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Bulgarian Accountancy and Tax Law An Overview

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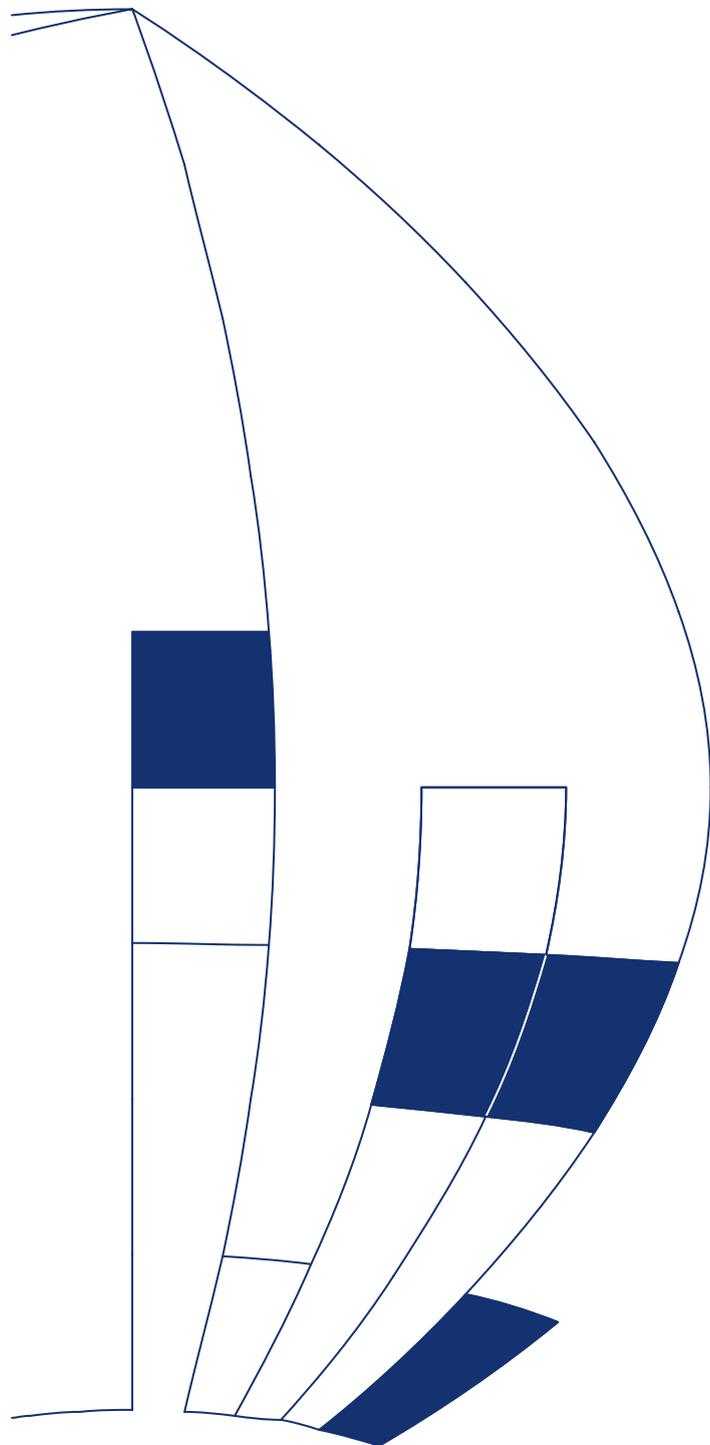
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# **Bulgarian Accountancy and Tax Law An Overview**

Vessela Sotirova-Prodanova



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## **AUTOR'S PREFACE**

This commentary is purposed to provide a practical in-depth study of Bulgarian Accounting and Tax Legislation as of January 1, 2001. It considers the main accounting and reporting principles and the acts on which they are based. Special attention is devoted to the substantial compliance of Bulgarian accounting regulations with the international accounting standards and requirements.

The commentary focuses on a relevantly detailed analysis of the Bulgarian Tax Legislation including the corporate and personal taxation, as well as the value-added tax and local taxes and fees. In this connection, the procedures for tax payments and returns, the tax administration structure and competencies are described particularly.

In addition, the special treatment under the Double Taxation Treaties and the methods of double taxation avoidance within the frames of Bulgarian Tax Laws are presented separately.

Sofia, April 2001

The author bears sole responsibility for the content.

FOWI, April 2001

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# **1. ACCOUNTING OF ENTERPRISES. GENERAL STATEMENTS. NATIONAL ACCOUNTING STANDARDS. NATIONAL CHART OF ACCOUNTS. ACCOUNTING PRINCIPLES.**

Accounting and financial reporting reflects both the entrepreneurial activity and the results from this activity at the end of the accounting (reporting) period. According to the Bulgarian legislation accounting is “the organized system of measures aiming at the realization of current business activity accounting through applying preliminarily determined and specified principles, methods and approaches”<sup>1</sup>. The accounting system of Bulgaria is organized on the basis of external and internal normative and technological factors. The external factors include accounting normative acts and other legislation connected with the activity of the enterprises<sup>2</sup>. The organizational and technological structure of the enterprise and the organizing abilities of the accounting specialists determine the internal factors.

**The Accountancy Act** (published in the SG No.4 /15.01.1991, last amended in the SG No. 92/10.11.2000, in force since 01.01.2001), **the National Accounting Standards** and **the National Chart of Accounts** (attached to the Decree No.65/98 of the Council of Ministers, published in the SG No. 36/31.03.1998, last amended in the SG No. 3/11.01.2000, in force since 01.01.2000) regulate accounting and financial reporting in Bulgaria.

**The Accountancy Act** (the Act) establishes requirements for maintaining accounting records and for presentation of the financial information of the enterprises. The Act introduces accounting principles, which are in general in accordance with the EU Directive IV and the International Accounting Standards (IAS). The Act requirements are applicable for all types of organizations: business enterprises, public sector entities, non-profit organizations, etc. The main sections of the Act relate to:

- Accounting principles;
- Documentation of the transactions;
- Current and closing valuation of assets and liabilities;
- Annual financial statements;
- Certified public accountants.

In accordance with the Act, all entities should apply “double entry” system of bookkeeping. Pursuant to the provision of Article 2, Paragraph 2 of the Act, small entities with a number of employees for the preceding year below 10 and total annual income below BGN 75,000 are allowed to choose between “double entry” and “single entry” bookkeeping system.

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1 National Standards on Auditing, approved by the Institute of Certified Accountants, published in the SG No. 60/27.05.1998, amended in the SG No. 13/16.02.1999. There are 20 National Standards on Auditing and additional 4 are in the course of preparation. They are all in accordance with International Standards on Auditing (ISA) as issued by the International Federation of Accountants (IFAC).

2 For the purposes of the Accountancy Act “enterprise” means an economically independent legal entity, a sole trader or non-incorporated partnership, which conducts a law permitted activity.

Some general accounting and financial reporting requirements are also established in the Commercial Code<sup>3</sup>. All companies, incorporated under the Commercial Code are required to comply with its requirements relating to the maintenance of proper accounting records and the preparation and submission of audited accounts for statutory purposes. For specialized industries, other applicable regulations are in force such as the Law on the Bulgarian National Bank; the Law on Insurance; The Law on Commercial Banks; The Law on Public Offerings of Securities<sup>4</sup>.

There are thirty-five **National Accounting Standards** (NAS). With some exceptions<sup>5</sup>, the National Accounting Standards are in compliance with the International Accounting Standards (IAS), as issued by the International Accounting Standards Committee (IASC). The National Accounting Standards treat particular objects of reporting or activities. The NAS as well as the elements of the entire Bulgarian accounting legislative framework are purposed to create the organization of current accounting and financial reporting and to elaborate the short or long-term budgets of the enterprises. The Bulgarian National Accounting Standards are the following:

**NAS 1-Presenting Financial Statements.** This is the standard that determines the general requirements for each of the elements of the annual financial statement. The content of the “single entry” forms of the balance sheet and income and expenses statement, as well as the form and content of the annual financial statement of small and medium sized enterprises is

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3 Commercial Code published in the SG No. 48/18.06.1991, last amended in the SG No.84/13.10.2000.

4 The Law on the Bulgarian National Bank (published in the SG No.46/10.06.1997, last amended in the SG No.54/15.06.1999); The Law on Insurance (published in the SG No.86/11.10.1996, last amended in the SG No.1/02.01.2001); The Law on Commercial Banks (published in the SG No.52/01.07.1997, last amended in the SG No.1/02.01.2001); The Law on Public Offering of Securities (published in the SG No.114/30.12.1999, last amended in the SG No. 92/10.11.2000, in force since 01.01.2001).

5 The NAS are in substantial compliance with the principles and requirements of the IAS. However, through further regulations, as set by the Act, some of the accounting rules are modified or limited in implementation. As a result, in certain cases, the applicable accounting regulations are not consistent with the internationally accepted accounting principles. Examples of such exceptions are:

- Provisions for bad debts can be charged up to 50% of the original amount of a receivable previously recognized as income, and only if certain conditions are met, i.e. the debt is proved to be irrecoverable, a 100 % provision can be charged. A debt is considered to be irrecoverable if: (1) the debtor is declared insolvent or in liquidation or (2) insolvency procedures have ceased, but the debt will not be recovered. Provisions for other types of assets are not allowed.
- Investments in subsidiaries that are included in the consolidated financial statements should be included in the parent's own financial statements at cost or revalued amounts under the parent's accounting policy for long-term investments (NAS 25 Accounting for Investments). Equity method of recording of investments in the parent's own financial statements is not allowed.
- In accordance with NAS 28 Investments in Associates, significant influence is defined as a holding of 25% or more of the shares of the enterprise which differs from IAS 28 definition.
- Investments in associated companies are measured initially at cost and carried thereafter at fair value; equity method of recording of such investments in investor's own financial statements is not allowed.
- In accordance with NAS 28 Investments in Associates, associates, which have a material effect for the true and fair presentation of the financial statements of the group, may be consolidated by applying proportionate consolidation method, which differs from the IAS 28 requirements.

indicated. This standard gives the requirements for elaboration and announcement of the accounting policy.

**NAS 2-Accounting for Production and Supply Expenses.** This standard determines the content of the basic production expenses and the expenses on supplies. Direct and indirect technological expenses form the basic production expenses. Indirect technological expenses are distributed between the separate productions and activities on a basis, which is previously specified by the management of the enterprise.

**NAS 3-Accounting for Provisions, Expenses for Future Periods and Income for Future Periods.** The main content of the standard is accounting for provisions, excluding the provisions for banks or other enterprises for which this matter is regulated by a separate normative act. Provisions are valued on receivables which are overdue (doubtful, bad and irrecoverable) and potential debts. Provisions on receivables may be valued if only at their origin they are valued as an income or they are resulted from valued indirect taxes. These provisions are reported as expenses and correct the relevant receivables. This standard indicates also the accounting principles for valuation of expenses and income for future periods.

**NAS 4-Accounting for Long - Term Tangible Assets.** The conditions for: recognition of an asset for a long-term tangible one; elaboration of a depreciation plan; non-valuation of depreciation; reporting the expenses on repairs of assets and the differences between the valuations of the long-term assets contributed "in-kind", are normatively determined in this standard.

**NAS 5-Accounting for Intangible Assets.** The intangible assets are long-term and short-term. The long-term intangible assets are depreciated and the short-term intangible assets are reported as current expenses and are described particularly in this standard.

**NAS 6-Accounting for Environmental Protection Expenses.** The range of these expenses is indicated, i.e. the expenses for acquisition of long-term tangible and intangible assets, expenses for such activities etc.

**NAS 12- Accounting for Profit Taxes.** This standard relates to the formation and presentation of the profit taxes and the taxes on account of the temporary differences. Accounting of the tax temporary differences or the tax effect from these differences makes the accounting system of Bulgaria a contemporary one.

**NAS 13-Indicators of the Accounting and Financial Analysis of the Enterprise.** The indicators and the ways of their valuation, which provide for the methodological uniformity of the information for the accounting information consumers, are pointed out in this standard.

**NAS 14-Presenting Financial Statements of Insurance Companies.** The form and contents of the annual financial statement of insurance companies and the requirements for presentation of the information by separate items are described in the standard.

**NAS 15-Presenting Financial Statement of Investment Companies.** The form and contents of the annual financial statement of investment companies and the requirements for presentation of the information by separate items are described in the standard.

**NAS 22-Accounting for Business Combinations.** There are two methods of business combination accounting-acquisition and unification of the participation. The value of the assets and liabilities should be specified and the reputation-positive or negative, should be accounted.

**NAS 28-Accounting for Investments in Associates.** This standard explains the different types of associates and the methods of valuation and accounting for transactions between the partner and the associates.

**NAS 29-Annual Financial Statements under the Conditions of Hyperinflation.** The methods for transformation of assets, liabilities, equity, income and financial results under the conditions of hyperinflation are described in the standard.

**NAS 30-Presenting Financial Statements of Banks.** It indicates the requirements for elaboration of financial statements of the banks. The Governor of the Bulgarian National Bank determines the form and contents of these statements.

**NAS 31-Presenting Financial Statements of Non-Profit Organizations.** The form and contents of the non-profit organizations financial statements are indicated in the standard.

**NAS 32-Financial Instruments.** The standard regulates the principles for determination, classification, recognition, valuation and announcement of information for the financial instruments in the financial statements of the enterprises.

**NAS 33-Income per Share.** This standard determines the methodology for valuation of the income per share.

**NAS 34-Intermediate Financial Statements.** These are statements elaborated for periods less than a year. The intermediate financial statements are regulated by a separate normative act.

**NAS 35-Terminated Activities.** This standard regulates the procedures for presenting information for terminated activities.

**The National Chart of Accounts** is a normative act, which contains a specialized information about the accounting organization. It is divided into three parts: general provisions, accounting organization of the enterprises which apply “double entry” and accounting organization of the enterprises which apply “single or double entry” system of bookkeeping. The financial accounts are grouped in sections and groups. There are eight sections corresponding to the requirements of Article 6, paragraph 2 of the Accountancy Act. These are:

- **Section 1-Equity Accounts**-10 groups and 48 accounts.
- **Section 2-Long-Term Assets Accounts**-7 groups and 31 accounts.
- **Section 3-Inventory Stock Accounts**- 2 groups and 7 accounts.
- **Section 4-Provisions Accounts**-10 groups and 60 accounts.
- **Section 5-Financial Funds Accounts**-6 groups and 36 accounts.
- **Section 6-Expenses Accounts**-9 groups and 44 accounts.
- **Section 7-Incomes Accounts**-9 groups and 47 accounts.

- **Section 9-Post-Balance Accounts** -9 groups and 2 accounts.

The following main **accounting principles** determined by the Act form the basis on which Bulgarian Accounting system is organized:

- **Going concern.** This principle is connected mainly with the elaboration and presentation of the annual financial statements.
- **Accrual basis.** This principle supposes accounting of the entrepreneurial operations at their origin not at the arrangement of the accounting relations. The application of this principle is very important especially when income and expenses accounting is organized.
- **Matching of income and expenses.** This means that expenses may be done when income is expected for them. This principle requires differentiation between the current expenses and the expenses for future periods.
- **Substance over form.** The application of this principle means that the economic operations should be accounted on their economic basis not formally according to their legal nature.
- **True and fair view.** This principle requires an objective and unintentional accounting of transactions and events, in accordance with the Act, the NAS and The National Chart of Accounts.
- **Materiality.** This principle provides for the range of usefulness of the accounting information, which reflects the financial statement.
- **Prudence.** The application of the principle requires a reasonable use, valuation and accounting of assets and liabilities with the purpose to receive an actual financial result from the activity for the relevant reporting period.
- **Historic cost.** This principle relates to the valuation of assets and liabilities. At the acquisition of assets and coming of liabilities, they are valued according to this principle. These valuations are the real expression of the historic cost formation.
- **Separate reporting periods.** The reporting periods coincide with the calendar year. Each reporting period, each calendar year is treated separately and independently.
- **Matching of closing and opening balance sheets.** The balance sheet data by December 31 should be equal to the data indicated as initial statement by January 1 of the following year.
- **Documentary evidence.** This principle requires any economic operation to be written down on a separate primary accounting document, on a hard or electronic copy.
- **Consistency.** This principle provides for respecting the accounting policy applied for the previous reporting periods.

## I. 1.1. Accountancy Documents.

According to the provisions of Article 7 of the Act, accountancy documents are *primary*, *secondary* and *registers*. Primary documents contain information about originally recorded business transactions. Secondary documents contain summarized information, received from the primary documents. Registers are the source of chronologically systemized information about business transactions contained in the primary and secondary documents.

The provisions of the Act (Art.7-16) regulate the types of accounting documents and the requirements for their form and contents.

*The primary document* contains the following information:

- Name of the document;
- Name, address and tax number of the enterprise issuing the document;
- Name, address and tax number of the enterprise with which the business transaction takes place, and names of the individual representing it;
- Place and date of the document's issuance;
- First and last names of the individuals issuing the document;
- Grounds and subject of the business transaction;
- Description of goods/services, etc. and their values;
- Signatures of the persons responsible for the execution and documenting of the business transaction;
- The seal of the enterprise when issuing sales invoices.

The primary and the secondary accountancy documents constitute grounds for making entries in the accounts. The Ministry of Finance establishes a catalogue of primary accountancy document samples.

*The secondary accountancy document* contains the following information:

- Name of the document;
- Number and date of its issuance;
- Cost shown in the primary accountancy documents on the base of which it is drawn up;
- Signature of the issuer.

Accountancy *registers* are opened on January 1 of each year, and for newly established enterprises - on the day of their foundation. They contain the same information as the secondary documents. Full compatibility between the consolidated analytic and synthetic accountancy information is ensured in the accountancy records. The accountancy registers may be closed at the end of each month, and must be closed on December 31, or on the date of the liquidation of the enterprise.

An accountancy document, which does not contain the information stipulated by the Act, does not have the force of evidence.

No corrections or additions are allowed in the primary accountancy documents. Primary accountancy documents drawn up erroneously, or such documents where errors have been marked and corrected, are marked as null and void and new documents drawn up. Responsibility for the authenticity of the information in the accountancy documents and in the technical information sources is at behalf of the officers who have prepared and signed them.

## II. 1.2. Valuation of the Balance Sheet Items.

Generally, the historical cost accounting convention is dominant. Assets and liabilities are normally valued at the amount at which they are historically acquired or incurred.

*Fixed assets* are valued at the acquisition cost less accumulated depreciation. The acquisition cost comprises purchase price, transportation, handling and any other costs related to the specific asset's delivery and preparation for use. Depreciation is calculated consistently, based on the useful life of the asset, as assessed by the management. Depreciation rates allowable for income tax purposes are established by the Corporate Income Tax Act<sup>6</sup>. These rates are based on the straight-line method of depreciation and depreciate assets on equal annual installments as follows:

Buildings	4%	
Machinery and equipment	20%	
Transport vehicles	8%	
Motor cars (when are used for administrative purposes)		15%
Furniture, fixture and fittings	15%	
Intangible assets	15%	

For certain types of machinery and equipment acquired after 1 January 1998 accelerated statutory depreciation rates on a declining balance method and a multiple coefficient of 1.5 are recognised for tax purposes.

Depreciation is not charged for land and forests, as well as for fully depreciated tangible and intangible fixed assets.

Fixed assets are subject to year-end revaluation. Land and forests are revalued at fair market value. Plant, equipment, vehicles and furniture are revalued by applying specific price index by group of assets, published by the National Statistical Institute. An increase of the fair value of a fixed asset is reported as revaluation reserve. Any subsequent decrease of the fair value is taken from the revaluation reserve unless it exceeds the revaluation surplus in which case it is charged as other expenses. The whole revaluation reserve for an asset should be released to retained earnings upon retirement/disposal of the asset.

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<sup>6</sup>The Corporate Income Tax Act (published in the SG No.115/05.12.1997, last amended in the SG No. 108/29.12.2000, in force since 01.01.2001).

*Stocks* are valued at the lower of cost and fair value. Fair value is defined as an exchange price, market price or realizable value. The revaluation is allowed only at the year-end and the revaluation loss is recognized in the income statement. The cost of the stocks is assigned through FIFO<sup>7</sup>, weighted average, LIFO<sup>8</sup> or specific cost formulas for identified supplies.

*Receivables* are valued at the original transaction amount less any provision for doubtful, bad and irrecoverable amounts. Such provision should not exceed 20 percent for doubtful debts (aging between 90 and 180 days), 50 percent for bad debts (aging more than 180 days) and 100 percent for irrecoverable debts.

*Current investments* are valued at market price. Revaluation is effected on a monthly basis.

*Long-term investments* are measured initially at cost and carried thereafter at fair value. Revaluation is effected as at the balance sheet date. When a revaluation gives rise to a value uplift, it should be credited to the revaluation reserve unless it represents a reversal of a revaluation decrease of the same asset previously recognized as an expense, in which case it should be recognized as income. Any subsequent decrease of the fair value of such investment is taken from the revaluation reserve unless it exceeds the revaluation surplus in which case it is charged as financial expense.

*Foreign currency monetary assets and liabilities* are valued at the historical exchange rate at the date of transaction. At the end of each month, such items should be revalued at the closing exchange rate, as established by the Bulgarian National Bank. The effect of such revaluation is recognized as foreign currency exchange gain or loss for the current period.

*Share capital* is valued at its registered total amount. Receivables on subscribed shares are stated as an asset or as a negative amount in the equity section.

*Hyperinflation restatements* of the balance sheet and income statement is required by the NAS 29 in case the cumulative inflation index for three consecutive years is 100% or more. The financial statements adjusted for hyperinflation are recognized as the official financial statements.

### **III. 1.3. Annual Financial Statements**

Financial year for all reporting organisations is the calendar year. The financial statements are prepared in Bulgarian Levs and in Bulgarian language.

The purpose of the financial statements as described in the Act is to provide true and fair presentation of the financial position, financial results and cash flows of the enterprise.

Annual financial statements include:

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<sup>7</sup>“first-in-first-out” (inventory accounting).

<sup>8</sup>“last-in-first-out” (inventory accounting).

- Balance sheet;
- Income statement;
- Cash flow statement;
- Statement of changes in equity; and
- Notes to the financial statements and disclosure of accounting policies.

The Act (Art. 39-44) and NAS prescribe the format of the financial statements. However, enterprises are free to add items to the standard financial statements where it would result in better presentation of the financial information.

The financial statements are due to be prepared by February 15 and presented to the state authorities (National Statistical Institute and Tax Authorities) by March 31 of the year following the balance sheet date of the reporting year. All companies, subject to annual audit are required to publish their financial statements in a daily or in a specialised economic or finance edition by the end of May and submit them to the Bulgarian Chamber of Commerce by the end of June of the following year. After submitting their financial statements to the Bulgarian Chamber of Commerce, the joint stock and public limited companies are obliged to publish an announcement for this submission in the State Gazette<sup>9</sup>. Consolidated financial statements should be prepared by June 15 and published not later than June 30 of the following year. Banks, insurance companies and branches of foreign financial institutions should publish their financial statements in the State Gazette.

#### **IV.1.4. Statutory Audit of the Enterprises. Certified Public Accountants.**

The Accountancy Act establishes statutory auditing requirements for certain types of business organizations (Art. 51-55a). Entities subject to a statutory audit are:

- joint stock and public limited companies;
- banks, insurance and other financial institutions;
- entities, which exceed at least two of the following criteria:
  - reported total assets at the beginning of the reporting period - BGN 300,000;
  - reported sales and financial income in the preceding year - BGN 600,000; or
  - employees for the preceding year on a full year equivalent basis - 30.

A statutory audit can be performed by a Bulgarian certified public accountant (CPA), member of the Bulgarian Institute of Certified Public Accountants or by a "specialised auditing company", which meets the following criteria:

- is registered as a trade company in accordance with Art.64 paragraph1 item 1,2,3 of the Commercial Act;

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<sup>9</sup> The new provisions of the Commercial Code published in the SG No.84/14.10.2000.

- at least 51 percent of the shares and the voting rights belong to Bulgarian certified public accountants or Bulgarian and another country's certified public accountants.

Only a specialized auditing company, approved by the Central Bank can certify financial statements of banks. Financial statements of insurance companies are to be certified by at least two CPAs, approved by the Insurance Supervisory Directorate of the Ministry of Finance.

## **2. BULGARIAN TAX LEGISLATION. LEGAL TAX TREATMENT.** **GENERAL STATEMENTS.**

Business activities are undertaken by the persons with the objective to generate incomes. Pursuant to the Bulgarian Constitution the receipt of income and the ownership of property in the country is connected with the payment of taxes and fees<sup>10</sup>. The Constitution of the Republic of Bulgaria (Art. 84, item 3) provides for “the exclusive competence of the National Assembly to impose the taxes and the rates of these taxes”<sup>11</sup>.

The legal option of imposing tax obligations on foreign persons ensues from their business activities and the income received on the territory of the country. Foreign persons are subject to taxation in accordance with the general tax treatment applicable to local persons. Certain laws contain special provisions concerning foreign persons but ultimately they do not lead to the establishment of a special tax treatment, which differ materially from the treatment of local persons.

The actual tax legislation does not establish any special criteria for determining the subjective scope of foreign persons in relation to tax liability. For taxation objectives the concept “foreign natural persons” is defined only in Art. 7 of the Personal Income Tax Act (PITA). These are:

- Persons who are not local within the meaning of *Art. 6 of PITA*, i.e. persons who reside in the country less than 183 days in a 365-day period and their residence is not connected with a permanent establishment<sup>12</sup> on the territory of the country. The number

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10 According to the provision of Art. 60 of the Constitution of the Republic of Bulgaria (published in the SG No. 56/13.07.1991), citizens are obliged to pay taxes and fees, established by a law. Tax preferences and burdens may be established only by a law.

11 According to Decision No.190/ 08.03.1996 of the Bulgarian Supreme Court, the tax obligation is a specific taxpayers' public legal obligation to the republican budget and its creation and regulation is forced by a material law. The Legislature (the activity of the National Assembly to impose taxes and their rates) cannot be delegated to any other authority and cannot be exercised in any other form but by a law. Tax legal rules cannot be created on delegation by a special law, and a sub-normative act cannot supplement, repeal or amend a tax law. Sub-normative acts issued in the tax area relate only to the application of an already existing right, thus these acts cannot create a new right, i.e. new rights for the state and municipalities, which collect taxes and obligations for the citizens-taxpayers. When by proxy of the law, powers of the tax authorities to assign and establish additional obligations and sanctions are granted, the latter cannot place the citizens and the taxpayers into conditions, harder than these provided in the law.

12 For the purposes of PITA a “permanent establishment” means specific premises through which a foreign enterprise conducts, partly or wholly, its business in Bulgaria. The premises may include: a place of management, a branch, an office, a studio, a bureau, a plant, a factory, a workshop, a shop, a warehouse wherein trade is conducted, an installation, a construction site, a mine, an oil or gas well, a quarry or any other

of the days the person resides in the country is determined on the basis of the seals in his passport, as the day of entry and departure from the country is reckoned for a day-stay;

- Foreign citizens, who reside in the Republic of Bulgaria with the only purpose: to educate, to be treated medically or in their capacity of foreign experts (Art.8, paragraph 4 of PITA). Under PITA a “foreign expert” is the natural person whose permanent residence is abroad and who is invited by the Republic of Bulgaria, or is sent by another country or international organization as an expert with the exclusive purpose to provide an expert assistance (§1, item 4 of the Additional Provisions of PITA). According to PITA, these persons are foreign natural ones irrespectively of the time of their residence in the country.

Pursuant to § 1, item 11 of the Corporate Income Tax Act (CITA)<sup>13</sup>, this definition is applied also with regard to the tax treatment under CITA. Relating to legal persons and non-incorporated partnerships (associations), no criterion for their qualification as foreign ones is given. Since tax liability arises in connection with the undertaken business activity and the investments made in the country, the criteria of the Law on Foreign Investments<sup>14</sup> will find their application for the objective to qualify the persons as local or foreign.

A special tax treatment of foreign persons may exist by the virtue of special clauses, which provide for the application by priority of international agreements. CITA and PITA contain such clauses.<sup>15</sup> In relation to foreign persons from states with which Bulgaria has concluded Treaties for Avoidance of Double Taxation, the special tax treatment will find an application as provided for in the relevant treaties, i.e. the Bulgarian tax law is considered to be secondary to these treaties. In particular, the Treaties for Avoidance of Double taxation are considered to override domestic legislation, even if the domestic legislation is enacted after the treaty.

The general tax treatment in Bulgaria is incorporated in the Corporate Income Tax Act (published in the SG No.115/05.12.1997, last amended in the SG No.108/29.12.2000, in force since 01.01.2001); The Personal Income Tax Act (published in the SG No. 118/11.12.1997, last amended in the SG No.105/19.12.2000, in force since 01.01.2000); the Law on Value Added Tax (published in the SG No.153/23.12.1998, last amended in the SG

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place of extraction of natural resources. A “permanent establishment” will also be the conduct of a business through a procurator or an agent entitled to conclude contracts on behalf of the foreign person.

13 §1, item 11 of CITA: “A “ foreign natural person” is determined in compliance with the provisions of PITA”.

14 Under the Law on Foreign Investments (published in the SG No. 97/24.10.1997, last amended in the SG No. 110/17.12.1999, in force since 01.01.2000), a foreign person is:

- A legal person, which is not registered in the Republic of Bulgaria;
- A company, which is not a legal person and is registered abroad;
- A foreign natural person-foreign citizen with a permanent residence abroad.

15 Art. 17 of CITA, Art. 16 of PITA : “Whenever a tax treaty for avoidance of double taxation or in another effective international instrument, ratified by the Republic of Bulgaria and promulgated in the SG, there are provisions differing from the provisions of this Law, the provisions of the respective international treaty or instrument shall apply”.

No.102/15.12.2000, in force since 01.01.2001); the Excise Act (published in the SG No.19/02.03.1994, last amended in the SG No. 102/15.12.2000, in force since 01.01.2001), The Law on the Local Taxes and Charges (published in the SG No.117/10.12.1997, last amended in the SG No.102/15.12.2000, in force since 01.01.2001) and the Code on Tax Proceedings (published in the SG No.103/30.11.1999, Decision of the Constitutional Court of the Republic of Bulgaria, published in the SG No.29/07.04.2000, last amended in the SG No.63/01.08.2000).

## **V. 2.1. Corporate Income Taxation. Objects. Subjects to Taxation. Tax Liable Persons.**

Bulgaria's tax system is comprised mainly of direct taxes (corporate and personal income tax), indirect taxes (value added tax, excise and custom duties) and real estate taxes. The profit tax, the municipal tax, the tax on insurance and reinsurance premiums and source deducted (withholding) taxes are regulated by CITA.

Under CITA objects of taxation are:

- Income and profits earned by local and foreign legal entities, including budget organizations, as well as local and foreign partnerships that are not legal persons (non-incorporated partnerships);
- Income of resident and non-resident individuals which are exclusively enumerated under CITA.

All legal subjects that earn profits, irrespectively of the basis they are legally registered for their business activity performance, are liable to corporate income tax. For enterprises with taxable profits over BGN 50,000 the corporate income tax rate is 20%, whereas for enterprises with taxable profits up to this amount the rate is 15%. In addition to the corporate tax there is a municipal tax at 10%, which is deductible from the taxable base for corporate income tax. Thus, the aggregate tax rate (including corporate and municipal tax) for annual taxable income up to BGN 50,000 is 23,5% , whereas for income above that amount, the aggregate tax rate is 28%.

Local legal persons and local non-incorporated partnerships are taxed for the whole profits complex they earn. It is presumed by CITA that their income has its source in the country.

Legal entities which are not merchant, including budget organizations are taxed for their income earned from transactions under the Commercial Code, accomplished by profession, including the render of movable or immovable property.

The corporate income taxation include the following independent tax liabilities:

- Profit tax;
- Municipal tax;

- Source deducted (withholding) tax for the income determined under special provisions of CITA;
- Final tax for the expenses exclusively provided in CITA.

Under CITA the concepts “tax liable person” and “tax subject” are clearly refined. In compliance with CITA, tax liable is the person obliged to pay tax for the republican budget irrespectively of the tax burden bearer. The responsibility for tax valuation, deduction and deposit under CITA belongs to the tax liable person. Tax subjects are the tax burden bearers. Certain cases exist in which tax liable persons and tax subjects coincide, while in other cases these concepts differ radically for the purposes of CITA. The principle for tax payment at the source of tax liability formation, adopted by CITA is applicable for the latter cases. There, the tax burden is on account of the tax subject, unlike the tax deposit duty which is on account of the person that reports and deducts the tax.<sup>16</sup>

As provided in Art. 6 of CITA, tax liable persons are the following:

- Local legal persons. This group includes commercial companies, co-operatives<sup>17</sup> and other legal persons established on a business purpose;
- Local legal entities that are non-profit organizations in cases when perform business activity or render movable or immovable property. Notwithstanding the purposes of their establishment, these entities are liable for the results of their activity;
- Budget organizations in cases when perform business activity. These are ministries, committees, organizations and budget municipalities;
- Local non-incorporated partnerships. These are partnerships under the Law on Obligations and Contracts<sup>18</sup>, and consortiums under the Commercial Code;
- Foreign legal persons whenever perform business activity in the country, including through a permanent establishment. Tax liable are also the branches of foreign legal persons which perform an independent business activity in the Republic of Bulgaria;
- Foreign non-incorporated partnerships when perform business activity in the country, including through a permanent establishment.

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16 Thus for example, tax liable to deduct and deposit tax on dividends and liquidation quotas in the republican budget are legal entities, which pay for them, and tax subject is the receiver of these dividends and liquidation quotas, i.e. in these cases tax subjects are tax bearers. Since the receivers of dividends or liquidation quotas could be both legal and natural persons, and with the view of increasing the efficiency of tax collecting, purposefully this tax is regulated by CITA.

17 Law on Co-operatives (published in the SG No.113/28.12.1999, amended in the SG No. 92/10.11.2000, in force since 01.01.2001).

18 Published in the SG No. 275/22.11.1950, last amended in the SG No. 34/25.04.2000, in force since 01.01.2001.

Since the branches of local legal persons are not legal subjects and therefore cannot perform independent relations with the budget regarding the profit tax installments for the republican budget and the municipalities, they may pay the tax due on behalf and on account of the relative legal entity. Exception exists only for branches of foreign persons, which perform an independent business activity in the Republic of Bulgaria. These branches are considered tax liable for the purposes of CITA.

## **1. 2.1.1. Permanent Establishment.**

The concept “permanent establishment” for the purposes of Bulgarian tax legislation designates the non-legal premises through which foreign entities and foreign companies perform business activity in the country. § 1 item 13 of CITA gives a detailed definition of “permanent establishment”, i.e. any premises (owned, rented or provided for use), through which foreign entities conduct partly or wholly, their business activities in Bulgaria. These premises include place of management, a branch, a representative office registered in the country, a studio, a bureau, a plant, a factory, a workshop, a shop, commercial warehouse, an installation, a construction site, a mine, an oil or gas well, a quarry or any other place of extraction of natural resources. A “permanent establishment” means also the conduct of business activity through a procurator or an agent entitled to conclude contracts on behalf of foreign persons, with the exception of independent representatives as defined under special provisions of the Commercial Code. “Permanent establishment” is the permanent performing of commercial transactions with a place of conduct in the country even when the foreign person does not have a permanent representative or base, as well.<sup>19</sup>

It should not be considered a “permanent establishment” for the objectives of CITA:

- The usage of equipment solely with the purpose of storing, exposure or delivery of goods, owned by the tax liable person;
- The maintenance of stockpile of goods, owned by the tax liable person, solely with the purpose of storing, exposure or delivery;
- The maintenance of stockpile of goods, owned by the tax liable person, solely with the purpose of their remaking from another tax liable person;
- The maintenance of a fixed place exclusively for the purposes of a purchase of goods or for collecting information for a tax liable person;
- The maintenance of a fixed place exclusively for performing a preparatory or subsidiary activity for a tax liable person, i.e. collecting information; patent services or “know-how” contracts and advertising;
- The ordinary purchase of goods for or on behalf of a foreign person.

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19 As defined in CITA, the concept “permanent establishment” applies for the objectives of PITA (see item 2).

The profits and income derived from capitals invested on the territory of the country regardless of the origin of the capital, as well as from sale, export and other realization of goods, services and rights on and from the territory of the country are also considered from a source in the country.

There are two tax regimes concerning the income taxation of foreign legal persons and foreign entities that are not legal persons. The first regime is the general corporate income taxation for the business activity profits, derived from a permanent establishment-on the territory of the country or within the boundaries of its exclusive economic zone and continental shelf. The second regime treats “taxation at the income source” and is applicable for income exclusively determined in CITA (interests, rents, paternity and license rewards, etc.).

## 2. 2.1.2. Taxable Profits. Tax Base Determination.

**Taxable profits** are the positive value, determined on the basis of the accrued financial result, established as the difference between income and expenses, not including the taxes on account of the profits and adjusted in accordance with the provisions of CITA.

On establishing the taxable profit, statutory *depreciation rates* are determined for tax purposes, which are compatible with the accounting depreciation costs. Depreciation is calculated in accordance with the straight-line or declining balance method (accelerated depreciation). Accounting regulations permit Bulgarian enterprises to establish a depreciation schedule<sup>20</sup> for each tangible and intangible non-current asset on the basis of the method chosen by the enterprise. However, for tax purposes the straight-line method and declining balance method, in relation to specific assets, apply<sup>21</sup>. If the total amount of the depreciation costs is higher than the tax allowable depreciation, the difference is added back to the taxable profit.

*Taxable profits* amount is determined by adjusting the accrued financial result, regardless of whether it is positive or negative one, as amounts are subtracted or added back for tax purposes. The financial result *is increased*, before adjustment for tax purposes, with:

- Per diem allowances for business travel, exceeding twice the amounts determined by normative acts for state servants;
- Fines charged, confiscation and other sanctions for violation of normative acts, as well as the interest payments pursuant to the Law on Interest on Taxes, Fees and Similar State Receivables<sup>22</sup>;

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20 See item 1.2.

21 For certain types of machinery and equipment (i.e. production equipment, apparatuses, computers, soft wears, electricity transmitters, telecommunication lines, water-mains, steam-mains), accelerated statutory depreciation rates are applicable.

22 Published in the SG No. 91/12.11.1957, last amended in the SG No.103/30.11.1999, in force since 01.01.2000.

- The temporary positive difference between the sum of the accounted depreciation rates determined under the Accountancy Act, and the depreciation amount recognized for tax purposes for the enterprise assets as a whole;
- Expenses unrelated to the activity, such as: expenses for clothing (with the exception of uniforms and work outfits); expenses for maintenance and use of buildings and other movable and immovable property, including the rented, used for personal needs, partly or wholly ones;
- Expenses accounted as current expenses for repairs made for improvement, modernization and reconstruction of long-term assets, resulting as an increase of their value;
- Expenses for improvement, modernization and reconstruction of leased long-term assets which are not deducted as non-material long-term assets;
- Inventories written off and wastage of stock, VAT exclusive;
- The value of insured assets which are written-off or wasted is reduced with the received compensation, up to the value of these assets as accounted for in the balance sheet; whenever differences appear during the period between writing-off the insured assets and payment of the insurance, the increase is made at the time of receiving the insurance proceeds, whereas until then the write-off or wastage resulting from the insurance event is booked as a receivable;
- Expenses which are in essence hidden distribution of profits to the benefit of the shareholders, partners or third parties;
- Expenses for interest payments on loans granted by partners or shareholders who have not paid the respective instalments on their registered shares or equity interest;
- Profits which have not been taxed because of non-reintegrated (non-recovered) provisions upon collection of provisioned claims;
- Expenses which tax liable persons are unable to prove by means of documents as required in the respective legislative instruments, including by means of cash register receipts issued by electronic systems and apparatuses with fiscal memory, as well as expenses, reported upon violation of the accounting normative provisions that lead to financial result decreasing;
- The income which is not reported in accordance with the established requirements in the legislation;
- Expenses booked in result of events that have taken place in previous tax periods which lead to a financial result decrease during the current reporting period;

- Expenses originating from transactions between affiliated persons, or third party transactions;
- Temporary differences appearing following the application of the Accountancy Act, excluding banks;
- The portion of the interest payments on loans which exceeds the limit established by the thin capitalisation rule<sup>23</sup>;
- The portion of the expenses for salaries in companies with more than 50 per cent state or municipal participation that exceeds the amounts determined by normative acts;
- Production and consumer dividends which have been booked as unusual expense from operations taken place in previous years;
- The portion of the expenses used for repairing tangible long-term assets which exceed the tax depreciation rate;
- Thirty per cent of the expenses accrued as provisions in the enterprises, excluding the banks;
- The re-evaluated reserve under the Accountancy Act, with exception of the cases when the long-term asset has been written off on the account of the capital;
- The portion of the accrued expenses for provisions for credits, when the 100% provided loans exceed by 10% the total sum of the bank loan portfolio.

The financial result before adjustment for tax purposes *is reduced* with:

- Donations to the benefit of: educational and healthcare institutions and organisations which are budget organisations; legal entities which are not merchants under the Commercial Code such as: charity foundations and foundations established for social, environmental, healthcare, scientific research, cultural and sports purposes; religious faith societies registered in the country and municipalities; funds for sustaining handicapped individuals and victims of natural disasters; the Bulgarian Red Cross; support for socially disadvantaged or impaired individuals, children with impaired health or without parents; reconstruction and protection of natural, historical and cultural monuments; established and granted scholarships for students in Bulgarian schools or universities - up to 5 per cent of the positive financial result before adjustment for tax purposes, provided that the donations are made from the capital reserves or from the owner's account, as the case may be;
- Dividends received as a result of the distribution of profits by local persons and non-incorporated partnerships;

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<sup>23</sup> See section: *Thin Capitalization Rule*.

- Temporary differences of the enterprise as a whole, resulting from exceeds of tax recognised depreciation amounts over the accountancy depreciation quotas, in cases of reverse expression of the positive differences from depreciation. The financial result is not adjusted in cases when depreciation quotas are lower than those recognised for tax purposes and where there have been no add-backs before that, in relation to the financial result;
- Temporary differences emerging at the time of realisation of the assets which are the bearers of those differences under the Accountancy Act;
- The portion of loss carryovers<sup>24</sup>;
- The income booked in result of operations which have taken place in previous accounting periods which lead to an increase of the financial result before adjustment for tax purposes for the current accounting period;
- Temporary differences resulting from recognition of interest charged under the thin capitalisation rules;
- Production and consumer dividends paid by co-operatives to co-operative members;
- The income from interest paid by the tax administration for overpaid taxes;
- The taxed portion of the provisions in financial and non-financial enterprises where the provision is reintegrated in the profit;
- Expenses for acquisition of new control apparatuses, in cases when the state requires their use by a normative requirement;
- Separate account finances created pursuant to the Compulsory Social Security Code<sup>25</sup> – from the licensed pension-security companies;
- The production value of deposited compulsory specimens and the forward expenses under the Law on Compulsory Deposit of Specimens of Printed and Other Productions<sup>26</sup>.

**Specifies:**

Expenses made by local legal entities for providing residence in the country of foreign individuals, who have not a permanent place of residence in the country, when those are managers, partners, members of the board of directors or supervisory board, performing managerial functions on the territory of the country, are not regulated for tax purposes.

<sup>24</sup> See Section: *Net Operating Losses*.

<sup>25</sup> Published in the SG No. 110/17.12.1999, last amended in the SG No.1/02.01.2001.

<sup>26</sup> Published in the SG No. 108/29.12.2000, in force since 01.01.2001.

The financial result is increased to the extent of the accrued exchange rate losses from bank assets and is reduced to the extent of the accrued exchange rate profits from bank assets which are contributed to the capital of a bank in foreign exchange, in cases where the Bulgarian legislation allows this capital to be stated in foreign exchange, as these assets cannot exceed the amount of the contributed capital.

Expenses for repairs are not regulated for taxation purposes when they have been directly financed by a grant and/or by International Financial Institutions with the loan guaranteed by Republic of Bulgaria.

The positive or negative differences in the exchange rates within the period of registering of shares or equities in commercial companies and their deposit in foreign currency is not included on determination of the taxed profit.

*Net operating losses.* Losses are carried over the following five years (ten years-for banks). Carry-forward of foreign source losses is restricted<sup>27</sup>. Loss carry-back is not permitted. The loss carry-over may be used with regard to the advanced tax payments as well as on an annual basis.

*Thin capitalization rules.* The thin capitalization rules apply only if the debt financing exceeds the double amount of the equity financing. In addition to interest on bank loans, loans between related parties and other loans, the thin capitalization rules clearly cover interest under financial lease agreements. However, the rules do not apply to bank loans and financial leases enforced before 1 January 1999, if they are already performed. The thin capitalization rules:

- Define restricted interest costs,
- Determine a limit for their tax deductibility, and
- Provide a possibility for tax deduction in the following year.

Restricted interest costs are added back in the calculation of the taxable profit to the extent to which they exceed:

***Interest income + {(financial result – interest income + interest costs) x 0.75}***

Restricted interest costs added back in a given year may be deducted for tax purposes in the following tax period if certain requirements are met.

**Tax base determination.** The base for determining the municipal tax is the taxable profits defined in accordance with the above mentioned rules.

The base for determining the profits tax is the taxable profit, defined in accordance with the previous rules, reduced with the municipal tax.

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<sup>27</sup> Losses, with a source out of Bulgaria are subsequently deducted from the profits from this same source only over the following five tax years.

The tax base for taxation of the activity of insurance companies, mutually insurance co-operatives and foreign persons for their activity through permanent establishments is:

- The difference between the amount of the received gross insurance, reinsurance and all other premiums, deducted by the gross amount of the ascended reinsurance premiums and the refunded insurance premiums in the course of the calendar month, and
- Revenues from all other activities, including those unrelated to insurance activities.

If the tax base of these companies is a negative figure, it is deductible from the tax base in the subsequent months<sup>28</sup>.

The base for taxation of income from dividends and liquidation proceeds distributed (personified) to resident and non-resident persons, is the gross amount of that income with the exception of the distributed profits in shares and equity interests under the provisions of PITA<sup>29</sup>.

The base for taxation of income, distributed (personified) to foreign natural and legal persons, as well as to foreign non-incorporated partnerships, apart from the above mentioned income, is the gross amount of the income received from:

- Interest payments, including interests that are part of the contributions under a financial lease contract;
- Paternity and license awards;
- Considerations for technical services;
- Rents and considerations under an operational lease, franchising and factoring contracts from sources in the Republic of Bulgaria.

The base for taxation of the income of foreign persons from sales of immovable property, interests in companies, securities and financial assets is the positive difference between their book value and sales value (which should be documentary proved).

For tax purposes the financial lease payments include interest equal to the basic interest rate, in cases when in the lease contract the interest rate is not determined explicitly.

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28 See item 2.1.5. *Tax on insurance companies*.

29 Distributed as new shares and stocks in commercial companies profits, as well as distributed as an increase of the nominal value of existing shares and stocks profits, are not taxed; distributed profits, through which the company equity is increased by the means of issuing new shares and stocks, or by increasing the nominal value of those that already exist, is not taxed either.

The base for foreign persons' income taxation from transfers of immovable property is the positive difference between the updated value of acquisition and sales value. The price of acquisition is deemed to be the higher price between the price determined pursuant to the Law on Local Taxes and Fees and the actually paid price adjusted for inflation.

### 3. 2.1.3. Source Deducted (Withholding) Taxes.

Under CITA the income and profits are from sources in the country when originated from business activity, accomplished through a permanent establishment, a fixed base<sup>30</sup> on the territory of the country or through a representative of the relative economic subject. This definition creates a normative provision for the application of one of the basic principles of Bulgarian tax treatment, i.e. the right of the state to tax all incomes derived from its territory.

Certain types of income, originating from Bulgaria and payable to foreign entities (if not realized through a permanent establishment), or foreign individuals, are considered from a country source. These types of income are defined in CITA as follows:

- Dividends or liquidation proceeds from a commercial company and non-incorporated partnership participation;
- Interest payments, including such as financial leases;
- Rents;
- Paternity and license rewards (royalties);
- Payments under operating leases, franchising and factoring;
- Capital gains from sale of immovable property, stakes in the companies, securities and financial assets;
- Considerations for technical services.

These types of income are subject to a ***final 15% withholding tax***.

When the accomplished by the relative person activity does not originate completely from the territory of the country, for derived from the country income is considered that part of the whole income, that corresponds to the relative portion from the activity, accomplished in the country.

*Final taxation at the source of other significant items:*

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30 A "fixed base" is defined in § 1, item 24 of the Additional Provisions of PITA and is applicable for the purposes of CITA. It means specific premises through which a foreign individual renders, partly or wholly, independent services or acts as a member of the professions (e.g. a law firm; an independent auditor or accountant).

- Contributions made by employers for voluntary social and health insurance of employees if such contributions are up to BGN 40 per employee per month. The excess over BGN 40 is subject to a **final tax at 20%**;
- Entertainment and representative expenses and business gifts, that do not bear the trademark or the business name of the company, as well as donations and sponsorships, which are not accounted for as expenses, are subject to a **final 25% tax**;
- Social expenses representing fringe benefits in kind are subject to a **final 20% tax**;
- Expenses for maintenance, repair and exploitation of cars are subject to a **final 20% tax**.

#### 4. 2.1.4. Tax on Insurance Premiums. Tax on Gambling Bets.

*Insurance companies*, which perform their activity through a permanent establishment in the country, pay one-time **final tax** on insurance premiums and on any other kind of income. These companies are not obliged to pay corporate income taxes separately for their activities other than insurance and re-insurance.

The rate of the special tax for insurance companies is 7%, except for life insurance companies whose income is taxed at 2%.

*Companies organizing games of luck*, such as lotteries, number lotteries, TOTO, LOTTO, Bingo, Keno, betting on sports events and other uncertain events, are taxed on their income (bets collected) by a **final tax**, and are not subject to corporate income taxes.

The tax rate for the bets made for the games TOTO, LOTTO and bets made on the outcome of sports matches and other uncertain events, is 8%.

The tax rate for the tax on the tickets for BINGO, KENO, and other lotteries is 12% and so is the rate for the tax on games organized over the phone, the tax base being the increased price of the telephone or the telecommunication connection.

Entities organizing gambling games other than those mentioned above are taxable in accordance with the general rules for corporate income taxation.

#### 5. 2.1.5. Tax Exemptions.

Tax exemptions are applicable for all legal persons and non-incorporated partnerships, which are subject to taxation under CITA, including the foreign ones. Tax incentive for investments in regions with high unemployment rate is provided in Art. 60 of CITA. Entities, investing in

regions with a high unemployment rate (these regions are listed annually in an appendix to CITA), enjoy a reduction of the corporate income tax (not the municipal tax), provided that:

- The investment is in the form of acquisition, modernization or reconstruction of tangible fixed assets such as buildings, equipment, transmitters, electricity transmitters and telecommunication lines (i.e. assets depreciable at 4% per annum); and
- The funds for the investment are generated from the contributions made by shareholders for acquisition of new shares (including on incorporation) in the company performing the investment.

If the requirements for the tax reduction are met, the corporate tax is reduced by an amount representing 10% of the amount of the share contributions used in the above manner.

The sum for the reduction is accounted for as reserves and if greater than the corporate tax in the respective year, it may be used to reduce the corporate tax in the following five years.

## **6. 2.1.6. Tax Administration. Returns. Tax Payments.**

*Returns.* Annual profits must be declared no later than 31 March of the year following the taxable year. The annual balance sheet and the annual profits and loss account of all entities with foreign participation, as well as certain resident entities, subject to certain criteria (number of employees, legal form, etc.)<sup>31</sup>, are to be certified by a certified public accountant and submitted to the Tax Office at the place of residence of the legal person, together with the tax return.

*Tax payments.* In 2001 the corporate and municipal tax pre-payments due by entities which ended 2000 with a taxable profits are payable monthly as follows:

- for the first quarter of the year - on the basis of 1/12 of the declared taxable income for 1999, and
- for the remaining nine months - on the basis of 1/12 of the declared taxable profit for 2000.

The above bases are adjusted by a coefficient published in the *State Budget Act* for the respective year.

Entities ending 2000 at a loss and entities founded in 2001 will pay quarterly advance tax on their taxable profits for the respective quarter. The rate of corporate tax in this case is 15%.

The monthly prepayments are to be effected latest on the 15<sup>th</sup> day of the current month. The term for the prepayments on quarterly basis is the 15<sup>th</sup> day of the month following the respective quarter. No prepayment is to be made for the last quarter of the year.

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<sup>31</sup> See item 1.4. *Certified Public Accountants.*

Overpaid annual tax is set off against the tax to be paid for the following period. The difference between the annual tax declared in the tax return and the prepayment of tax for the same year must be paid by the deadline for submitting the tax return, i.e. 31 March.

*Withholding tax* is payable as follows:

- If the payer of the income is a tax liable person – by the latter, by the end of the month following the month in which the payment of income became due or the resolution on distribution of dividends or liquidation quotas was made.
- If the payer of the income is not a tax liable person - by the recipient of the income within 30 days as of receiving the income.

After payment of the withholding taxes the payer of the income should disclose this fact to the respective tax office, which then issues a certificate of tax compliance to the foreign person entitled to the income already taxed. This certificate is necessary for repatriation of the net income.

## **VI.**

## **VII. 2.2. Personal Income Taxation. Subjects to Taxation. Object of Taxation. Tax Liability.**

Under PITA the income taxation of natural persons, sole traders' proprietorships and certain enterprises that are legal persons, is regulated.

For the purposes of PITA, *object* of taxation is the total annual income, i.e. the income, received in the tax year course. Under PITA the tax year is the calendar year.

*Subjects* to personal income taxation are:

- Natural persons;
- Sole traders' proprietorships;
- Legal persons, explicitly enumerated in PITA, that comply with the final annual (patent) taxation criteria.

PITA establishes an entirely new principle for natural persons' differentiation, i.e. the principle of the local natural person.<sup>32</sup> The provisions of PITA clearly define the criteria for determination the category "local natural persons", and thus, the category "foreign natural persons" is set apart by the method of exclusion.

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<sup>32</sup> Bulgarian legislation, other than tax legislation, differentiates the subjects according to their nationality (citizenship).

Specifying the concept “permanent establishment” in connection with the precise definition of the concept “local natural persons” is important for the correct application of provisions of PITA. There are certain important specifications on this matter:

- On determination of the concept “local natural persons”, the criterion “citizenship” is completely eliminated.<sup>33</sup> Therefore, a “local natural person”, for taxation objectives, may be both: a Bulgarian and a foreign citizen. Respectively, if a Bulgarian or a foreign citizen does not comply with the criteria for a “local natural person”, it is assumed that he is a “foreign natural person”, for the purposes of PITA;
- A natural person, whose permanent establishment is not in Bulgaria, but who resides in the country for more than 183 days in a calendar year period, is considered a “local natural person” for the respective year, in which his residence exceeds 183 days.<sup>34</sup> Therefore, in cases when a natural person, whose permanent establishment is not in Bulgaria, but resides in the country during different calendar years and in different periods of these years, it is considered that he is a local natural person, but just for the year (years), in which his residence in the country is more than 183 days.

Depending on whether natural persons are local or foreign ones within the meaning of PITA, different rules for their income taxation are applicable.

“*Local natural persons*” are taxed for their income, derived from Bulgarian and foreign sources. Thus, object of taxation is their world-wide income. This rule is an inseparable part of the criterion “local natural persons” application.

*Foreign natural persons* are taxed only for their income derived from Bulgarian sources. Their world-wide income is taxed in the respective country, where they are considered local natural persons. *Foreign citizens* which reside in the country solely with the purpose to educate or to be treated medically, as well as *foreign experts*, are taxed only on their Bulgarian-source income irrespective of the duration of their stay in the country.<sup>35</sup>

Under PITA, it is explicitly determined, that natural persons are personally responsible for their *tax liability*.

For the purposes of PITA, subjects to taxation are also certain types of local legal persons, that are explicitly enumerated therein.<sup>36</sup> The income tax responsibility of these persons is on account of the respective legal persons, which are payers of the tax. Object of taxation in the

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33 See item 2. Art. 6, Paragraph 1 of PITA: “Local natural persons regardless of their citizenship are those:

- Whose domicile is in Bulgaria;
- Who reside in the country for more than 183 days in a 365-day period”.

34 Art. 6, Paragraph 1, Item 2 of PITA.

35 See item 2 *Bulgarian Tax Legislation. Legal Tax Treatment. General Statements*, that defines the concept “foreign expert”.

36 The concept “local legal person” is defined under the Law on Foreign Investments; See this definition in item 2 *Bulgarian Tax Legislation. Legal Tax Treatment. General Statements*.

above mentioned cases, as well as in the cases of taxation of natural persons, which comply with the criteria for final annual (patent) taxation, is the conventional income, received from practicing activities, indicated in PITA.

The concept “income” is not explicitly defined in PITA. The income sources comprehensive listing, eliminates the necessity this concept to be defined specially.

Pursuant to Art. 2, Paragraph 4 of CITA, local legal persons are taxed with a final annual (patent) tax, when perform only the activities enumerated in PITA and under the conditions of PITA, i.e. local legal persons which have an annual turnover of up to BGN 75,000 for the proceeding year.

## **1. 2.2.1. Bulgarian Source Income.**

Any income derived by a natural person from the conduct of business activities on the territory of Bulgaria is considered to be from a Bulgarian source. A person is considered to have carried out business activity on the territory of the country where:

- He has a permanent establishment or a fixed base in Bulgaria<sup>37</sup>;
- He has assigned or performed an assignment on the territory of the country, whether in person, or through a procurator, agent or in some other way.

*Specificity:*

Natural persons who conduct business activity through a registration as sole traders in the country are considered local natural persons in any way due to the requirements for a permanent residence in the country under the Law on Foreign Investments.<sup>38</sup>

Any income under an employment contract or derived from rendering services is considered to have been derived from a Bulgarian source where labour has been extended or services have been delivered on the territory of the country, regardless of the source of payment for the labour extended or services rendered.

Notwithstanding the above, some kinds of income paid out by Bulgarian residents or from a permanent establishment to a non-resident on the territory of the country are considered to be from a Bulgarian source. These incomes include, for example, dividends and distribution of

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37 See item 2.1.3. *Source Deducted (Withholding) Taxes*, where the concept “fixed base” is determined; See item 2. *Bulgarian Tax Legislation. Legal Tax Treatment. General Statements*, where the concept “permanent establishment” is defined.

38 Art. 9 of the Law on Foreign Investments provides for a compulsory permission for permanent residence in Bulgaria when a foreign natural person conducts business activity through:

- A sole trader registration;
- Participation in a co-operative;
- Participation in a general partnership;
- Participation as an illimitably responsible partner in a limited partnership.

profits of entities with or without legal presence, interest, royalties, rentals, payments under lease, franchising, factoring, as well as emoluments of freelancers, or members of a managing or controlling body of a Bulgarian corporate; branch of a foreign entity, etc.

Income derived from the use of real estate located in the country, as well as income from transactions with quotas/shares in local companies and income from securities transactions is also considered from a Bulgarian source.

## **2. 2.2.2. Income from Business Activity. Income from Foreign Investments.**

Natural persons' taxable income from *business activity* is the income that originates from:

- Activity as a sole trader regardless of whether it is registered under the Commercial Code;
- Craftsman's activity;
- Professional activities;
- Providing services with personal performance apart from the above mentioned cases;
- Activities in the field of agriculture, forestry and water economy.

Income derived from transactions, which lead to termination of the business activity as in the case of transfer of an enterprise of a sole trader, should also be qualified as taxable income.

After making *foreign investments*<sup>39</sup> on the territory of the country natural persons may receive taxable income from a source in the country. That is income derived from:

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39 For the purposes of the Law on Foreign Investments, a foreign investment is any investment performed by a foreign person or its branch in:

- Shares and stakes in commercial companies;
- Ownership title over buildings and limited ownership title over property;
- Ownership title and limited ownership title over movable property where considered long-term tangible assets;
- Ownership title over enterprise, or detached parts thereof;
- Securities, including debentures and Treasury bonds, as well as their derivative instruments issued by the State, by municipalities or by other Bulgarian legal persons, with a remaining term until maturity not shorter than 6 months;
- Loans, also in the form of financial lease, for a term not shorter than 12 months;
- Intellectual property title-articles of copyright and kindred rights, patentable inventions, utility models, trade marks, service marks and industrial designs;
- Rights stemming from concession contracts for the assigning of management.

The listing of the types of income under PITA is not exclusive. The remaining forms of foreign investments are not directly connected with the subjective matter of the Law on Foreign Investments.

- Employment relationships and relationships that are equalized to them, where the management contract has been concluded under an employment contract form;
- Sales and exchange of: immovable property; road, air and water transportation vehicles;
- Sales of shares, equity interest and other types of participation in companies, non-incorporated partnerships and other forms of joint activities;
- Rent and lease;
- Temporary assignment of rights under lease, franchising, factoring and other like contracts;
- Copyright and license fees and royalties;
- Interests. Interests accrued on accounts and deposits in banks are not considered a taxable income; the same applies also to interests accrued on government and municipal securities; interests for arrears accrued on contractual obligations and interests accrued on amounts receivable adjudicated by a court of justice, in the case where the underlying amounts receivable are not subject to taxation. All other kinds of interests accrued on non-government securities, on disbursed credits etc., are included in the taxable income;
- Dividends, income from share participation and bonuses.

### **3. 2.2.3. Tax Exempt Income**

Tax exempt are considered:

- Incomes derived from the sale or exchange of certain types of immovable property (flats, houses or villas) or means of transport, subject to certain conditions;
- Incomes derived from the sale or exchange of movable property except for the means of transport as per the preceding bullet, as well as the sale of shares, quotas and other equity interest in a commercial company, etc;
- Compensations received as a result of statutory pension, health and social security and/or insurance, as well as other certain compensations;
- Interests accrued on deposits in local commercial banks and branches of foreign banks, as well as the interest and expenses on court-awarded claims;
- Cash and non-cash income from social financial aid and the unemployment compensations and subsidies;
- The financial aid granted by social funds and organisations;

- Subsidies from the state in respect of children and payments determined by court to support a child;
- Student grants for Bulgarian nationals for their education abroad;
- Prizes from the lottery;
- Salaries and emolument of foreign diplomats pursuant to the Vienna Convention on Diplomatic Relations;
- Company profits distributed as new quotas and shares in commercial companies, as well as the profits distributed as an increase in existing quotas and shares' par value;
- Rentals from agricultural land.

Incomes, not specified by PITA as tax exempt, are considered taxable.

#### 4. 2.2.4. Taxable Base

The annual taxable base is the sum of all taxable incomes received, deducted by:

- Income taxed with a final tax;
- Mandatory and voluntary national insurance, pension, health insurance, unemployment fund contributions;
- Statutory deductions applicable only to non-employment contracts (e.g. 35% of the gross income for services contracts; 25% for management fees);
- Relieves for donations not exceeding 5% of the taxable income after other statutory deductions have been made – not applicable to employment income.

There are no tax deductions related to personal allowances for spouses and dependants.

The loss carry-forward facility is not applicable for individuals.

#### **Annual scale**

In principle, the total annual income, after the respective adjustments are made, is taxed in accordance with an annual progressive scale. The annual scale in force as from 1 January 2001 is given below.

<b>Annual income</b>	<b>Tax</b>
up to BGN 1,200	non-taxable
From BGN 1,200 to BGN 1,620	20% on the excess over BGN 1,200
From BGN 1,620 to BGN 4,800	BGN 84 + 26% of the excess over BGN 1,620

From BGN 4,800 to BGN 16,800	BGN 910.80 + 32% of the excess over BGN 4,800
over BGN 16,800	BGN 4,750.80 + 38% of the excess over BGN 16,800

## 5. 2.2.5. Specific Rules Relevant to Taxation of Different Types of Income.

### Employment income

Incomes from employment consist of all payments, including fringe benefits in cash or in kind, paid out by the employer or at its expense to the tax liable person during the calendar month.

Non-taxable are:

- The value of free of charge prophylactic foodstuffs, antidotes and personal safety guards pursuant to the Labour Code and other statutory instruments;
- The value of the special working clothes, the free of charge working or representing clothes and uniforms which are provided under the Labour Code<sup>40</sup> or other acts (e.g., those provided to state servants);
- Certain compensations under the Labour Code (e.g. business travel compensations; reassignment compensations; etc.);
- The value of travel cards provided by the employer to the employee free of charge;
- Social expenditures incurred by the employer and taxed under CITA (fringe benefits distributed as social expenses).

The tax base of income, derived under employment relationships and relationships that are equalised to them, is formed by deducting the taxable income with the instalments made for social, health, pension and other insurance the employee is bound to make by virtue of law. The taxable income is reduced with the sums paid for voluntary social, pension and health security.

Incomes derived under an employment contract are taxed on a monthly basis and the annual tax obligation is subject to adjustment on an annual basis, to which the annual progressive scale applies (refer to the annual progressive table from above).

The employment income is taxed on a monthly basis in accordance with a progressive scale. The scale applicable as from 1 January 2001 is given below.

Monthly income	Tax
up to BGN 100	non-taxable
from BGN 100 to BGN 135	20% on the excess over BGN 100
from BGN 135 to BGN 400	BGN 7 + 26% on the excess over BGN 135
from BGN 400 to BGN 1,400	BGN 75.90 + 32% on the excess over BGN 400

40 The Labor Code, issued in the SG No. 26/01.04.1986, last amended in the SG No. 67/27.07.1999, in force since 28.08.1999.

over BGN 1,400	BGN 395.90 + 38% on the excess over BGN 1,400
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**Capital Gains:** The tax base in case of sale or exchange of immovable and movable property is the difference between the selling price and the higher price between the factual and updated price paid for the acquisition of such property. This rule applies to certain types of vehicles (e.g. aircraft, sea vessels, cars). For any other type of movable property the tax base is the difference between the selling price and the re-valued price for the acquisition of such property.

**Income Received by Civil Contractors and Freelancers:** a 15 % advance tax payment is due upon payment and the final tax obligation is assessed and paid annually. Mandatory and voluntary social, health and pension contributions may be deducted from the taxable income before applying the advance tax. Until 1 January 2001, the contributions were tax deductible on annual basis only. The pre-paid tax is set off against the final annual tax obligation. 35% of the income is tax deductible.

**Income Received by Managers and Members of Boards of Directors** Managers and members of Boards of Directors who work under civil contracts are obliged to pay personal income tax on an annual basis. 15% of the tax payable is withheld at the moment of payment as an advance tax payment. Mandatory and voluntary social, health and pension contributions can be deducted from the taxable income before applying the advance tax. Until 1 January 2001, the contributions were tax deductible on annual basis only. The pre-paid tax is set off against the final annual tax obligation. 25% of the income is tax-deductible.

**Income Received by Sole Traders** The base for taxation is determined under the rules of CITA. Advance payments of tax are made as per the rules of CITA. The annual tax is paid in accordance with the annual progressive scale.

**Rental Income Received** Personal income tax is due on an annual basis. 20% of the income is tax deductible. If the real estate and/or the movable property are owned by more than one person, the income is divided in proportion to the participation in the ownership. If the rent is payable to a non-Bulgarian tax resident, a 15% withholding tax is levied.

**Incomes of individuals and businesses carrying out certain activities enumerated in the PITA**, whose annual turnover for the preceding year has been up to BGN 75,000, are taxed with a final patent tax. The patent tax is levied as annual lump sum, which depends on the nature of the activities and other criteria, established by PITA.

**Royalty payments and technical services fees**, when paid to non-Bulgarian tax residents are subject to a 15% withholding tax at the source (the paying company or partnership). No additional tax is levied. Fees for management services are not considered technical services fees and are not subject to withholding tax.

**Dividends** (including any distributed profit from companies or partnerships) are taxed by 15 % at the source (the paying company or partnership) which is the final tax on this kind of income. Stock dividends are not taxable.

**Payments under lease, factoring and franchising contracts** are subject to 20% final tax on the excess over BGN 100.

**Interest payments** except for those defined as non-taxable, are subject to 20% final tax on the excess over BGN 100.

**Other income**, e.g. income from occasional transactions is taxed with 20% final tax on the excess over BGN 100. Income in the form of compensations from voluntary pension, health and social insurance is taxed under the general rules.

## 6. 2.2.6. Tax Credits.

Tax credits may be granted on the basis of double taxation treaties in force. If there is no double tax treaty in place PITA provides for unilateral tax credit to be granted to Bulgarian tax residents for the taxes paid abroad. Tax credit is assessed on a per-country limitation basis and is limited to the amount of the Bulgarian tax, which would be paid, on the foreign source income.

## 7. 2.2.7. Tax administration.

**Returns:** Persons who during the tax year have received income only from:

- employment; and/or,
- rentals from agricultural land; and/or,
- certain compensations taxed at their payment,

are not obliged to submit tax returns. Other taxpayers submit annual tax returns by 15 April of the year following the respective tax year. For tax purposes, spouses are treated as separate taxpayers. No income splitting is allowed.

The standard form of the tax returns is promulgated in the State Gazette and is available on Internet.

**Payment of Tax:** Personal income tax on employment income is withheld from the gross remuneration on a monthly basis by the employer. The employer acts as an agent of the Revenue authorities and transfers the tax to the budget. Taxpayers who are not employees in certain cases pay advance tax, either regularly (sole traders), or whenever income is received.

**Social security, unemployment fund and health care contributions:** In general, employers are obliged to pay social security contributions at a 26.3% rate, and employees at a 6.4% rate. Unemployment fund contributions are payable by the employer at a 4 % rate, where 3.2% is for the account of the employer and 0,8% is for the employee's account.

Health care contributions at a 4.8% rate will be due by the employer and another 1.2% by the employee.

The above contributions are calculated on the remuneration and other employment income of

the employee for the respective month but on not more than 10-times the minimum salary for the country (which at present amounts to BGN 79).

## **VIII. 2.3. Value Added Tax. General Statements.**

The Law on Value Added Tax (the Law on VAT) currently in force is effective as of 1 January 1999. Although Bulgaria is not a member of the European Community, the VAT legislation in many aspects follows the provisions of the EU VAT Directive VI.

All *supplies* of goods and services conducted by persons that are subject to taxation under the Law on VAT, the place of discharge whereof is within the territory of the country, as well as the import and export of goods, are *object* of taxation with a value added tax. Persons, that conduct independent economic activity<sup>41</sup> regardless of the objectives and results of this activity, are *subject* to taxation under the Law on VAT<sup>42</sup>.

### **1. 2.3.1. Administration.**

VAT is administered by the Ministry of Finance, in particular, by tax and customs administrations.

Although VAT is administered separately from the other taxes at present, any VAT refunds that arise may be used to cover other tax liabilities, subject to certain conditions and procedures.

### **2. 2.3.2. Registration.**

Under Art.5 of the Law on VAT, any person (legal or natural, resident or non-resident), who/which has a taxable turnover exceeding BGN 75,000 during the preceding 12 months, is obliged to register for VAT purposes. The provisions of the Law on VAT provide for a

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41 The Law on VAT defines the concept "independent economic activity", i.e. any activity conducted regularly or by occupation, including any intellectual one, performed as a free profession. Furthermore, independent economic activity is also any activity, related to production, trade, agriculture, provision of services, extraction of raw materials and performance of preparatory or ancillary operations for the purposes of use or consumption by consumers. The exploitation of tangible or intangible property for the purposes of obtaining income therefrom, is also considered an independent economic activity, providing that it is carried out on a continuing basis.

42 Under the Law on VAT the following persons are not considered subjects to value added tax:

- The state, central and local government authorities, in respect to the activities or transactions they conduct, in their capacity of public authorities;
- Natural persons, in respect to their activities under employment contracts;
- Natural persons who are not sole traders, in respect to their activities regulated by laws, connected with management and supervision of legal entities.

*mandatory* VAT registration of such non-registered persons through an agent, upon achieving the respective turnover, regardless of whether:

- they have a permanent establishment in Bulgaria, and
- the activities are continuing and/or conducted from a “fixed place” in Bulgaria.

*Voluntary* registration is possible for persons with taxable turnover between BGN 50,000 and BGN 75,000. Under the Law on VAT, group or divisional registration is not allowed.

The Law on VAT provides for a few new instances of *optional* VAT registration: A local legal entity, which does not meet the requirements for mandatory VAT registration, may register if its contributed share capital is at least the BGN equivalence of USD 1 million. Such person may keep its VAT registration for a period of three years following the date of registration. After the expiry of this term, the person is subject to de-registration, unless it has met the requirements for mandatory registration or optional registration, based on effected exports.

VAT- registered persons file annual and monthly tax returns. Tax returns should be submitted within 14 days as of the end of each tax period<sup>43</sup>. VAT-registered persons providing both taxable (including export) and exempt supplies are obliged to submit annual VAT returns.

*VAT payments* to the state and VAT refunds from the state can only be made in BGN. Payments should be made within 14 days as of the end of the tax period. In case of de-registration, the payment due for the last tax period should be made within 30 days as of the date of de-registration is completed.

### **3. 2.3.3. VAT Credit Refund.**

Art. 63 of the Law on VAT defines the concept “VAT credit” as the amount charged under the Law on VAT, on goods or services obtained by a registered person under taxable supplies or import of goods during the tax period and which amount the person has the right to deduct.<sup>44</sup>

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43 “Tax period”, within the meaning of the Law on VAT, is this period of time, after the expiry of which the registered person is obliged to submit the return with the results of the same tax period. The tax period is equal to one month for all registered persons and coincides with the calendar month. The *first tax period* after the registration date covers the time from registration date to the last day, inclusive of the calendar month of registration. The *last tax period* covers the time from the beginning of the tax period to the date of termination of registration inclusive. The registered person determines on his own the results of each tax period-tax due to be paid to the republican budgeted, or refund tax to be received from the republican budgeted-on the basis of the supplies and import effected for each tax period.

44 The Law on VAT does not contain a legal definition of the concept “charged tax”. The *Regulations on the Application of the Law on VAT* (published in the SG No. 17/1994) provide that the charging of value added tax is

The VAT credit to be refunded may be set off against the VAT due, as well as against other liabilities to the state. The offsetting takes place during a 4-month term following the period in which the VAT credit occurred. If after this term there is still VAT to be refunded, the refund is to be made within 45 days.

Exporters are entitled to a VAT credit refund within 45 days, if they do not have pending liabilities to the state. Persons with turnover from export supplies exceeding 30% of the value of their supplies in aggregate are considered exporters. VAT credit is also subject to recovery in case of carrying out supplies, which are exempt by virtue of international treaties, to which Bulgaria is a party.

#### **4. 2.3.4. Tax Base.**

Under the Law on VAT, *tax base* is considered to be the value, on the basis of which tax occurs or does not occur, depending on whether the supply is taxable or exempted.

The tax base for supplies within Bulgaria is the price (exclusive of VAT) charged to the customer, and all other taxes and fees, including excise duties, subsidies and financing related to a transaction<sup>45</sup>, as well as any interest and penalties under a transaction. The tax base also includes transportation, package and other expenses related to the supply, if these are borne by the customer.

The tax base for transactions between affiliated parties is at least the market value of the goods and/or services involved.

The tax base for imports includes the customs value, the customs duties and excise duties (if any) on the imported goods.

#### **5. 2.3.5. VAT Exemptions.**

There are three types of exempt supplies enumerated in the Law on VAT:

1. Supplies, which, according to the statutory “place of supply”<sup>46</sup> rule<sup>47</sup>, are provided outside the territory of the country;

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accomplished, as the tax amount is effected as an obligation to the republican budget in the bookkeeping of the registered person.

45 “Financing (subsidies) related to transactions” is defined under the Law on VAT as the grants from the budget or from other persons, constituting an additional payment for goods or services, supplied to third parties to the beneficiary of the financing (subsidies);

46 Bulgaria has adopted the EU definitions of place of supply of goods and services. Under the Law on VAT, “place of supply” of goods is considered any of the following:

2. Supplies of goods in customs warehouses within the frames of the respective customs procedure;
3. Supplies exempt due to their subject, such as:
  - Transfer of ownership and limited property rights over land;
  - Financial services;

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- The place where the goods are assembled or installed, whereby the ownership or other rights over goods, assembled or installed by or at the expense of the supplier are transferred;
  - The place where the goods are located prior to their transportation in case when the goods are not transported and assembled or installed by or at the expense of the supplier;
  - The place where the goods are located as of the date of transfer of ownership or other rights, or their actual delivery in case when the goods are not transported.

“Place of supply” of services is considered any of the following:

1. The place where the immovable property is situated, where the service is connected with immovable property, including:
  - Services provided by experts or agents in connection with immovable property;
  - Services for preparation and co-ordination of construction in connection with immovable property, such as architectural, engineering, supervisory, etc.;
2. The place where a transport service is provided, with regard to the distance covered for the supply of transport services;
3. The place where the service is physically carried out where:
  - The service is connected with cultural, artistic, sporting, scientific, educational, hotel, restaurant and other tourist or similar activities, including the activities for their organization;
  - The service is connected with the transport handling of goods;
  - The service constitutes an evaluation, appraisal or work on movable property;
4. The place of use of goods where they are leased or hired, except for transport vehicles exported by the lessee to another country;
5. The place of supply is also the place of establishment or the business of the customer wherefrom the customer conducts an independent economic activity for the following services:
  - Transfers of ownership or assignments of licenses, patents, copyright, trademark, know-how or other similar industrial or intellectual property rights;
  - Provision of advertising services;
  - Provision of consulting services;
  - Telecommunications services, data processing, and the supply of information;
  - Refraining from activities or waiver of activities or rights;
  - Provision of financial services;
  - Provision of insurance and re-insurance and security services;
  - Supply of stuff;
  - Intermediary services provided by a commissioner acting on behalf of and at the expense of another person, in connection with the above mentioned services.

47 Under the Law on VAT, the general presumption for “place of supply” is provided. This rule determines that except for the cases where evidence is available to prove the contrary, the supply of services is considered effected within the territory of the country, where the place of establishment or business or, in their absence, the permanent address or the usual residence of one of the parties under the supply, is within the territory of the country.

- Insurance services;
- Lease of buildings and parts thereof, provided these are leased out for dwelling purposes;
- Transfer of a going concern of a company, as well as businesses or parts thereof as per the Law on Transformation and Privatization of State and Municipal Enterprises<sup>48</sup>;
- Provision of legal advice by registered attorneys in accordance with the Attorneys Act<sup>49</sup> and of services under the Notaries Act<sup>50</sup>;
- Land processing services rendered by co-operatives by means of their own equipment, provided that the land is owned by the co-operative members;
- Supply of grain as an in-kind rent for use of land;
- Betting and gambling;
- Donations in favor of charity institutions;
- Other.

## 6. 2.3.6. Export of Goods and Services.

The export of goods and services is subject to VAT at a zero rate.

Within the meaning of the Law on VAT, *export of goods* is the exportation abroad or to the free zones, free warehouses and duty-free outlets.

*International transport* is defined to be the transportation between two points abroad, irrespective of whether part of the transport route passes through Bulgaria or not. The transport between the free zones and free warehouses within Bulgaria is also considered international. A number of services relating to international transport (including forwarding or agent services; sales of tickets for international flights and services related thereto) are also considered export services.

Processing of import goods that are further re-exported is also zero-rated.

Exporters are obliged to charge and pay VAT at 20% if the goods intended for export are sold, but not physically exported by the end of the calendar month following the month in which the ownership was transferred as a result of the sale.

48 Published in the SG No. 38/08.05.1992, last amended in the SG No. 108/29.12.2000.

49 Published in the SG No. 80/27.09.1991, last amended in the SG No. 61/25.07.2000.

50 Published in the SG No.104/06.12.1996, last amended in the SG No. 69/03.08.1999.

When the goods are subsequently exported, the sale is re-characterized and the respective VAT charged and paid to the state by the exporter should be recovered. However, there are no clear rules on how re-characterization of the sale will be reflected in the VAT returns and how the recovery will be done in practice.

## **7. 2.3.7. Partial Exemption.**

Where a registered person makes both: taxable (including zero-rated) and exempt supplies the following rules apply:

- The input VAT charged for goods or services entirely used for taxable (including zero-rated) supplies is fully recoverable.
- The input VAT charged for goods or services entirely used for exempt supplies is not recoverable.
- The input VAT charged for goods or services used both for taxable (including zero-rated) and exempt supplies, is partially recoverable. The amount of recoverable input VAT is calculated by reference to the proportion of taxable supplies to exempt supplies.

## **8. 2.3.8. VAT Rates.**

Under the Law on VAT two rates are applicable to taxable supplies:

- 20% applicable to taxable supplies, including import of goods and services;
- A zero-rate applicable to exports.

## **9. 2.3.9. Disallowable Input VAT.**

As a rule, input VAT cannot be reclaimed for goods and services, which are:

- used for promotional purposes;
- relating to cars;
- used for exempt transactions.

## **10. 2.3.10. Refund of VAT to Non-Registered Persons.**

VAT is not refundable to non-registered persons. However, a number of possibilities as to recovery of VAT charged upon acquisition of assets before the registration, or upon

cancellation of previous VAT registration, are provided. Such VAT refund may be claimed, if the following requirements are met cumulatively:

- the taxpayer registers for VAT purposes;
- the assets are available with the taxpayer on the date of the VAT registration, and
- the required documentation is available.

If VAT is not refunded within the statutory term, interest is charged at the statutory interest rate.

*Reverse charge. Only where services are imported from abroad VAT at 20% should be charged and paid by the recipient if:*

- the latter is registered for VAT, and
- the supplier is not a VAT-registered person, and
- the services relate to exempt supplies.

In all other cases no reverse charge applies in Bulgaria to services received from non-resident suppliers.

## **IX.2.4. Excises.**

*Excise duties* are levied on goods and services of local production, listed in a special *Excise Duties Tariff* that are subject of transactions on the territory of the country, including the continental shelf and the exclusive economic zone, excluding the duty free zones, bonded warehouses and trade centers licensed for foreign exchange operations. Subject to excise duties are the following:

- Spirit drinks, including beer and wine;
- Tobacco products;
- Fuels;
- Some types of automobiles;
- Gambling machines and other casino facilities;
- Coffee and tea.

The producers and importers of excise goods, as well as organizers of gambling games are obliged to register under the Excise Act within 14 days after the start of their activity. This

obligation does not refer to natural persons producing wine and brandy and for traders importing automobiles for their own use not with commercial objectives, as the latter statement should be pointed out in the customs declaration.

The registration should be made by the corresponding territorial tax administration<sup>51</sup>, following an application in writing. This application becomes an integral part of the general tax registration.

The territorial tax authority issues a tax certificate within 14 days after the date of submitting the application for registration.

Excise duties are not levied on:

- Goods exported from the country;
- Goods and services for which an excise has already been paid;
- Production of wine and rakiya (brandy) by natural persons, made from their own raw materials and for personal consumption;
- Transactions between registered wine manufacturers involving non-stabilized wine materials, including those for the production of vinegar;
- International post stamps and other shipments or imported personal luggage by the passengers within the permitted duty free import.

The due excise (including for import) is determined as follows:

- For beer-as an absolute sum in Levs for 1 litre on the basis of initial extract content defined in weight percentage (degree plate);
- For wines -as an absolute sum in Levs for 1 litre;
- For spirit drinks-as an absolute sum in Levs for each volume per cent actual alcohol content per litre;
- Alcohol beverages with alcoholic content over 1.2 vpl.% up to 15 vol.%-as an absolute sum in Levs for each vol.% of actual alcoholic content per litre;
- In respect of alcohol-containing raw materials, as an absolute BGN amount per degree of alcoholic content, and where spirits and alcoholic beverages are produced from such raw materials, the excise is levied as an absolute sum in Levs for each volume per cent actual alcohol content per litre, as the excise payment deposited on the materials input

51 These are tax authorities at the seat or residence of the person subject to registration. Foreign persons are registered by tax authorities at the place of their "permanent establishment", i.e. where the goods are manufactured or services rendered.

is deducted from the excise due on spirits and alcoholic beverages manufactured in a manner established by the Minister of Finance;

- For cigarettes with filter-as an absolute sum in Levs for 1 glass of cigarette to which a percentage of the sale price of producer, respectively importer is added;
- For cigarettes without filter-as an absolute sum in Levs for 1 glass of cigarette to which a percentage of the sale price of producer, respectively importer is added;
- For tobacco for cigarettes, respectively pipe, chewing and taking snuff-as an absolute in Levs for 100 grams tobacco to which a percentage of the sale price of producer, respectively importer is added;
- For cigars-as an absolute sum in Levs for 1 glass of cigar to which a percentage of the sale price of producer, respectively importer is added;
- For benzine for engines, benzines for technical objectives, kerosine, gas oils and toluol-as an absolute sum in Levs for 1tonne;
- For gambling slot machines, roulettes and other gambling facilities in a casino- as an absolute sum in Levs for the quarter for each gambling machine, gambling table or other gambling facility;

In the remaining cases the excise due is determined as follows:

- For goods and services produced locally, as a percentage of the producer's sale price;
- At import of goods-as a percentage of the customs value under the Law on Customs<sup>52</sup>, defined in Levs and increased with all due customs sums;
- For goods and services produced locally which are subject of transaction between affiliated persons, as a percentage of the market value of the goods or services.

The excise duty rate is a percentage of the value of the respective goods, in case the excise due is not determined as an absolute sum in BGN.

The Excise Act provides for reimbursement of excise duties upon exportation of goods, when excise stickers have been paid but not used by producers.

## **X. 2.5. Local Taxes and Fees. General Statements.**

Under the Law on Local Taxes and Fees, the following taxes and fees are payable to the municipal budget:

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52 Published in the SG No. 15/06.02.1998, last amended, in the SG No. 63/01.08.2000.

*Local taxes:*

- Tax on immovable property;
- Tax on inheritance;
- Tax on grants;
- Tax on paid acquisition of property;
- Tax on vehicles;
- Other local taxes determined with laws.

*Local fees for:*

- Household waste;
- Use of markets, market place, fairs, pavements, squares, street lanes;
- Use of kindergartens, camps, hostels, social care homes and other forms of social services;
- Use of resort;
- Obtaining of quarry materials;
- Technical services;
- Administrative services;
- Dogs;
- Buying out grave places;
- Guarding and preservation of farm properties;
- Other local taxes determined with laws.

Local taxes are collected by tax administration authorities and local fees-by the municipal administration. Local taxes' rates are determined in the Law on Local Taxes and Fees. The Municipal Council within the frames of the same law determines the rates of the local fees.

## **1. 2.5.1. Tax on Immovable Properties.**

Tax on immovable properties is levied on located on the territory of the country buildings, yards, parcels and built farm and forestland for the actually built area and the adjacent one. Farmland and forests are not levied with this tax.

Tax liable persons<sup>53</sup> are the property owners, respectively the users of an established real right for use. Tax on immovable properties is due regardless of whether the property is used or not.

Tax liable persons are obliged to submit a declaration to the tax administration at the location of property, within two months from its acquisition. Legal persons, sole traders and other persons that keep an accountancy submit a declaration to the tax administration at the location of property, within two months from its acquisition, in which they indicate the property type, its exact location, the accountancy value and other circumstances of importance for tax determination.

Tax is determined on the basis of tax valuation of the above mentioned immovable properties by January 1 of the year for which it is due. The tax valuation for natural persons' immovable properties is determined by the tax authority on standards according to Addition 1 of the Law on Local Taxes and Fees, depending on the property type, the location, the area, the construction and the wearing out. As regards the property tax valuation of legal persons, it is the accounting value of the properties. The tax valuation of properties, on which a right for use is established, is their accountancy value under the owner's balance sheet or the tax value according to Addition 1.

Tax on immovable properties is determined on the basis of tax valuation at the rate of 1.5 per thousand. The tax is paid in four equal parts in the following terms: from February 1 till March 31; till June 30; till September 30; till November 30 of the year for which it is due. Persons that have paid the tax in the first term for the whole year, enjoy a discount of 5%. For a property which is a basic home of the owner, the tax is due with 50% decrease.

## **2. 2.5.2. Tax on Inheritance.**

Tax on inheritance is levied on inherited under law or under testacy properties in the country or abroad that belong to Bulgarian citizens and properties in the country that belong to foreign citizens. The properties of citizens without citizenship are levied as properties of Bulgarian citizens if their permanent establishment is in the country.

Within six months after opening of the inheritance, the inheritors of the above mentioned properties or their legal representatives submit a declaration to the territorial tax authorities at the last residence of the grantor and if the latter has had a residence abroad-at the location of the greater part of his property in the country.

53 Foreign persons are liable for taxes on immovable property only in the cases where they have made an investment under the Law on Foreign Investments, i.e. for any investment made in ownership rights over buildings and limited real rights over property.

Properties subject to tax on inheritance are valued in BGN by the date of opening of the inheritance. Immovable properties are valued according to Addition 2 of the Law on Local Taxes and Fees.

The levied inherited property is divided into quotas between the property inheritors<sup>54</sup>. The quotas are corrected with the testacy amounts. Tax on inheritance is determined for each inheritor separately depending on the degree of relationship with the grantor.

Most favorable conditions are granted to the spouses and inheritors of *direct line*. A non-taxable quota is provided for them in the Law on Local Taxes and Fees of BGN 15,000. At amounts exceeding the non-taxable minimum, the tax rate grows from 0,1 % for the difference between BGN 15,000 and 50,000, to 10% for the surplus over BGN 1 million per inherited quota.

Non-taxable minimum is not granted to inheritors of *collateral line*, as the lowest tax rate of 0,1% is provided per inherited quota of up to BGN 15,000. The tax rate grows progressively up to 12% per inherited quota over BGN 1 million.

The highest tax rate is provided for inheritors *other* than the mentioned above. It varies from 3% per inherited quota of up to BGN 15,000 to 20% per inherited quota over BGN 1 million.

Tax on inheritance is paid by inheritors under law or under testacy, as well as by legates within two months term after receiving the announcement for opening of the inheritance. The Law on Local Taxes and Fees provides for an obligation for banks, insurance and other commercial companies to send a description of the property to the territorial tax authorities at the place of opening of the inheritance.

The inherited property is determined and valued in BGN as follows:

- Immovable properties-according to the tax valuation under Addition 2 of the Law on Local Taxes and Fees;
- Foreign currency and precious metals-according to the central rate of exchange of the Bulgarian National Bank;
- Securities-according to their market value and when it cannot be determined without significant expenses or difficulties, they are valued according to the nominal;
- Vehicles-according to their insurance value;
- Other movable properties and rights -according to their market value;

Enterprises and share participation in commercial companies or cooperatives-according to their market value and when it cannot be determined without significant expenses or difficulties-according to their accounting data.

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<sup>54</sup> The quotas are distributed in accordance with the Law on Inheritance, published in the SG No. 22/29.01.1949, last amended in the SG No.34/25.04.2000, in force since 01.01.2001.

### **3. 2.5.3. Tax on Paid Acquisition or Grants of Property.**

According to the Law on Local Taxes and Fees, this tax is levied on properties acquired as grants as well as immovable properties, limited real rights over them and vehicles acquired against payment. Thus, the grant of any property is levied with this tax.

Tax rates here depend also on the degree of relationship between the donor and the donatary, i.e.:

- 0.5%-for a grant between relatives of *direct line* and between spouses;
- 0.7%-for a grant between brothers and sisters, and to nephews;
- 5%-for a grant between persons *other* than the pointed above.

For properties acquired *against payment*, tax rate is 2% of the valuation of the transferred property and in case of exchange-2% of the valuation of the property, which is of a higher value. This tax is due only for the acquisition of immovable properties, limited real rights over them and vehicles against payment. Other properties, acquired against payment are not levied with this tax.

The tax is paid by the acquirer of the property and in case of exchange-by the person acquiring property, which is of a higher value, except otherwise agreed by the parties. In case the parties agree that the tax is due by both of them, they are jointly responsible for its payment.

Tax liable persons are taxed after submitting a declaration for levying of the property with this tax in one-month term after receiving the grant. In the other cases, the tax is paid before the property transfer.

### **4. 2.5.4. Tax on Vehicles.**

Tax on vehicles is due for:

- vehicles registered or subject to registration for their movement on the road network of the Republic of Bulgaria;
- ships entered into the registers of the Bulgarian ports;
- aviation means entered into the State Register for Civil Aviation Means of the Republic of Bulgaria, when they are owned by Bulgarian natural or legal persons.

Trains are not levied with this tax.

The tax is due by the owner of the respective vehicle. The owner declares to the territorial tax administration at the place of his permanent establishment, respectively headquarters, the vehicles, owned by him in one-month period after the acquisition of the vehicles.

The Law on Local Taxes and Fees defines separate tax amounts for each type of vehicles. For vehicles acquired during the current year, the tax is paid in one-month term after the date of acquisition in extend of 1/12 of the annual tax for each month till the end of the year, including the month of acquisition.

Tax is paid in two equal parts in terms as follows: till March 31 and till September 30 of the year it is due. Owners that pay the tax in advance in the first term for the whole year enjoy a discount of 5%.

## **5. 2.5.5. Local Fees.**

*Household waste fee* is closely connected with the immovable property and is paid by the property owner, together with the tax on immovable properties and in the same terms. The owners that pay this tax in advance in the first term-March 31 of the year it is due enjoy a discount of 5%. Tax amount is determined depending on the number and type of the containers for household waste, or, depending on the properties' tax valuation.

*Use of markets, market places, pavements, squares, street roadways, fairs and terrains with other designation fees* are paid by natural and legal persons depending on the city zone, in which the terrains are situated. The Municipal Council determines the zones, and the tax amounts for the separate area units.

*Use of kindergartens, camps, hostels, social care homes and other forms of social services fees* are collected from parents or guardians within the frames of determined in the Law on Local Taxes and Fees minimum and maximum limits, as a percentage from the minimum monthly salary for the country.

*Use of resort fee* is paid for the use of resort. Tax amounts vary depending on the different resort types.

### **3. MECHANISMS FOR AVOIDANCE OF DOUBLE TAXATION UNDER DOUBLE TAXATION TREATIES.**

#### **XI. 3.1. Double Taxation Treaties. General Statements.**

Double Taxation Treaties are the acts that distribute the competencies of the contracting states related to taxation with certain types of taxes and avoid double taxation of one and the same income by both states.

The Law on Foreign Investments defines exclusively the principle of priority of international treaties. This principle finds its application in relation to *double taxation treaties*. In the cases where these treaties provide for more favorable conditions than those established by the domestic tax legislation, the conditions under the treaties will be applicable. Domestic tax legislation and double taxation treaties apply together in mutual combination, as the domestic tax provisions are not derogated as a whole, but only as regards specific provisions that are prevented from operation. The terms and conditions of the treaty are applicable if they are more favourable than those provided in the domestic legal norms.

Double taxation treaties are applicable to persons that are considered local by one of the contracting states or simultaneously by both of them. The criteria for definition of the concept "local person" are indicated by each of the contracting states in the treaty and this definition is in compliance with their domestic legislation.<sup>55</sup> If a person is considered local in relation to both contracting states, an additional criterion is used. Then, the person is considered local of the state, with which it has the closest personal and economic relations.

All of the concepts used are defined in the treaties, such as: dividends, interests, royalties, etc. The treaties apply only as regards the taxes explicitly included therein.

*Profits* are taxed only in the country where the local person conducts its business activity. It is allowed profits taxation in the other country, but if the local person receives income there through a permanent establishment and only to the amount which may be related to the permanent establishment.

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55 Thus, for example, in the Treaty between Bulgaria and Portugal (published in the SG No.80/1986), the concept "local person", in relation to Bulgaria is defined as the person which is subject to taxation pursuant to Bulgarian legislation, based on the criteria :citizenship, seat, place of management or registration; in relation to Portugal, local is the person which is subject to taxation pursuant to Portuguese legislation, based on the criteria: domicile, residence, place of management or other criteria of similar nature.

*Dividends*<sup>56</sup> are taxed in the country towards which the person that receives dividends is a local one. Dividends may be taxed in the country where the seat of the company, which pays them is located, if the recipient is their actual user (beneficial). In these cases, certain treaties provide for a minimum tax rate.<sup>57</sup>

*Interests* accrued are taxed in the country whose local person is the recipient of interests. In the cases where the person conducts business activity in the other contracting country and the receivable from which interests originate is from that place, interests are taxed by the state where the person conducts its business activity.

*Real property income* is taxed in the state, where the property is located.

*International transport income* derived from the exploitation of ships and road motor vehicles may be taxed only by the contracting state, in which the person to whom the enterprise belongs, is a local one.

*Paternity and license awards (royalties)* are taxed pursuant to the tax regime of the state, in relation to which the person that receives them is a local one. Such fees and royalties may be taxed in the contracting state, where their source is and in compliance with its legislation, but if the recipient is the actual user (beneficial) of the fees and royalties. In these cases the tax cannot exceed 5% of the gross amount of the fees and royalties.<sup>58</sup>

## **XII. 3.2. Methods for Avoiding Double Taxation.**

The avoidance of double taxation under the terms and procedures of the treaties is effected by the principle of uniformity of methods. As a rule, in a case where a local person of one of the states has been taxed for income received in the other contracting state, the former exempts from taxation the income that is included in the treaty. This is *the method of exemption*. Some cases exist, where it is provided that the state may deduct the sum paid in the other country from the tax due. This is *the method of deduction or credit method*.<sup>59</sup>

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56 Under the Double Taxation Treaties between Bulgaria and Germany (published in the SG No.98/1988) and Bulgaria and Austria (published in the SG No.6/1985), the following rates of dividends, interests, royalties and technical services are given:

- *Germany*-dividends-15%;-interests-0%;-royalties -5%;-technical services-5%;
- *Austria*:-dividends-0%;-interests-0%;-royalties-0%;-technical services-0%.

57 For example, tax rate on dividends cannot exceed 10% of the total sum of dividends in the treaties between Bulgaria and Norway (published in the SG No.48/1989), Bulgaria and the United Kingdom and Northern Ireland (published in the SG No.12/1988), etc.

58 The Treaties between Bulgaria and Italy (published in the SG No.13/1991), Bulgaria and Sweden (published in the SG No.45/1989), Bulgaria and Luxembourg (published in the SG No.91/1994), etc.

59 For example, pursuant to the provisions of the Treaty between Bulgaria and Portugal, in case where a Portuguese local person earns income, which in compliance with the Treaty's provisions should be taxed in

The mechanism of double taxation treaties applies to the taxation of foreign persons in the relevant states, with which treaties have been concluded. Foreign tax authorities should deduct and exempt the tax amounts paid in Bulgaria, included in the relevant double taxation treaty. In cases where the treaty provides for tax rates of less value, tax administration authorities should apply these rates to foreign persons' taxation.

The norms of double taxation treaties provide the rules for determination of the terms and procedures for avoidance of double taxation.<sup>60</sup>

According to the Instructions on the Application of Double Taxation Treaties<sup>61</sup> issued by the Ministry of Finance in connection with the repeal of the Decree No.5 on the Terms and Procedures for Application of Double Taxation Treaties in relation to Foreign Persons and Foreign Non-Incorporated Partnerships (the Decree), tax liable persons are not required to prove the availability of the prerequisites provided in the repealed Decree.

The availability of the prerequisites for application of double taxation treaties will be examined by tax administration authorities only when a subsequent tax control is made.<sup>62</sup>

#### **4. TAX PROCEDURE. TAX ADMINISTRATION.**

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Bulgaria, Portugal will allow a deduction from the income tax of this person to an amount, equal to the tax paid in Bulgaria.

60 The terms and procedures for application of double taxation treaties were regulated by *Decree No.5 of March 18, 1998 on the Terms and Procedures for Application of Double Taxation Treaties in relation to Foreign Persons and Non-Incorporated Partnerships*, issued by the Minister of Finance. The Decree was repealed by *Decision No. 2071 of April 6, 2000* of the Supreme Administrative Court of Bulgaria as null and void. The Decree provided for several prerequisites for the application of double taxation treaties, i.e.:

- The foreign person should be a local person of a state with which a double taxation treaty had been concluded;
- It should be owner of the income from a Bulgarian source;
- It should not have permanent establishment or a fixed base on the territory of Bulgaria, with which the relevant income was actually connected.

The above mentioned prerequisites had to be proved through a written request submitted to the Chief Directorate of Tax Administration with the Ministry of Finance and the territorial tax administration at the location of the seat of the income payer.

61 No.d-24-00-283/06.07.2000.

62 As was indicted in the motives of the Decision of the Supreme Administrative Court of Bulgaria, the repeal of the Decree as null and void does not mean that double taxation treaties apply directly, without examination of the availability of the prerequisites provided in the repealed Decree. This statement is imposed also in the provisions of double taxation treaties, where it is provided that the reduced tax rate applies only if it concerns an income that is paid off to a person, local of the other contracting state, and which person is the actual owner of the income and that the person's permanent establishment is not connected with the source of the income.

Tax procedures, tax administration competencies and structure, as well as terms for collecting state claims are regulated by the Tax Procedure Code (the Code), published in the State Gazette No. 103/30.11.1999, last amended in the state Gazette No. 63/01.08.2000.

There are five separate tax procedures provided in the Code. Each of them has its own specifics within the frames of the Code, which is an independent normative act other than the Civil Procedure Code and the Criminal Procedure Code<sup>63</sup>.

Tax procedures treated in the Code concern not only tax liabilities, but also other public state or municipal claims (such as determination, provision and collection of state and municipal claims).

Tax procedures regulated under the Code are the following:

- Registration of tax subjects;
- Determination of tax and other state and municipal public claims;
- Provision for tax and other state and municipal public claims;
- Collection of tax and other state and municipal claims;
- Control on acts and actions.

The Code provides for the application of other laws related to tax procedures, but only as regards the cases explicitly enumerated therein. Thus, the cases that are not regulated in the Code are treated under the terms and procedures of the Civil Procedure Code<sup>64</sup>. The procedures on tax acts cassation appeal are regulated by both: the provisions of the Law on the Supreme Administrative Court<sup>65</sup> and the provisions of the Civil Procedure Code. The Law on Administrative Violations and Penalties<sup>66</sup> regulates the establishment of violations, penal ordinance issuance and its appeal. Tax penalty procedures are not regulated in the Code, because another law is applicable in relation to these cases. Tax administration authorities are responsible for damages, caused by their acts or actions under the terms and procedures of the Law on Responsibility of the State for Damages Caused on Citizens<sup>67</sup>.

The Code regulates *tax administration* statute and duties, as well as the rights and obligations of tax administration authorities. Tax administration is divided into Central Tax Directorate, Regional Tax Directorate and Territorial Tax Directorate. The Minister of Finance carries out the general management and control of tax administration activities.

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63 As of January 1, 2000 the procedure of tax matters was compiled for the first time in a single act-the Tax Procedure Code. The Code superseded the Tax Administration Act (published in the SG No. 59/09.07.1993), the Tax Procedure Act and the Collection of State Claims Act (published in the SG No.26/26.03.1996).

64 § 21 of the Transitional Provisions of the Code.

65 Published in the SG No. 122/19.12.1997, last amended in the SG No.95/02.11.1999.

66 Published in the SG No.92/28.11.1969, last amended in the SG No.92/10.11.2000, in force since 01.01.2001.

67 Published in the SG No.60/05.08.1988, last amended in the SG No.92/10.11.2000, in force since 01.01.2001.

The territorial scope, the number and denomination of regional and territorial tax directorates and their sections, as well as the organization, system of activities, functions and personnel number of each administrative section is determined in organizational rules.

The Code provides a legal definition of the concept "tax organ". Pursuant to the Code tax administration organs are:

- The Chief Tax Director;
- The Regional Tax Directors;
- The Territorial Tax Directors;
- Chiefs of departments, sections and sub-sections;
- Chief tax experts;
- Tax experts;
- Chief tax inspectors;
- Tax inspectors.

The rights and obligations of tax administration organs are comprehensively enumerated in the Code. Pursuant to the Code, on conducting of their activities, tax organs may:

- Perform tax examinations and revisions, as well as determine tax liabilities;
- Determine administrative violations;
- Impose administrative penalties whenever they are stipulated in the tax laws;
- Have free access to the materials subject to tax control;
- Require and confiscate original documents, certified copies of documents, data, pieces of information, verifications and other information from controlled persons and other persons related to the income, revenues and properties subject to taxation;
- Verify the accountancy of controlled persons;
- Verify accounting, commercial or other papers or documents and information carriers, that effect transactions and services conducted;
- Determine the available funds and material valuables, receivables and securities;
- Perform provision of security measures related to evidences;

- Impose measures for provision of tax claims under the terms and procedures of the Code;
- Require information, documents, accounts and other documentation from third persons, necessary for accomplishment of cross-examinations and revisions;
- Require written explanations from revisited, controlled and third persons on observing the provisions of the Code;
- Nominate experts.

Public claims are redeemed with the expiry of 5 years *prescription term* assumed as of January 1 of the year following the year in which the claim is due unless otherwise provided in a law. With the expiry of 10 years prescription term all public claims are redeemed, regardless of the prescription stopping or termination.

According to the provisions of the Code, the prescription is stopped when:

- Tax audit has started-till its finishing but not more than a year;
- Execution of tax act is stopped-for the stop- term;
- Permission for deferring or delay of payment is given-for the term of deferment or delay;
- Debtor that is a natural person resides out of the country for more than three months without ceasing of this term-till the date of its coming back.

Prescription is terminated when:

- Act for establishment of public claims has entered into force;
- Securing measures are imposed;
- Actions are undertaken for compulsory collection.

After the termination of the prescription a new prescription term is in force.

## **ABBREVIATION**

BGN	Bulgaria Leva Denominated
CITA	Corporate Income Tax Act
CPA	Certified Public Accountant
EU	European Union
FIFO	First-in-first-out (inventory accounting)
IAS	International Accounting Standards
IASC	International Accounting Standards Committee
IFAC	International Federation of Accountants
LIFO	Last-in-first-out (inventory accounting)
NAS	National Accounting Standards
PITA	Personal Income Tax Act
SG	State Gazette
VAT	Value added tax

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