10% <i>10%</i>	10% <i>5%</i>	10% <i>5%, 15%</i>
Latvia	10%	10%	5%, 15%
Lithuania	10%	10%	5%, 15%
Luxembourg	5%	5%	5%, 15%
Macedonia	10%	10%	5%, 15%
Malta	5%	5%	5%, 15%
Moldova	5%	5%	5%, 10%
Netherlands	5%	5%	5%, 15%
Norway	0%	10%	15%
People's Republic Of China	10%	10%	5%

Country	Interest withholding tax rate	Royalties withholding tax rate	Dividends Withholding tax rate
Poland	10%	10%	5%, 15%
Portugal	10%	5%	5%, 15%
Republic Of Korea	5%	5%	5%, 15%
Romania	5%	5%	5%
Russian Federation	10%	10%	10%
Serbia / Montenegro	10%	5%, 10%	5%, 10 %
Slovak Republic	10%	10%	5%, 15%
Spain	5%	5%	5%, 15%
Sweden	0%	0%	5%, 15%
Switzerland	5%	5%	5%, 15%
Thailand	10%, 15%	10%, 15%	10%
Turkey	10%	10%	10%

Slovenia

© Copyright Lex Mundi Ltd. 2007

Great Britain And Northern Ireland	10%	10%	5%, 15%
Usa	5%	5%	5%, 15%
Ukraine	5%	10%, 5%	5%, 15%

