Doing Business in Russia

Your Roadmap to Successful Investments

Tax and Legal

kpmg.ru
Foreword

Dear Reader,

This brochure has been prepared to provide an economic overview of Russia and to introduce the tax and legal issues that are important for those planning to do business in Russia. In particular, we provide a discussion of the benefits of investing in the special economic zones, as well as a review of current trends in the wider economy concerning innovation and modernisation.

Russian tax and civil legislation is constantly developing, meaning that sometimes there is no clear answer to what might be considered a simple question. In such circumstances, court cases and rulings are important sources for interpreting legislation.

The exchange rate used in this report is the official exchange rate of the Russian Central Bank on the 1 May 2018, which was USD 1 : RUB 61.9997. This brochure is not intended to provide tax or legal advice for any specific person or situation. Readers are strongly advised to seek professional assistance from advisors with experience of doing business in Russia before undertaking any business ventures themselves.

About KPMG

KPMG is one of the world’s biggest advisory, audit, and tax and legal firms. KPMG is a global network of professional firms providing Audit, Tax, and Advisory services. The company employs more than 200,000 outstanding professionals who work together to deliver value in 154 countries worldwide. KPMG has been working for 27 years in Russia and has 4,700 professionals working at 24 offices spread across nine CIS countries.

In recent years, KPMG in Russia and the CIS has been one of the fastest growing KPMG practices in the world. KPMG has been consistently rated the No.1 audit firm in Russia from 2009-2017 by Expert RA* and was named Transfer Pricing Firm of the year in Russia from 2014-2018 and Tax Advisory Firm of the year in 2014-2018 in Russia by International Tax Review magazine.

Saint Petersburg
# Introduction to Russia

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Country snapshot

<table>
<thead>
<tr>
<th>Capital</th>
<th>Moscow</th>
</tr>
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<tbody>
<tr>
<td>Area</td>
<td>17 mln sq km</td>
</tr>
<tr>
<td>Population (1 Jan 2018):</td>
<td>&gt; 146.9 mln (Rosstat)</td>
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<tr>
<td>Cities with over 1 million citizens:</td>
<td>15</td>
</tr>
<tr>
<td>Number of regions:</td>
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<td>Prime Minister:</td>
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<tr>
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<td>Rouble (RUB)</td>
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Measures for encouraging innovation and modernisation in the economy

Special Investment Contracts (SPIC)

General provisions

Special Investment Contracts (SPIC) are a relatively new form of cooperation between the Government of Russia/the governments of Russia’s Regions and private investors. Under a SPIC, an investor undertakes to set up a new, or modernise an existing, production facility, while the Russian Federation and/or that Russian Region undertakes to provide certain tax and non-tax benefits.

The SPIC investor is free to engage other private actors to undertake certain actions required by the SPIC. The possibility of having several participants on the private side of the SPIC provides flexibility and allows for different operational models to be deployed in an investment project.

On the public side – depending on the investment project and designated benefits – a SPIC may be concluded with the Government of the Russian Federation (a Federal SPIC), with the Government of a Russian Region and/or municipality (a Regional SPIC), or with both the Government of the Russian Federation and a Russian Region and/or municipality (a Multilateral SPIC).

SPICs are concluded for the period of time in which a project starts to earn operating profits, plus 5 years; but not for more than 10 years.
Investment projects in the following industries\(^1\) may be subject to SPICs:
machinery manufacturing and automotive; metallurgy; oil processing and petrochemicals; gas processing; charcoal, aviation and shipbuilding; telecommunications, electric power, electronic and radio electronics; pharmaceuticals, medical and biotechnology; forestry, pulp, paper and wood processing; certain agricultural industries, and some other industries.


The regulatory framework for SPICs continues to develop and further changes might be expected as regards eligible industries, benefits provided, etc.

**Benefits for investors**

SPIC investors potentially may be eligible for the following key benefits:

1. tax incentives that may include reductions in profits tax and property tax rates, as well as local tax incentives;
2. no increases in their tax burden, and guaranteed regulatory stability for certain regulations;
3. “Single Supplier” status for investment projects of at least 3 billion roubles (USD48,387);
4. simplified procedures for obtaining the status of “Russian manufacturer”;
5. simplified procedures for receiving land plots for the investment project;
6. subsidies, etc.

**Tax incentives**

Tax concessions may include profits tax and property tax incentives as follows:

- application of a 0% profits tax rate for taxes due to the Federal budget (instead of the normal rate of 2% or 3%) during the period in which the regional profits tax incentive, introduced by Regional regulations, applies.
- reduction of the profits tax due to the Regional budget down to 0%, depending on the region (but not beyond 2025).
- exemption from, or reduced property tax on, fixed assets generated within the investment project.

Some regions have introduced regional tax incentives for those signing a SPIC, e.g. Moscow Region, Kaluga Region, Leningrad Region, Nizhniy Novgorod Region, Perm Region, Sverdlovsk Region, Chelyabinsk Region. The scope and criteria of the incentives differ from one region to another.

Current tax law establishes a number of requirements that need to be taken into account for some SPIC projects. For example, to obtain a profits tax benefit, at least 90% of the entity’s income should be generated by the investment project (this

\(^1\) It may be possible to conclude a SPIC in oil processing, petrochemicals, gas processing, charcoal, electric power, and for certain agricultural industries from July 2018.
is difficult to achieve for modernisation projects; or that tax incentives can only be provided to projects that produce goods (not services).

Regions are also entitled to provide land tax, transport tax and regional levy incentives.

### Obligations on investors

When concluding a SPIC, the investor undertakes certain obligations, including the following:

- For Federal SPICS, to invest at least 750 million roubles (USD12,096). Regional authorities may introduce different thresholds for investments under the specific Regional SPIC and Multilateral SPIC signed where the Region is one of the parties;
- That certain KPIs must be achieved within the SPIC’s term, such as volumes of production, amounts of taxes payable, number of jobs created, etc.;
- That production of unique products must begin; that the best technologies must be introduced; etc.

There is a special application procedure that requires SPIC investors to prepare and submit documentation related to their investment project. This includes the SPIC application, a business plan, financial models, etc.

As the regulatory framework surrounding SPICs develops, so too is interest from business in this tool increasing. At least 15 Federal SPICs have been concluded already. Investors are companies with foreign and Russian-sourced capital from various sectors including the pharma, automotive and equipment production industries.

### Regional Investment Projects (RIP)

The Russian Tax Code provides tax incentives to those Russian organisations that undertake Regional Investment Projects (RIP). RIPs may include projects to create new production facilities or modernise those of existing production facilities in Russia, and should meet certain criteria.

### Tax incentives for investors

Tax incentives may include the following:

- Reduced extraction tax over a 10-year period. This incentive is available for projects being realised in certain regions of East Siberia and the Far East.
- Application of a 0% profits tax rate on profits tax due to the Federal budget (instead of the normal rate of 2% or 3%). The length of time the incentive can apply depends on the type of RIP and the Region in which the RIP is realised.
- Exemption from or reduction to the profits tax due to a Regional budget (instead of the normal rate of 17% or 18%). The reduced profits tax rate and the period over which this can be applied depends on the type of RIP and Region in which the RIP is implemented.
- Exemption from or reduction to the property tax on fixed assets used in / related to the investment project. The terms and conditions of the property tax incentive are prescribed in the law of each particular Region.

The scope of incentives depends on the Region where the RIP is being realised. In general, RIP incentives differ for certain regions of East Siberia and the Far East as compared to the RIP incentives provided in the rest of Russia. Additionally, Russia’s Regions have authority to provide specific tax incentives for investors implementing RIPs (to reduce the amount of profits tax due to the Regional budget, or to reduce the property tax rate).

The scope of incentives will also differ depending on the type of RIP: there are RIPs where an investor should first obtain the status of being a RIP participant, being added to the respective Register of RIRPs; and there are RIPs with simplified application procedures (there is no need to add them to any Register).

### Obligations on investors

To qualify for a RIP and related tax incentives, investors should fulfil certain obligations, including the following:

- Invest at least 50 million roubles (USD806,000) during a 3-year period (under certain conditions); or invest at least 500 million roubles (USD8,065,000) during a 5-year period (under certain conditions).
- At least 90% of the entity’s income should be generated by the RIP (this is the profits tax incentive criteria).
- The investor should not be resident in a Special Economic Zone, or part of a consolidated taxpayer group.
- The RIP should not be aimed at the extraction of oil or natural gas and/or oil refining, the provision of related transportation services, the production of excisable goods (except for cars and motorcycles), or activities for which the 0% profits tax rate is applicable.

The RIP is also a popular tool for investors. To get the maximum effect from the incentives under the RIP, careful structuring of the investment project is needed.
Starting a Business in Russia

Legal structures for starting a business in Russia

Investors often face the problem of deciding which legal structure they should choose for their business in Russia. Below you can find guidance on establishing the following:

— Businesses conducting direct sales
— Distributorship contract businesses
— Representative offices or branches
— Russian subsidiaries

Direct sales

A foreign legal entity (FLE) that sells goods directly from abroad to customers located in the Eurasian Economic Union of Armenia, Belorusia, Kazakhstan, Kyrgyzstan and Russia (hereinafter – the EEU) would not be subject to Russian taxes and would not be required to establish a presence in Russia via any corporate structures. The Russian customers are responsible for clearing the imported goods through customs and for paying customs duties and taxes (import VAT, excise duties), as well as customs processing fees.

Import duty rates are set in the Unified Customs Tariff (UCT) of the EEU. Generally, these import duty rates vary from 5% to 20% and apply to goods imported from countries that enjoy ‘most favoured nation’ status. If goods are imported from developing/least developed countries with most favoured nation status, then the customs rates can be reduced. Import VAT is payable on the customs value of the imported goods, and increases in proportion to the amount of the import customs duty.

Copies of technological equipment that is not manufactured in Russia can be exempt from import VAT when imported into Russia.

Some goods imported into the EEU are subject to non-tariff regulations (e.g. certification, licensing, quotas, etc.).

Customs clearance fees generally depend on the value of imported goods but cannot exceed RUB 30,000 (USD484).

A ‘disposal charge’ is also payable on imported vehicles – the rates of this charge can vary depending on the engine power, vehicle weight and seating capacity.

Belarus, Kazakhstan, and Russia have formed the Eurasian Economic Union. They did this by signing an agreement to create the EEU institution in 2014, and since then have been joined by Armenia and Kyrgystan. These countries’ economies are now more tightly integrated than they were under the Customs Union, and freedom of movement for goods, services, capital and labour is ensured, along with guaranteed equal treatment for legal entities.

In 2012, Russia joined the World Trade Organization (WTO) and became a full member. As part of joining the WTO, Russia undertook certain commitments related to various sectors of the economy and international trade:

— Import duties on certain products were lowered, while import duties on computers, components for manufacturing computers and hardware components had to have been removed within three years;
Foreign insurance companies will be permitted to open branches in Russia after the transition period;

Technical regulations will be simplified and developed based on international standards;

A transition period is provided that allows investors in the Kaliningrad and Magadan special economic zones to continue to receive tax breaks;

There will be a transition period lasting until 1 July 2018, during which current industrial assembly regulations will be in force;

Russia will guarantee a certain level of transparency concerning foreign-trade legislation;

State subsidies to the agricultural sector were to be USD9 billion per year in 2012. Subsequently, state subsidies decrease yearly.

Distributorship contract
FLEs have the right to conclude distributorship contracts with Russian companies allowing the Russian companies to sell the FLEs’ goods in Russia. If such an agreement is signed, the FLE will not be taxed in Russia. The Russian distributor shall be responsible for clearing the imported goods through customs and paying customs duties and import VAT. Distributorship contracts are seen as “vertical agreements” from an antitrust law perspective and must comply with antitrust regulations.

Representative office or branch
A FLE can choose to establish a presence in Russia through a representative office (RO) or branch. Neither the RO nor the branch are considered as Russian legal entities, instead being parts of the FLE, and therefore the foreign head office is responsible for the obligations and actions of the RO or branch. The RO can only conduct “preparatory and auxiliary” activities for the head office, whereas a branch can conduct all of the activities usually conducted by the head office, including signing sales contracts. The Russian customs authorities often try to identify the Russian buyers of goods being imported, and can question the right of a FLE’s branch to declare goods for customs clearance. As a result, it can be difficult for branches of FLEs to clear goods through customs, i.e. branches can import goods only for their own internal use, not for further resale.

In order to do business in Russia, ROs and branches should be accredited by the Federal Tax Service of Russia, which has been acting as the accreditation agency since 1 January 2015. The Federal Tax Service accredits ROs and branches of all foreign companies, except for those of foreign banks and foreign civil aviation companies (their ROs are accredited by the Central Bank of Russia and the Federal Aviation Service of Russia respectively). The ROs and branches are accredited for an unlimited term.

Any FLE intending to open its RO or branch in Russia must prepare certain documents and pay an accreditation fee of RUB120,000 (USD1,900). The Federal Tax Service reviews application for accreditation within 25-30 business days and issues a certificate with an accreditation number assigned to the RO or branch. At the same time, a tax registration certificate is issued by the Federal Tax Service. After that, the FLE should obtain the statistics codes assigned by the Federal State Statistics Service and register the RO or branch with the social security funds.

Bank accounts can be opened after the RO or branch have obtained their accreditation and tax certificates, and their statistics registration certificate, but prior to their registration with the social security funds.

In total it takes 6–8 weeks to set up an RO or branch after all the necessary documents have been submitted to the appropriate accreditation agencies. Preparation of the package of documents needed for accreditation involves their drafting, signing, notarisation and, in many cases, legal formalisation outside Russia. This can add to the 6–8 weeks mentioned above.

The time required to open a bank account depends on the requirements of the particular Russian bank chosen by the FLE (usually 2–4 weeks).

Russian subsidiary
An FLE can establish a presence in Russia by incorporating a Russian subsidiary. The most common legal forms for companies in Russia are the Limited Liability Company (LLC) and Joint Stock Company (JSC). In an LLC (Russian abbreviation: “ООО”) participation units attributable to participants are not considered as securities under Russian securities legislation. Shares in a JSC (Russian abbreviation: “АО” or “ТАО”), on the other hand, are considered to be securities and are subject to registration with the Central Bank of Russia’s department governing admittance to financial markets. A JSC can be either public (its shares are publicly traded) or non-public.

Foreign companies often use LLCs to conduct their wholly-owned business in Russia. LLC law has many similar provisions to those in JSC law, though there are certain distinctions.

Generally, only one participant (individual or legal entity) is required to establish an LLC or JSC. However, a solely-owned legal entity cannot establish another LLC or JSC as a subsidiary (i.e. one that would be 100% owned by the legal entity).

Joint Stock Companies
A JSC is a legal entity issuing shares to generate capital for its activities. A shareholder is not generally liable for the JSC’s obligations, and a shareholder’s losses are limited to the size of their shareholding.

Different classes of shares are available. For each share of one particular class, the dividends and voting rights are equal.

Both forms of joint stock company – public and non-public – can issue common or preferred shares and bonds. Both forms are subject to statutory reporting requirements and regulatory restrictions, but the requirements for public disclosure are less rigorous for non-public JSCs.

Recent changes to Russian corporate law introduce shareholder agreements where the shareholders can determine voting obligations at the general shareholders meetings, price the sale of shares, coordinate voting with other shareholders, and engage in other actions related to management, the activities, reorganisation and liquidation of the JSC.

The governing bodies of a JSC are the general shareholders meeting, the board of directors, and the executive body (can be an individual or a group of persons).

The executive body manages the JSC’s day-to-day activities and reports to the board of directors and the general shareholders meeting.
The shareholders meeting, upon a proposal of the board of directors or at its own discretion, can delegate the powers of the executive body to a managing company or to a manager (who should be registered as an individual entrepreneur). If a FLE is appointed as the managing company of the JSC, it must have a branch in Russia from which it performs its management functions over the Russian company.

**Limited Liability Company**

The provisions of LLC law are similar to those of JSC law.

An LLC’s participants are not liable for the LLC’s obligations, and any losses the participants may experience are limited to the size of their respective participation units.

Transfer of participation units to third parties can be prohibited by the LLC’s charter.

If the LLC charter provides such restrictions, a participant has the right to withdraw from that LLC at any time, requiring that the LLC (or the remaining participants) give the withdrawing participant a portion of the LLC’s net assets pro rata to the participation units of the withdrawing participant.

LLC charters can limit the transfer of participation units or provide that the consent of other participants or the consent of the LLC be obtained before transferring the units.

Unlike JSCs, in LLCs the disposal of participation units must be notarised by a Russian notary public. This is done by collecting certain documents, presenting them to the notary, and drafting an agreement on the disposal of participation units, etc.

**Economic partnership**

This legal form is designed for companies involved in innovative activities (including those providing venture capital). A partnership can be formed by two or more participants, with both individuals and companies participating in the partnership. The number of participants in an economic partnership cannot exceed 50, and, if they do, the partnership must be reorganised into a JSC within a year.

The Articles of Association signed by all of the participants is the constitutive document of the partnership. When establishing the partnership, the participants should also conclude a partnership management agreement to govern the rights and obligations of the participants, management of the partnership, and its activities, etc. This agreement must be certified and kept by a notary. The share capital of the partnership is divided into the contributions made by the participants in the form of money, securities, property rights or other rights with a monetary value.

The participants can manage the partnership and also allocate income and expenses. Allocation of income and expenses can be disproportionate to the number of contributions made to the share capital owned by the participants. By unanimous decision the participants should elect among themselves a sole executive body (general director/president/other) for the partnership. The sole executive body maintains a register of participants with information on each participant, information on the size of the participants’ stake in the share capital, the contributions made to the share capital, and the size of the partners’ ownership stakes held in the partnership.

If the partnership’s property is insufficient to satisfy the partnership’s liabilities, and it becomes necessary to impose a court-enforced collection order on the exclusive rights the partnership holds over the results of intellectual activities, then the liabilities of the partnership to its creditors can be satisfied on behalf of the partnership partially or in full by one, several (subject to the consent of all participants) or all participants in the partnership.

The law on economic partnerships came into force on 1st July 2012. Since then, only a few economic partnerships have been established (registered) in Russia. Therefore, some of the practical aspects of conducting commercial activities and managing economic partnerships remain unclear.
Foreign Investment law

Foreign investors enjoy a guaranty that their property rights to their investments and to the profits they earn in Russia will be respected.

Foreign investments are regulated both at the federal and regional levels. According to foreign investment law, the rights of foreign investors to conduct business in Russia and to take profits gained in Russia cannot be less favourable than the rights of Russian investors, though limitations can apply to foreign investors to protect the foundations of the constitutional, health, and human rights systems, as well as to defend the lawful interests of citizens and to ensure state defence and security.

Foreign investors are generally subject to the same treatment as Russian investors. Licensing, notification and permission requirements that may restrict business activities apply to both Russian and foreign legal entities.

The law guarantees protection of the foreign investor’s rights and interests. A foreign investor is entitled to recover losses caused by an unlawful action or omission by the state authorities in accordance with Russian civil legislation.

Property of a foreign investor or of a company owned by foreign participants/shareholders cannot be seized to be requisitioned or nationalised unless stipulated otherwise in Russian federal or international laws.

If requisition occurs, the value of the seized property must be reimbursed to the foreign investor or to the company with foreign participants/shareholders, and if nationalisation takes place, the value of the nationalised property, along with incurred losses, must be reimbursed.

The law also offers protection to foreign investors from unfavourable changes to Russian legislation if the foreign investor holds 25% or more of a Russian company’s share capital. This protection also covers priority investment projects, regardless of the foreign investor’s stake in the project’s share capital. Foreign investors are protected against:

- Newly adopted laws altering customs duties, federal tax rates, and contributions to state non-budgetary funds (subject to certain restrictions);
- Amendments to current laws resulting in an increase of the investor’s tax burden;
- Any bans and limitations on foreign investment introduced in Russia.

Foreign investors are protected during the first seven years of an investment project’s payback period, starting from the date when the foreign investor began funding the project.

Russian legislation limits the activities of non-Russian investors participating in companies that are of strategic value to Russia (‘strategic companies’) and in companies that carry out some other activities, such as:

- Activities related to influencing hydro-meteorological and geophysical processes and events;
- Activities related to using causative agents of infectious diseases (with some exceptions);
- Exploring subsoils and extracting mineral resources on land plots of federal significance;
- Aerospace activities;
- Activities of natural monopolies or companies with a dominant position in the Russian market;
- Harvesting live aquatic resources;
- Activities related to the use of nuclear and radiation-emitting materials and radioactive waste;
- Activities related to the use of encryption facilities and bugging equipment;
- Military-technology activities, etc.

Thus foreign states, international organisations, companies registered in off-shore territories and companies controlled by all of the above cannot enter into transactions that would allow them to control Russian strategic companies (e.g. they are barred from purchasing more than 50% of the voting shares (participation units) in strategic companies, or from participating in the regulatory body of strategic companies, etc.). They are also blocked from transactions that would result in them...
acquiring, holding or using more than 25% of the book value of the property of strategic companies.

Other non-Russian investors (non-Russian private companies, non-Russian individuals, or Russian companies controlled by non-Russian companies or individual(s)) can get control over strategic companies only after obtaining approval from the relevant Russian state authorities.

Other business issues

Licensing requirements

Certain types of activities can be carried out in Russia only once special licences issued by the appropriate licensing agency have been obtained. Examples of such activities are provided below:

- activities related to encrypting;
- production of medicines, aircraft, civil and military weapons;
- activities related to the storage and demolition of chemical weapons;
- overseas and inland waterway passenger and freight transportation;
- activities related to highly explosive and hazardous objects;
- activities related to narcotic and psychoactive drugs;
- educational activities, etc..

To obtain a licence, an applicant must submit an application to the licensing authorities. Licensing requirements depend on the type of licensed activity. The decision to grant or deny a licence is generally made within 45 (forty-five) business days after the authorities have received an application. There can be shorter processing periods in the regulations governing the licensing of certain specific activities.

Generally, licences for each type of activity are issued for indefinite periods of time. The transfer of a licence to another company or individual is generally prohibited.

Under the Administrative Offences Code of the Russian Federation, the licensing authorities are entitled to suspend licences if the licensee violates the licensing requirements and conditions. Acting without an appropriate licence can lead to the imposition of significant penalties, followed by a court order requiring enforced liquidation. Penalties and other consequences depend on the specific circumstances.

For some activities, instead of receiving a licence, a company is required to become a member of a professional self-regulated organisation that sets its own membership criteria (this, for example, applies to engineering, construction and valuation services).

Land ownership

Pursuant to the Constitution of the Russian Federation, land may be held in private, by the state, or be in municipal ownership.

The Russian Land Code regulates the lease and purchase of land. In practice, it is still quite difficult to obtain title to a land plot in Russia from the state or municipal authorities due to the complicated public procedures involved, which can have special regional rules or unique requirements for certain land categories (e.g. agricultural or forest land). However, all owners of buildings have the exclusive right to purchase or lease the land plots underlying and surrounding their buildings.

Typically, land-lease contracts (sometimes with a right to purchase) can be entered into for a maximum term of 49 years. The leasing or acquiring of state property (apart from when executing the aforementioned exclusive right) is likely to require the winning of a tender/auction. If property is leased or obtained without the obligatory tendering procedures, then the transaction may be invalidated.

Certain other restrictions also apply to owning land, e.g. foreign individuals or legal entities do not have the right to own land adjacent to the state border of the Russian Federation. In addition, special laws regulate transactions involving farmland. According to these laws, foreign individuals, legal entities and stateless persons, as well as Russian legal entities in which more than 50% of the share capital is owned by foreign individuals, legal entities or stateless persons, may only lease agricultural land.
Company Law

Liabilities

(i) Parent liabilities
In general, a shareholder’s liability is limited to the amount of capital that the shareholder invested in the company, including as-yet unpaid amounts.
However, in the event of bankruptcy, the company’s creditors have the right to hold the “parent” liable for the debts of its bankrupt subsidiary if the actions of the parent caused the subsidiary’s insolvency.
The parent company is also liable for any deals of its subsidiary that were concluded under instructions issued by the parent company or with its approval.

(ii) ‘Controller’ liabilities
The term “controller” is broadly defined and its definition includes control of a company not only via ownership, but also via contractual or other relationships that allow a person / entity, including a parent company, to take decisions on behalf of the company, or otherwise influence the company’s activities.

Registration
Registration of a legal entity by the appropriate authorities takes three business days from the moment documents are filed.
Registration of a JSC requires six additional weeks, in which its shares are registered with the Department of Corporate Relations at the Central Bank of Russia.

In most cases when a foreign firm is involved, the documents proving the company’s incorporation have originated outside Russia. These documents should be legalised (by attaching an apostille, or via a Russian consulate), translated into Russian and notarised. This process can significantly lengthen the registration period.
It is possible to buy a newly established company, but this should only be done with due care. In establishing these new companies, there have often been violations of official incorporation procedures during the registration process, and sometimes mandatory documents are missing. These missing steps often only become apparent when a change to the company’s constituent documents is required and the registration authorities reject the change due to earlier violations in the incorporation process. Resolving these issues later can be more time consuming and costly than undertaking the standard company registration route. There are also other inherent risks in acquiring ‘off-the-shelf’ companies, such as potential liabilities (e.g. tax liabilities) that could have been accrued in the past when the company was used for undisclosed purposes.

In all cases, any change in the company’s ownership must be registered, and this can take as much time as forming a new company.
It only takes one participant (individual or legal entity) to establish an LLC and/or a JSC. However, LLCs and JSCs cannot
be established by another solely-owned legal entity.

The maximum number of participants in an LLC is limited to 50. If exceeded, the LLC should be reorganised into a JSC or a production cooperative within one year. The number of shareholders in a JSC is not limited by law.

Charter capital

The minimum charter capital for an LLC and non-public JSC is RUB10,000 (approximately USD161). For a public JSC it is RUB100,000 (approximately USD1,613).

Payment of charter capital

For an LLC, 100% of the charter capital should be paid within 4 (four) months from the date of its state registration.

For a JSC, 50% of the charter capital must be paid within 3 (three) months from the date of its state registration, and the balance must be paid in full within the year following state registration.

Bank accounts

Rouble and foreign currency accounts can be opened after the company’s registration, though they must meet certain government and bank requirements.

Establishment costs (LLC, JSC)

A shareholder (participant) in an LLC or JSC must pay a state registration fee of RUB4,000 (approximately USD65) prior to or at the moment the constituent documents are filed with the registration authority for the company’s incorporation. In addition, when registering a JSC’s issue of shares, there is a registration fee of 0.2% of the nominal value of the issued shares (up to RUB200,000 approximately USD3,226).

There are additional fees for translating and notarising the documents. Professional fees for collecting the documents, drafting the constituent documents of the Russian subsidiary,
and for then submitting the documents, range from USD7,000 to USD9,000 for an LLC and from USD13,000 to USD16,000 for a JSC (fees depend on the location (city) of the company to be incorporated).

**Net assets position**

If an LLC’s or JSC’s net assets on its balance sheet fall below its charter capital at the end of the financial year (with the exception of the first and second financial years), the company must, within 6 months after the end of the financial year:

1) Reduce its charter capital to an amount that does not exceed its net assets (but not lower than the statutory minimum amount of charter capital), or
2) Take the decision to voluntarily liquidate itself.

For a JSC, if the value of the net assets falls below its charter capital by more than 25% at the end of 3, 6, 9 or 12 months of the year following the second reporting year, or in each subsequent reporting year (when, at the end of the year, the value of net assets is less than the charter capital), the company must publish 2 announcements (one per month) in mass media outlets that its net assets have decreased. In such a situation creditors can demand early performance of their obligations by the company.

If, for the same period as indicated above, the net assets of an LLC or a JSC fall below the minimum charter capital required by law, the company is subject to being liquidated. If the shareholders or participants do not take the decision to voluntarily liquidate the company, the government authorities are entitled to file a petition in court for forced liquidation, and creditors may demand early termination or fulfillment of obligations and compensation for losses. In practice, forced liquidation is rare if the company meets its obligations (including taxes).

**Debt-to-equity conversion**

In Russian corporate law, converting debt into equity is an option available to both LLCs and JSCs, excluding credit organisations (banks).

An LLC’s debt can be converted into equity in two cases. In the first, the LLC owes debt to a participant, and the participant exchanges the debt for an additional participatory interest in the charter capital of the LLC. In the second, the LLC is indebted to a third party, and the third party can exchange the debt for participatory interest equal to the amount owed.

Shareholders are permitted to offset their monetary claims against the company by purchasing additional shares in the JSC only if the shares are issued via a closed subscription.

**Liquidation**

A company can be liquidated by:

- A decision made at a general shareholders/participants meeting. Reasons can include expiration of the term/achievement of the goal for which the company was established;
- A court decision, if the company committed a material violation of certain laws;
- A court decision, if the company does not submit tax reporting and has not had any operations via its bank accounts during the previous 12 months.

Liquidation procedures include termination of employment and other contracts, forming a liquidation commission, notifying creditors via liquidation announcements in the mass media, settling the claims of creditors, distributing the remaining assets among the shareholders/participants, closing bank accounts, and deregistering the company with the state authorities.

Once a liquidation commission has been appointed, all rights to manage the company are transferred to that commission. If the company under liquidation does not have sufficient assets to discharge its liabilities, insolvency procedures may be applied.

The time limit for liquidating an LLC cannot exceed 12 months, though this limit can be prolonged for a maximum of 6 months by a court decision.

**Insolvency**

Bankruptcy law protects the creditors of companies and outlines the procedures to be followed in the event of bankruptcy. Bankruptcy is understood as the inability to satisfy all pecuniary claims made by creditors, or the inability to meet and execute pecuniary obligations as recognised by a court. A company is considered insolvent and can consequently be declared bankrupt by a court if it fails to meet its pecuniary obligations for the 3 (three) consecutive months after its obligations are due.

Bankruptcy proceedings can be initiated if the debt owed to the company is at least RUB300,000 (approximately USD4,839).

**Reorganisation**

Various forms of reorganisation (mergers, consolidations, split-ups, spin-offs and transformations) are envisaged in the Civil Code for JSCs and LLCs. It is also possible to reorganise companies via a combination of different forms of reorganisation.

Reorganisation entails a number of steps, which include the conducting of a tax audit of the company by the Russian tax authorities, notifying the company’s creditors (who are entitled to request that the company’s obligations be prematurely terminated or accelerated), etc. This means the reorganisation process requires considerable time and effort.
Labour regulations

Relations between employers and employees are primarily regulated by the Labour Code of the Russian Federation (the Labour Code) and by other legal acts and employer-specific regulations such as collective/industry-specific agreements, internal policies, decrees and acts adopted by employers, as well as employer agreements with their staff (if any agreements exist) and direct employment contracts with actual employees.

Russian labour legislation provides employees with rights and benefits, and governs the types of employment contracts that can exist along with the terms under which they can be concluded, amended and terminated.

Importantly, the Labour Code provides that no employment contract can stipulate conditions that are worse than the minimum provisions provided for under Russian labour legislation.

Social partnerships

The Labour Code establishes a set of principles providing for social partnership in labour relationships.

Social partnership is defined as the system of relations between employees, employers, the state and local authorities, aimed at regulating and balancing the interests of the employees and employers in their labour relations. The following areas of interest, among others, are regulated:

— Negotiation of collective agreements;
— Mutual consultation on employment issues;
— Participation of employees in the management of the company;
— Involvement of all parties in negotiations / disputes before things go to court.

Collective agreements

A collective agreement can be concluded between an employer and its employees. The law does not require a collective agreement if neither party requests it.

If a collective agreement is signed, then a trade union usually represents the employees. The employer is represented by the general director or his/her authorised representative(s).

The law allows the parties to define the content of any collective agreement independently; however, the contents must not make any conditions worse than the minimum standards provided for by the Labour Code. The collective agreement is subject to registration with the appropriate State Labour Office.

Role of trade unions

According to the Labour Code, an employer is obliged to consider the opinion of a trade union(s) (if such a union exists) on certain matters. In Russia, trade unions are more typically formed at company level rather than at industry level.
Employment conditions

Employee guarantees

Russian labour legislation provides certain guarantees for employees, in particular:

— Standard working hours are not to exceed 40 hours per week.
— Overtime is permitted for some employee categories in specific circumstances, subject to certain conditions being fulfilled. In general, overtime should not exceed four hours in two successive days or 120 hours per year. Overtime is payable at the following rates: no less than 1.5 times the normal salary rate per hour for the first two hours, and no less than twice the normal rate for subsequent hours and for work on weekends and non-working days. Employees additionally have the right to demand additional days off as compensation for overtime.

— An employer does not have the right to require that an employee performs functions beyond those set out in his/her employment contract, unless business circumstances require otherwise, in which case the employer has the right to transfer the employee to a position in a different line of work for a period not exceeding one month. An employee can be assigned to a job requiring lower qualifications only subject to the employee’s written consent. If the employer needs additional work performing by the employee, then the employee needs to provide his or her written consent and the relevant paperwork needs to be completed.

— Employees are entitled to 14 paid non-working days of public holidays and annual leave of at least 28 calendar days. For some categories of employee, the minimum annual paid leave established by legislation can exceed 28 calendar days.

— An employee is entitled to a sick leave allowance, paid by his/her employer and the Social Insurance Fund, based on the employee’s salary. This allowance is between 60% and 100% of the employee’s salary, depending on length of service. However, for 2018, this cannot be more than RUB 2,017.81 (USD33) per day. Employers may pay temporary disability benefits at a higher rate at the employer’s expense.

— Legislation also provides wages covering time spent travelling on behalf of work, for performance of the functions of a trade union officer, for appearing in court, for going to vote, and for fulfilling other state or social duties.

— In certain situations, legislation provides severance pay.

— Women are entitled to maternity leave for 70 calendar days (84 days in Moscow).
Maternity leave is granted along with social insurance benefits, which are paid in amounts defined by statutory legislation. Regardless of her period of employment with a specific company, a woman is also entitled to annual paid vacation, which can be taken either before or immediately after maternity leave, as well as leave until the child's third birthday. During her maternity leave and until the child reaches one-and-a-half years of age, the woman is paid a social insurance allowance. Fathers, grandparents and other relatives are entitled to baby care leave only under certain circumstances.

Employees have the right to organise trade unions and participate in the management of the company.

Generally, trade unions represent the interests of the employees in their dealings with the employer, ensure that the terms of collective agreements are being complied with, and participate in resolving labour disputes in accordance with statutory legislation.

Employment contracts
The Labour Code states that an employment contract should contain “essential” conditions (e.g. place of work, starting date, position, working hours, salary and benefits and other) and “additional” conditions (e.g. trial period, confidentiality, other).

Employment contracts can be concluded for:

- An indefinite term; or
- A fixed term not exceeding five years.

Fixed term contracts are only allowed when employment relationships cannot be established for an indefinite term and specific conditions have been satisfied. In particular, fixed term contracts are permitted, inter alia, for the following types of employees:

- Directors, deputy directors, chief accountants;
- Employees working in companies created for a specific project;
- Part-time workers (having more than one job);
- Individuals in full-time education. Employers are required to sign individual written employment contracts with each of their employees. After the contract is signed, a respective order admitting the employee into work within the company should be issued by the general director. The grounds for terminating employment under Russian employment legislation include, inter alia:

- Mutual agreement, reached by both parties;
- Expiry of the term of the employment contract;
- Cancellation of the employment contract upon the initiative of the employer (as discussed below) or the employee;
- Refusal by the employee to continue working due to a change in the ownership / management or control of the employer, or due to the employer undergoing restructuring;
- Refusal of the employee to continue working after the employer has relocated.

In general, an employee has the right to terminate a contract by giving two weeks advance written notice to the employer, unless an earlier termination date is mutually agreed upon. A fixed term employment contract can be terminated by an employee if he/she is injured or disabled and unable to perform the required work, or if management violates employment legislation / the collective agreement / the employment contract, or if the employee has other good grounds for doing so. In some limited circumstances, the employee has the right to terminate an employment contract without prior notice.

In a limited number of cases, the employer has the right to terminate a contract. These include:

- Staff reductions;
- When an employee has submitted false documents when hired;
- When an employee fails to fulfill their work duties on a regular basis without any good reason for why they cannot; is absent without any good reason for why work; discloses state, commercial or the employer’s internal confidential information; steals from the employer; fails to comply with labour protection requirements, resulting in significant damages;

When the director of a company or company branch commits a single violation of their employment responsibilities;

When an employee with financial responsibilities commits an act which breaches the trust of the company.

Russian law states that employment contracts cannot be terminated on the initiative of the employer, inter alia, with the following types of employee:

- Pregnant women or women with children under the age of three;
- Single women with children under 14 or disabled children under 18.

Where employees are less than 18 years of age, an employment contract can be terminated only with the approval of the State Labour Inspectorate and Commission on Minors.

It can prove difficult to terminate an employment contract on the grounds that the employee is not suitable for the position unless there are clear job requirements with demonstrable failings by the employee. Courts generally rule in favour of the employee when considering cases of alleged wrongful dismissal. In practice, companies seek, where possible, to secure the employee’s voluntary resignation.

Labour book
Russian labour legislation requires that a labour book be kept for each employee who has worked for at least five days at a company, if this work is the employee’s main employment. This is a fundamentally important document in which the employment history of each individual is recorded over his/her lifetime. This labour book indicates the grounds for termination of employment contracts and records rewards and achievements at work, the work performed by an employee, transfers to another place of permanent work, etc.
Every entry into the labour book is attested by the signature of the authorised representative of the employer and by the employer’s official stamp.

**Employee Trial Periods**

Trial periods (typically up to a maximum of three months) are permitted to assess the suitability of employees for a position. Certain categories of employees are not subject to trial periods (e.g. pregnant women, minors, transferees). The trial period can be extended to six months for directors, deputy directors, chief accountants, deputy chief accountants and directors of branches, representative offices or other divisions.

**Salary**

The Labour Code guarantees timely salary payments to employees as follows:

The employer must pay salary every half of the month, and salary must be paid within 15 calendar days upon termination of a payroll period. Thus, the time gap between salary payment dates must be ~15/16 calendar days. If salary payment is delayed by more than 15 days, the employee has the right to notify the employer and stop working. If this happens, the employer is obligated to pay for each idle day at the employee’s average salary (calculated based on the actual salary accrued and the actual time worked for the past 12 months).

The employer must also pay interest on each day of delayed salary payment. The amount must be no less than 1/150th of the refinancing rate of the Bank of Russia.

Administrative fines can be levied on employers (USD484 to USD806) and their responsible officers (USD323 to USD484) for delayed salary payments.

If the employer and (or) responsible officer has already been penalised for delayed salary payments, then the following administrative sanctions can be levied: for the responsible officer: a fine of USD161 to USD323 or prohibition from holding executive positions for a period of 1 to 3 years; for the employer: a fine of USD806 to USD1,613.

If salary payments are delayed for more than two months (three months in cases when there has been a partial delay in salary payment), criminal liability applies.

The Criminal Code provides that, if it can be proven that employees were paid less than half of the salary payable to them due to the personal motives of the general director, or due to actions motivated by self-interest, then the general director can be fined up to RUB 120,000 (USD1,935), or fined by an amount equal to his/her wage or income from other sources for a period of up to one year. The general director may also be disqualified from occupying certain positions or engaging in certain activities for a period of up to one year, or subject to forced labour for a term of up to two years, or even imprisoned for a term of up to one year.

More stringent criminal liability applies if the salary payments are delayed in full for more than two months, or if salary is paid at an amount below the Federal minimum salary level (RUB 9,489(USD132) as of 1 January 2018).

For the purposes of calculating taxes, levies, penalties, liabilities under civil transactions, etc., the relevant minimum statutory monthly salary of RUB 100 (USD2) is applied.

**Currency and form of salary payment**

Direct salary payment to employees in Russia in a foreign currency is prohibited.

In Russia, salaries are normally paid in Russian Roubles. However, if a collective agreement or employment contract is signed (upon the written request of an employee), a worker can be remunerated in other forms as long as they do not contradict Russian legislation or international treaties to which Russia is party. The percentage of remuneration made in non-monetary form cannot exceed 20% of an employee’s total salary.
Severance payments

The Labour Code requires severance pay to be at least two-week’s average earnings when an employment contract is terminated for the following reasons:

— An employee is drafted or enlisted into military or, alternatively, civil service;
— An employee refuses to be transferred to work in another location should the enterprise, institution or organisation relocate;
— An employee is unable to work; a fact confirmed by provision of a medical certificate issued in accordance with legislation;
— An employee refuses to continue working due to a unilateral change in the labour agreement’s conditions, made by the employer (such changes are only possible in exceptional circumstances);
— An employee who previously held the position is being reinstated after a period of leave (i.e. maternity leave comes to an end);
— An employee refuses to find a new job, should the relevant medical authorities prescribe this course of action for the employee, or if the employer is not able to offer relevant work.

If an enterprise, institution, or organisation is dissolved, or if there need to be staffing cuts, then a one-off payment of monthly average earnings is required. Additional payments are required if the dismissed employee is unable to find work, but no more than two months’ worth of payments (three months subject to specific conditions).

Work permits for foreign nationals

As a general rule, foreign nationals working in Russia are required to have a work permit. There are a few exceptions to this rule mainly related to certain CIS nationals and other foreign nationals who possess residency permits. Work permits are not always required for the employees of suppliers or manufacturers of equipment imported into Russia for the purpose of installing, supervising
the installation of, or servicing the equipment.

**Standard Work Permit**

The standard work permit application process is quite a lengthy and burdensome procedure consisting of several stages. Each stage involves the submission of applications together with an extensive list of documents.

The stages include:

— Registration with the local employment authorities;

— Submission of an application to the Employment Service stating that there are vacancies in the company for which only the employment of foreign citizens will satisfy. The Authorities must reach a conclusion that this is correct. In order to make a conclusion, the authorities may send to the applicant potential candidate Russian citizens for interview;

— Submission of an application for a corporate permit from the immigration authorities to engage foreign labour;

— Submission of an application to the immigration authorities for each expatriate’s individual work permit.

The individual permit is issued for a period of up to one year. In a separate process, but based on the work permit, a work visa must be obtained. Its procurement also involves several stages in which a specified set of documents must be submitted to the immigration authorities.

It should be noted regarding work permits that each year, by 15 July, companies must report the number of foreign employees they anticipate to engage in the next calendar year. This procedure effectively constitutes a quota application system. If the employer does not comply with this and does not receive notification that they have an approved quota, the employer will have any work permit applications rejected next year. A company that fails to file a quota application or whose application was denied or partially approved has the right to use a list of quota-exempt positions when applying for a work permit, but only if the application meets all of the quota exemption requirements.

**Work permit applications for Highly Qualified Specialists (HQS)**

A HQS is a highly-skilled professional who is a foreign employee with work experience and skills or achievements in a certain area commanding a monthly salary generally not less than RUB 167,000 (USD2,694).

Obtaining Individual Permits for foreign nationals to work as a HQS has the following benefits:

— The Russian employer does not need to obtain a Corporate Permit or approval from the Employment Service;

— The quota system does not apply to HQS professionals;

— The Individual Permit can be issued for a term of up to three years;

— A HQS professional has the right to obtain a multiply-entry work visa for a term of up to three years;

— The procedure to obtain work permits for HQS professionals takes about fourteen business days from the moment a complete package of documents is submitted;

— An income tax rate of 13% applies to the salary paid to a HQS under their Russian employment contract, irrespective of their tax residence status in Russia;

— Extended stay for business trips outside the region / regions for which the HQS Individual Permit was obtained are allowed, as compared to the standard Individual Permit;

— Migration registration procedures do not need to be performed when stays in Russia are less than 90 days;

— The amount of mandatory social security contributions made by the Russian employer on behalf of its HQS employees is insignificant

**Migration registration procedure**

Migration registration is the process of notifying the immigration authorities of a foreign citizen’s whereabouts. The hosting party is responsible for carrying out registration. The hosting party is either the hotel or the employer (visa sponsor), or a landlord, if the foreign national is not staying in a hotel.

This process should be completed within seven business days of arrival every time a foreign national arrives in Russia or travels to another region (changes location) within Russia for more than seven business days.

HQS professionals and their family members are exempt from registration procedures if they arrive and stay in Russia for a period that does not exceed 90 days, and are exempt for 30 days if they travel to another region in Russia. If HQS professionals and their family members stay in Russia for more than 90 days (or 30 days if traveling to another region), they are required to be registered at the place of stay.

Special rules apply for migration registration during the 2018 FIFA World Cup in Russia (from 25.05.2018 to 25.07.2018).
**Tax system overview**

Russian tax legislation comprises the Tax Code of the Russian Federation (hereinafter, the “Tax Code”) and laws arising from it.

Taxes and levies are imposed in Russia at three levels: Federal, regional and local. Federal taxes and levies are those established by the Tax Code and paid throughout the Russian Federation.

As of 1 January 2018, the following Federal taxes and levies are effective:

— Value-Added Tax (VAT);
— Excise;
— Personal Income Tax (PIT);
— Profit tax;
— Mineral extraction tax;
— Water tax;
— Levies on the consumption of natural and biological resources;
— State duties and registration fees.

Regional taxes and levies are those established by the Tax Code and by specific regional tax laws effective in the regions of the Russian Federation and only paid in those specific regions. Regional taxes include property tax, gambling tax and transport tax.

Local taxes and levies are those introduced by the Tax Code and by the regulations of municipal authorities, and which are paid only in that particular municipal area. Local taxes consist of land tax, personal property tax and trade tax.

Local (or regional) legislative bodies only have the right to introduce the taxes and levies delegated to their authority by the Tax Code. When deciding on tax rates, local or regional authorities are allowed to establish the following taxation aspects:

— Tax concessions;
— Tax rates (within limits established by the Tax Code);
— Procedures and deadlines for tax payments.

The tax system outlined above results in different tax burdens for taxpayers registered in different regions.

**Tax registration requirements**

There is no need for any separate tax registration in order to pay VAT or profits tax, as taxpayers need only obtain one single tax ID number for all taxes. However, taxpayers have to obtain supplementary tax registration ID numbers (‘KPP’) from the tax authorities for the places where their separate subdivisions are located.

A separate subdivision is a subdivision located somewhere else other than the head office (e.g. in another city). A separate subdivision means that stationary working places have been created for periods of longer than one month.

Foreign Legal Entities (FLEs) have to register with the local tax authorities within 30 calendar days from the start date of their business activity on the territory of the Russian Federation.
New approach to identifying unjustified tax benefit

In July 2017, a new article – number 54.1 – was introduced into the Tax Code. The provisions of this article apply during field tax audits starting after 19 August 2017. The core principle set by art 54.1 of the Russian Tax Code is that the taxpayer only has the right to reduce the tax base and (or) the payable tax amount if:

1) a transaction was actually performed;
2) the taxpayer is not trying to avoid the payment of taxes;
3) the transactions (operations) were executed by the parties specified in the respective agreements (or their subcontractors, if subcontracting is allowed in their contracts).

The article’s provisions provide an exhaustive list of the circumstances that only together can be treated as proof that unjustified tax benefit has been received:

— supporting documents are signed by people who are not appropriate or responsible;
— counterparties have violated tax laws;
— the taxpayer could have gained the same economic result by instead performing other, legitimate transactions.

Detecting and proving that taxpayers have gained unjustified tax benefits in their various operations will be a key focus of future tax audits. The tax authorities are developing new approaches to analysing and confirming that unjustified tax benefits have been gained.

Profits tax

Tax base

Taxable profit is calculated as income minus the expenses recorded in the tax accounts. Income is generally determined on an accrual basis. Application of a cash basis is allowed only if average sales proceeds for four consecutive quarters are less than RUB 1,000,000, excluding VAT per quarter (USD 16,129)².

Expenses are deductible if they are incurred to generate income, are economically justified, and are properly documented. There are some expenses specifically mentioned in the Tax Code that are also treated as non-deductible.

Consolidated profit tax reporting is allowed only if the parent company has a 90% or higher share in a subsidiary, and the total annual amount of the VAT, excise taxes, profit tax and mineral extraction tax is RUB 10 billion or more (USD 161 million)². Additionally, the group’s total sales must be RUB 100 billion or more (USD 1.6 billion)², and total assets must be RUB 300 billion or more (USD 4.8 billion)². Consequently, only a few major Russian companies are able to use consolidated profits tax reporting.

Agreements on the creation of consolidated groups of taxpayers for the purposes of consolidated profit tax reporting were not registered in 2016-2017, and in 2018 there is a legislative proposal to continue the moratorium on not registering new agreements into several future periods.

Tax rates

The maximum profits tax rate is 20%, including 3% (till 2020) paid to the Federal budget and 17% (till 2020) to the regional budget. The regional profits tax rate can be reduced to 12.5% (till 2020) at the discretion of the regional authorities.

Certain types of income are taxed via a withholding mechanism at flat rates stipulated by the Tax Code (see the section ‘Withholding Income Tax’, p. 31).

Tax concessions

Non-taxable income

Gratuitous receipt of assets from a parent company, a subsidiary or an individual should not be treated as taxable income if:

— The recipient’s or transferor’s ownership in the other party’s share capital amounts to more than 50% (with the exception of transferors incorporated in one of the countries on a list (of offshore zones) issued by the Ministry of Finance);
— The individual owns more than 50% of the recipient company;
— The property received (except for funds) is not disposed of within one year from the date of receipt.

Since the start of 2018, the list of non-taxable income related to transferring transactions between shareholders and companies has been condensed, excluding the following transactions:

— receipt of property, property rights or non-property rights from a shareholder in order to increase net assets;
— receipt of debt forgiveness by a shareholder.

Deductible expenses

From 1 January 2018, companies have been able to offset more costs for professional training and assessing the qualifications of workers. This training must be in accordance with an agreement signed with Russian educational and scientific organisations or foreign educational organisations that have been licensed to conduct educational activities. Companies are also allowed to reduce their taxable base by classifying as training expenses those costs incurred when implementing the training programmes. In order to receive this tax benefit, at least one graduate of the training programme must sign a labour contract with the company for a period of at least one year within three months following completion of the training. This new tax benefit will remain in effect until 31 December 2022.

Tax losses can be carried forward without any time limits, but utilised on no more than 50% of the profits tax base in any respective period. This provision covers losses incurred since 1 January 2007, but will apply only during the transition period from 1st January 2017 to 31st December 2020.

Tax accounting

The Tax Code requires taxpayers (including permanent establishments) to maintain separate accounts for profits tax purposes. Tax accounting rules differ from Russian statutory accounting principles (e.g. with regard to depreciation, recognition of interest expenses, etc.)

Russian thin capitalisation rules

From 1 January 2017, loans from any foreign entity will come under the thin capitalisation rules if that particular foreign entity (individual or company) has a direct or indirect participating interest of more than 25% in both the Russian borrower and the foreign lender, or if the direct participation interest of each preceding person in each subsequent company amounts to more than 50%. On the other
hand, loans from some Russian related parties and independent banks should not be treated as controlled indebtedness if they meet certain conditions. These amendments to Russian thin capitalisation rules also include changes to the approach to calculation and to the exception rules on the recognition of controlled debt.

**Investment deductions**

An investment deduction mechanism has been introduced into the Tax Code. From 2018, taxpayers will choose between using the standard method of depreciation for their fixed assets and deducting investment expenditures directly from the amount of tax (within a set limit).

The legislation grants Russia’s constituent regions the right to introduce this deduction, with the regions deciding whether they want to exercise that right. In addition, the regions determine the fixed asset (and taxpayer) categories that are or are not eligible for the deduction.

This tax regime is only applicable to newly commissioned (or modernised) assets with a useful life of 3 to 20 years (e.g. buildings, machinery, transport).

This deduction applies to expenditures such as acquisition, erection, reconstruction, modernisation, refitting, and the technical upgrading of a company’s fixed assets. The investment tax deduction does not reduce the taxable base, but rather the amount of corporate profit tax. This is then transferred to the federal and regional budgets.

The company / autonomous division must state directly / account on its balance sheet and in its policies that it intends to use the tax deduction as opposed to applying accelerated depreciation.

**Taxation of Foreign Legal Entities (FLEs)**

For FLEs whose activities in the Russian Federation give rise to permanent establishments (PE), profits tax on their income, minus expenses attributable to the Russian PE, is due.

Under Russian tax legislation, the activities of a FLE give rise to a PE:

1) If a FLE has a place of business in Russia (branch, office, bureau or other independent subdivision), and the FLE conducts business activities in Russia on a regular basis. In particular, a construction site located in Russia, under certain circumstances, can be considered the PE of the FLE performing the construction activities.

2) If a FLE acts in Russia through a dependent agent. A dependent agent is understood in Russian legislation, as well as under the applicable double tax treaty (if any), as a company or individual which, on the basis of contractual relations with a principal, has and habitually exercises the right to conclude contracts and negotiate the essential terms of contracts in the name of the principal or to bind the principal’s participation into a business activity (except for activities which are of an auxiliary or preparatory nature, such as marketing).

Generally, this approach to calculating profits tax for the permanent establishments of FLEs is similar to the approaches established for Russian legal entities, with certain exceptions.

FLEs having no PE in Russia are subject to withholding tax on income sourced in Russia (for details, see the section “Withholding Income Tax” below, p.31).

**Filing and payment**

Insurance contributions are payable on a monthly basis.

Generally, those making payments should file various reports with the Pension Fund and the Social Insurance Fund on a quarterly basis.

Apart from the aforementioned taxes, employers are required to pay mandatory social insurance contributions against occupational accidents and diseases. These contributions are payable on total payroll at a flat rate that varies, depending on the risk category that the employing company belongs to. In accordance with the Russian Social Insurance Fund’s assessment, the minimum rate is 0.2% of payroll; the maximum rate is 8.5%. Generally, ‘office activities’ are subject to insurance contributions against injuries and professional illness at a rate of 0.2%.

**Filing and payment**

Taxpayers (except PEs and certain other taxpayers) are allowed to file profits tax returns either monthly or quarterly. PEs should file profits tax returns quarterly. An annual return is due by 28 March of the year following the reporting year.

Taxpayers (except PEs) pay monthly advance payments on profits tax. PEs pay quarterly advance payments. Final payments are due on 28 March of the year following the reporting year.
Social Security Contributions

Social security contributions are paid in Russia in the form of mandatory insurance contributions for the state pension, social and medical insurance for each employee (personified contributions), and mandatory social insurance contributions against occupational accidents and diseases (general, non-personified contributions).

Insurance contributions are levied on companies, individual entrepreneurs and individuals making payments to other individuals as part of employment relations and under civil contracts for the provision of services or the performance of work, and under other specific types of contract. Contributions are also levied on self-employed individuals, including individual entrepreneurs, notaries and lawyers. No mandatory contributions are payable by employees.

Payments subject to personified contributions and rates

Insurance contributions are payable on remuneration and other payments to individuals under employment and civil contracts. Some forms of compensation are exempt from insurance contributions, including business trip expenses, temporary disability allowances, employee dismissal expenses (excluding compensation for unused paid vacation days), professional development expenses, and some others.

For 2018, personified contributions are payable at the rates provided in the table below subject to an annual remuneration threshold established for contributions for pension and social insurance. The threshold is subject to annual revision by the Russian government.

Employers operating hazardous and dangerous places of work are required to pay additional pension contributions. The rate of the additional contribution varies from 0% to 8%, depending on how the working conditions are assessed during a special assessment procedure. If the employer has not carried out an assessment of its working conditions, the additional contribution may be payable at the rate of 9% or 6%, depending on the type of employer.

A foreign national’s contributions are paid in full on the remuneration they earn in Russia based on their Russian permanent or temporary residence permit.

An employer of foreign nationals who are staying temporarily in Russia on a visa must pay personal pension and social insurance contributions (unless the employee is an HQS).

No personified contributions are payable for HQS.

Personal contribution concessions

Reduced insurance contribution rates apply to agricultural producers, businesses in technology and innovation special economic zones, taxpayers applying the simplified tax regime (for certain activity types), legal entities employing disabled individuals (provided that certain conditions are met), and IT companies, among others.

Mandatory social insurance against occupational accidents and diseases

Apart from the aforementioned personified contributions, employers are required to pay mandatory social insurance contributions against occupational accidents and diseases. These contributions are payable on the total payroll at a flat rate that varies depending on the risk category that the employing company belongs to, in accordance with the Russian Social Insurance Fund’s assessment. The minimum rate is 0.2% of payroll; the maximum rate is 8.5%. Generally, office activity is subject to insurance contributions against injuries and professional illness at a rate of 0.2%.

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<th>Type of insurance contribution</th>
<th>Annual threshold per employee</th>
<th>Rates on remuneration up to the threshold</th>
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<tbody>
<tr>
<td>Pension insurance</td>
<td>RUB1,021,000 (USD16,468)</td>
<td>22%</td>
<td>10%</td>
</tr>
<tr>
<td>Social insurance</td>
<td>RUB815,000 (USD13,145)</td>
<td>2.9%</td>
<td>—</td>
</tr>
<tr>
<td>Medical insurance</td>
<td>n/a</td>
<td>5.1%</td>
<td>5.1%</td>
</tr>
</tbody>
</table>
**Filing and payment**

Insurance contributions are payable on a monthly basis.

Generally, those making payments should file various reports on a quarterly and annual basis. A related reporting on employees is due on a monthly basis.

**Withholding Income Tax**

A FLE in receipt of income sourced in Russia which is not attributable to its Russian PE (e.g. rent, royalties, interest and dividends, freight income, etc.) is subject to withholding income tax at source.

Income derived from the business activities of the FLE in Russia (e.g. nonrecurring consultancy services) which do not give rise to a PE are exempt from withholding income tax.

There is no withholding tax on the repatriation of profits from a local Russian representative office or from the branch of a FLE to the head office. However, the proceeds from liquidation are subject to taxation at source.

**Tax rates**

Withholding income tax rates vary depending on the type of taxable income. Tax rates for dividend income are:

- 0% on dividends payable to a Russian legal entity (RLE) if this RLE has owned at least 50% of the shares in the dividend payer for 365 consecutive days, providing that the dividend payer is not resident in an off-shore country (e.g. the British Virgin Islands, Guernsey, Jersey, or any other state on a list compiled by the Ministry of Finance of the Russian Federation).

- 13% on dividends received by an RLE from an RLE or Foreign Legal Entity (except for FLEs incorporated in the countries on the Ministry of Finance’s list).

- 15% on dividends payable to a FLE by an RLE.

Generally, Foreign Legal Entities which do not have a Permanent Establishment in Russia are subject to 20% withholding income tax on major Russian-sourced income, such as interest, royalties, income from leasing and rental operations, etc. Freight income is taxed at 10%.

Taxpayers are allowed to apply the reduced tax rate or tax exemption stipulated in double tax treaties concluded between the Russian Federation and the country in which the beneficiary is resident. However, in order to apply the aforementioned benefits, certain conditions should be met.

For a list of double tax treaties and the withholding tax rates applicable under these treaties, see Appendix 1: “Chart of Withholding Tax Rates”, p.47.

When applying the respective provisions of a double tax treaty, a FLE should confirm that it is resident in a country that is party to a double tax treaty with the Russian Federation by supplying a tax certificate issued by the relevant foreign authorities, as well as providing the respective tax agent with confirmation that it is the actual beneficiary of the income received. Moreover, the Russian entity paying income to the FLE must have at its disposal (before payment) confirmation that the FLE has the actual right to receive the income.

In the absence of a proper certificate and confirmation, tax should be withheld and remitted to the budget at the standard rate.

**Filing and payment**

Income tax should be withheld from the income payable to the FLE and remitted to the state budget on the date when payment is made to the FLE.

A Russian Legal Entity (or FLE with a PE in Russia) should also file a withholding income tax calculation.
Property tax

Property tax is levied on those properties listed on a taxpayer’s balance sheet as fixed assets (except for land plots).

Tax base

Generally, the tax base is the net book value of the average annual fixed assets according to Russian statutory accounting. For a number of property types (administrative and business centres; nonresidential premises to be used / actually used as offices or for trading and catering; a FLE’s immovable property that does not have PE status in Russia, or is not being used in the PE’s operations in Russia; residential premises not accounted for as a fixed asset on the balance sheet), the tax base is the cadastral value of the specific facility.

In 2018, a number of federal tax incentives have become regional incentives, meaning that the delegated tax incentives will apply only in those constituent Russian regions that adopt the appropriate laws.

Notably, if the regional law is applied, then movable property that has been booked as a fixed asset since 1 January 2013 is exempt from tax, except for facilities booked as a result of reorganisation or liquidation of a legal entity, or as a result of a transfer between related parties. On the other hand, taxpayers can apply the general tax rate set by regional law, which must not exceed 2.2%, or 1.1% in 2018. The regional authorities are allowed to introduce additional tax incentives on movable property.

The same rules apply to energy-efficient property, identified by regional law as innovative properties with high levels of energy efficiency.

FLEs having no PE in Russia are subject to property tax only on immovable property located in Russia.

Tax rate

The maximum tax rate is 2.2%.

Lower tax rates are established for assets classified as public railways, pipelines and power lines, and assets constituting an integral, technical component of the above. A list of these types of assets has been compiled by the Government of the Russian Federation. The rates for these assets are 1.3% in 2016, 1.6% in 2017 and 1.9% in 2018.

The regional authorities can reduce the property tax rate to zero percent. With respect to immovable property (for which the tax base is the cadastral value), the tax rate cannot exceed 2%.

Tax concessions

The Tax Code provides a number of property tax concessions. In particular, companies are exempt from property tax on assets classified as federal highways intended for public use and on assets constituting an integral, technical component of these highways. A list of these assets has been compiled by the Government of the Russian Federation.

Property tax paid by a Russian legal entity on property located outside of Russia can be offset when paying property tax in Russia. To carry out this offsetting, the taxpayer should submit a document confirming the payment of property tax abroad.

Filing and payment

The regional authorities set the terms for advance and final property tax payments. Property tax calculations are filed quarterly. The annual property tax return should be filed by 30 March of the year following the reporting year.

Other taxes

Transport tax

Foreign legal entities and Russian legal entities should both pay transport tax if they own registered transport vehicles. Taxable vehicles include automobiles, motorcycles, scooters, buses, airplanes, helicopters, merchant vessels, yachts, sailing boats, boats, snowmobiles, etc. The tax base is calculated based on the engine volume, gross tonnage or type of vehicle.

The tax rates are established by the Tax Code and range from RUB 0 to RUB 200 (USD 0.00–3.0) per unit of horsepower and can increase or decrease by up to ten times, depending on the region.

The regional authorities are allowed to offer tax incentives and allowances for certain categories of taxpayer.

The terms for the submission of transport tax payments and the filing of advance calculations are established by the authorities of the region where the vehicle is registered. However, the final annual payment and annual tax return is due no earlier than 1 February of the following year.

Land tax

Land tax is calculated based on the cadastral value of land plots according to the Russian Federation legislation applicable to the region where the land plot is located.

The Tax Code provides that land tax rates for land designated for agricultural purposes and housing must not be higher than 0.3%, and no higher than 1.5% of the cadastral value of the land plot for land used for any other purposes. The regional authorities can decrease this rate and also offer tax incentives or allowances to certain taxpayer categories.

Advance payments are due quarterly, with the final tax payment due no earlier than 1 February of the following year.

Water tax

Water tax is payable by companies that consume water for special and clearly-indicated business purposes.

Tax rates differ for the various types of water consumption and are set in RUB per 1000 cubic metres of water consumed.

Water tax returns are filed quarterly, with payments also being made quarterly.
Special tax regimes

The Tax Code also provides special tax regimes under which a taxpayer is entitled to pay one single tax instead of numerous different taxes. This regime can be applied if certain requirements are satisfied. Special tax regimes include simplified tax, unified agricultural tax, tax on imputed income and special rules on production sharing agreements.

Unified tax on imputed income

The local tax authorities allow certain taxpayers to apply a unified tax on imputed income if the taxpayers are engaged in:
- Domestic consumer services;
- Veterinary services;
- Vehicle maintenance, repair and washing;
- The leasing of car parking places and car parking services;
- Passenger and cargo transportation services (certain restrictions apply);
- Retail trade and catering (certain restrictions apply);
- Certain kinds of advertising;
- Accommodation provision services (certain restrictions apply).

Unified imputed income tax is applicable if the taxpayer satisfies the following criteria:
- The average number of annual staff is equal to or lower than 100;
- Other legal entities have contributed less than 25% to the taxpayer’s share capital.

The unified imputed income tax is not applied at the same time as the simplified tax or unified agricultural tax.

Payers of the unified imputed income tax are exempt from the following taxes (on those operations subject to this tax):
- Profits tax;
- VAT (except for VAT payable on imports);
- Property tax (except for tax payable based on cadastral value).

Unified imputed income tax is levied on a taxpayer’s imputed income. Imputed income is determined as the base return rate of business activity during the period multiplied by physical factors (the area of land employed, number of vehicles or number of staff) and other adjusting factors.

Imputed income tax is paid at a rate of 15%. The municipal authorities can decrease this rate to anything within a range from 7.5% to 15%, depending on the taxpayer’s category and the type of imputed activities.

The unified imputed income tax that is payable can be reduced (to 50% of the initial tax accrual) by deducting insurance contributions for mandatory pensions insurance, medical insurance and social insurance for temporary disability or maternity leave. It can also be reduced for mandatory social insurance against occupational accidents and diseases, as well as temporary disability payments to employees for the first 3 days of temporary disability paid by the employer, and for voluntary insurance payments under insurance contracts covering the employer’s expenses.

Tax returns and payments are due quarterly.
Simplified taxation system

The simplified tax system replaces profits tax, VAT (except for VAT payable on imports) and property tax (except for tax based on the cadastral value).

A company can apply the simplified tax system if it satisfies the following criteria in the first nine months of the year preceding its planned adoption of the simplified tax system:

- The company’s revenue for 9 months does not exceed RUB 112,500,000 (USD 1,814,525), though this limit is subject to annual indexation;
- The net book value of fixed assets does not exceed RUB 150,000,000 (USD 2,419,367);
- The average annual number of staff does not exceed 100.

The following entities cannot apply the simplified tax system:

- Russian legal entities with branches;
- Foreign legal entities and representative offices (branches) of FLEs;
- Banks, insurance companies, pension funds, investment funds, parties to production sharing agreements, payers of unified agricultural tax, etc.;
- Entities in which other legal entities have participation shares exceeding 25%.

The simplified tax rate can be:

- 6% on revenues. The regional authorities can decrease this rate to anything within a range from 1% to 6%, depending on the taxpayer’s category; or
- 15% on profits (revenues minus deductible expenses). The regional authorities can decrease this rate to anything within a range from 5% to 15%, depending on the taxpayer’s category.

Unified agricultural tax

Agricultural producers are allowed to apply the unified agricultural tax. This tax replaces profits tax, VAT (except for VAT payable on imports) and property tax.

The unified agricultural tax is levied on income minus deductible expenses.

Income is calculated in accordance with general profits tax rules. Expenses are deductible only if they are referred to in the authorised list, economically justifiable and properly documented.

Unified agricultural tax is paid at a rate of 6%.

Advance payment is due after the first six months, with final payment and completion of the tax return due by 31 March of the following year.

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3 Actual exchange rate of the Central Bank of the Russian Federation as of 1 May 2018 (RUB 62,9997)
4 Actual exchange rate of the Central Bank of the Russian Federation as of 1 May 2018 (RUB 61,9997)
General Comments on Transfer Pricing

A transfer price is a price subject to monitoring by the tax authorities. The Russian tax authorities have the power to monitor prices to ensure that they reflect market realities and have not been fixed to reduce tax burdens in Russia.

Current Russian transfer pricing (hereinafter, “TP”) rules have been effective since 2012, and are based on OECD TP Guidelines. However, there are some differences.

TP control applies to transactions between related parties (hereinafter, “Controlled Transactions”). Companies are considered related if one of them can influence the decisions made by the other. TP legislation also contains a list of formal criteria against which parties are assessed when considering whether they are related or not (e.g. do they have direct/indirect participation in the capital of 25% or more, etc.).

Along with cross-border transactions between related parties, the Russian tax authorities also control prices in domestic transactions if the annual turnover between the two counterparties exceeds certain thresholds (generally, the threshold is RUB 1 billion (USD16,129,110.332). In addition, controlled transactions include certain cross-border transactions between unrelated parties: (i) transactions with offshore parties, or (ii) transactions with certain commodities like oil products, precious metals, etc. (if the annual threshold exceeds RUB 60 million (USD967,476.618)).

There are five TP methods (similar to those in the OECD), and of these, the CUP and resale minus method take priority. Russian TP legislation also allows for the use of appraisal reports to support prices in one-off transactions when no other methods can be applied. There are no special safe harbours in the tax law except for interest on intra-group loans.

There are specific requirements regarding the selection of comparables for benchmarking studies, such as ensuring that the activities are comparable, that net assets are positive, that there are positive operating profits, and that there is no parent company / subsidiary with ownership of more than 25%.

A local study is required if the tested party is the Russian company. Foreign comparables are acceptable if the foreign party is the one tested. Generally, the study should be based on the financial statements of comparables for the three preceding years.

Before 20 May of the year following the reporting year, all Russian taxpayers are obliged to inform the tax authorities of any transactions they performed which were subject to TP control under Russian tax law. The notification on a controlled transaction must include disclosure of detailed information about each operation within that controlled transaction. For instance, for a buy-sell transaction, the price, quantity, place of dispatch, and place of delivery for every item must be specified. Understandably, the volume of data in the notification can be significant. It should be filed in XML format with the Russian tax authorities.

Russia also has TP documentation requirements. The Russian tax authorities are entitled to request TP documentation during TP audits, and taxpayers must provide the documentation within 30
A country-by-country report: these must be filed by the parent company or by an authorised member of the group within 12 months after the end of the reporting period. The penalty for non-provision (or the provision of inaccurate data) of the country-by-country report is RUB 100,000 (USD1,613) (applicable from 2020).

Notification on participation in a “large” multinational group: this must be filed by Russian taxpayers that are part of “large” multinational groups 8 months after the end of the reporting year. The penalty for non-provision of the notification is RUB 50,000 (USD806) (applicable from 2020).

Master file (global documentation): the tax authorities may request the Master file after 12 months have passed from the last day of the reporting fiscal period. Taxpayers should provide the Master file in Russian within 3 months after receiving a request. The penalty for non-provision (provision of non-accurate data) is RUB 100,000 (USD1,613) (applicable from 2020).

Local file (national documentation): to be submitted upon the Federal Tax Service’s request within 30 working days from the date on which a request is received (requests may be issued from 1 June of the year following the reporting year in respect of transactions with foreign members of multinational groups). Failure to submit within the deadline leads to a fine of RUB 100,000 (USD1,613) and application of penalties of 40%.

These rules apply to the financial years starting from 2017 (except for the Local file, which applies to periods starting from 2018). Taxpayers have the right to voluntarily file notifications and country-by-country reports for the 2016 financial year. For TP audits, the Federal Tax Service focuses on reviewing prices in cross-border transactions. TP audits for 2012–2015 mainly covered export transactions with oil products, non-ferrous metals and fertilizers. The number of TP audits was limited (up to 33), but in certain cases the tax adjustments applied were material. It is expected that, over the next few years, the Federal Tax Service will start to more actively audit the operations of multinational companies doing business in Russia.

Two court cases on the application of TP rules effective from 2012 have been published. In one, the tax authorities proved that the prices of a Russian oil company engaging in oil export transactions were lower than the arm’s length level based on comparing prices with price quotations published by Platts. The second case has not finished, though recent court decisions favour the tax authorities, stating that, in transactions on the export of mineral fertilizers, the arm’s length level of prices should be analysed, using quotations published by Argus Media.

In addition, local teams from the Russian tax authorities are also reviewing prices in intra-group transactions. They may assess additional taxes if they see taxpayers receiving unjustified tax benefits. Practice shows that the likelihood of being questioned by the local tax authorities about intra-group pricing is high.

Three-tier transfer pricing documentation

A requirement to prepare three-tier transfer pricing documentation for the financial years from 2017 onwards has been introduced into the RTC. This means those entities in multinational groups of companies (MNCs) with a total income (revenue) over 50 billion Russian roubles (USD806,455,515) in their consolidated financial statements for the previous financial year must submit three-tier documentation to the tax authorities, including a Master file, Local file, and Country-by-Country (CbC) report, as well as a notification that they are part of an MNC.
CFC rules in Russia

A controlled foreign company (CFC) is
— a FLE (not a tax resident of the Russian Federation) or
— a foreign structure that does not involve the establishment of a formal legal entity (fund, partnership, trust, or other form of collective investment vehicle and/or trust management) or
— a FLE with capital that does not consist of shares/participation units (foundation units) controlled by a Russian tax resident company or individual.

CFC rules are applied to:
— FLEs in which a Russian tax resident effectively owns at least 25% of the capital, and
— FLEs in which a Russian tax resident effectively owns at least 10% of the capital, if Russian tax residents cumulatively own at least 50% of the capital;
— FLEs controlled by Russian tax residents, i.e. they exercise a decisive influence on decisions regarding distribution of the FLE’s profits irrespective of the legal grounds for such control.

CFC rules provide a number of exemptions from CFC taxation. If an exemption applies, then the profits of that particular CFC are not subject to tax, though the controlling person / entity is not relieved from its reporting obligations. These exemptions inter alia include the following:
— Foreign companies for which the effective tax rate at the end of the year for which the financial statements are prepared is not less than 75% of the weighted-average CIT (Corporate Income Tax) rate in Russia. This exemption only applies to CFCs resident in treaty-protected jurisdictions, provided that these jurisdictions exchange tax information with Russia (as determined by the Russian tax authorities).

The undistributed profits of CFCs are subject to:
— Corporate profits tax at 20% if the controlling person / entity is a Russian-resident company, or
— Personal income tax at 13% if the controlling person / entity is a Russian-resident individual.

If the annual profit of a CFC is less than the “de minimis” threshold, a CFC’s undistributed profit will not be taxable in Russia (the threshold is RUB10 million (USD161,291)).

Taxes on CFC profits, such as foreign corporate income tax and withholding tax levied at source, are creditable against the Russian CFC tax.

Corporate tax residency rules

A foreign company can be recognised as tax resident in Russia if it is managed in Russia.

Russia will be acknowledged as the place of management if at least one of the following is true for the FLE:
— The company’s executive body
regularly takes decisions or carries out other activities in Russia (on a scale significantly greater than in any other jurisdiction);
— Senior management personnel perform steering management of the company mainly in Russia.
While not specifically defined, the term “steering management” is understood to include taking decisions or other actions with respect to the company’s day-to-day operations.
The additional criteria should be applied if one of the abovementioned main criterion is simultaneously fulfilled both in Russia and a foreign country. In particular, a FLE should be considered a Russian tax resident if one of the following conditions is met:
1) the company’s financial accounting or management accounting is performed in Russia;
2) the company’s documents are generated and processed in Russia;
3) the HR function at an operational level is performed in Russia.
FLEs cannot be recognised as Russian tax resident if they carry out business activities abroad using qualified personnel and assets outside Russia (provided that their business is conducted in a double tax treaty-protected country). Some exceptions apply to FLEs engaged in specific listed activities.
FLEs which shift their tax residency to Russia become subject to unlimited tax liability in Russia, i.e. their worldwide income becomes subject to Russian corporate profits tax.

Beneficial ownership requirement
Generally, the Russian companies paying passive income (inter alia, dividends, interest, royalties, lease income) to foreign recipients are allowed to apply DTT benefits (reduced WHT rates) only if the recipients are beneficial owners of the respective Russian-sourced income.

The Tax Code defines a beneficial owner as:
— a person who has the right to independently use and/or dispose of the income by virtue of:
  — participation (direct or indirect) in the company,
  — control over the company, or
  — other circumstances, or
— a person in whose interest another person has the power to dispose of the income.
With effect from 1 January 2017, foreign recipients applying for DTT benefits are obliged to provide the Russian payer with documentation confirming their beneficial ownership status, otherwise no DTT benefits will be applied.
In addition, the Tax Code provides a so-called “look-through” approach, i.e. the right to apply (under certain circumstances) a reduced withholding tax rate under the treaty with the beneficial owner’s jurisdiction, even if another person is the immediate recipient of income.
Personal Income Tax

An Individual’s Personal Income Tax (PIT) liabilities in Russia depend on several factors, including the taxpayer’s tax residency status. An individual is generally considered a Russian tax resident if he/she is physically present in Russia for a period of 183 days or more during a period of 12 consecutive months. Short-term travel (less than 6 months) outside Russia’s borders for medical treatment or educational activities in certain cases does not qualify as an interruption to the individual’s presence in Russia. Specific rules apply to certain categories of taxpayers.

The day of arrival and day of departure should be included as days in Russia when calculating the number of days a person has been present in Russia when determining an individual’s tax residency status.

If a company makes a salary payment locally in Russia, the company should determine the individual’s tax residency status on each date of payment in order to apply the appropriate tax rate for withholding. Residency is determined on the basis of the 183-day period within the 12-month period immediately preceding the date the income was paid.

Consequently, the tax withheld may not be the amount of tax ultimately due.

Final tax liabilities are determined based on the individual’s tax residency status for the reporting calendar year. This status is determined based on the “183-day presence test” in the reporting calendar year.

Tax residents are generally subject to PIT on all their income, irrespective of the country in which it arises, whereas non-residents are subject to PIT only on income sourced in Russia.

Tax base

Taxable income includes income received in cash, in kind and in the form of deemed income. Profits of Controlled Foreign Companies (CFC) may also be subject to tax in the hands of tax resident individuals.

Income in kind is assessed based on the market price of the goods received or services provided.

Deemed income generally arises when an individual:

- Has an outstanding loan received from an organisation or an individual entrepreneur and the interest rate for its use is lower than 2/3rds of the key rate of the Central Bank of Russia on loans in Russian roubles, or 9% per annum on loans in other currencies, and if at least one of the following conditions is met:
  - The lender and the borrower are considered related parties or are in an employment relationship;
  - The saving on interest payments is financial assistance or consideration paid to an organisation or an individual entrepreneur for goods/work/services provided by that taxpayer.
- Acquires from related parties goods or services at favourable prices (at non-market rates).
- Acquires securities and financial instruments at a price below the market level.
The undistributed profits of a CFC are taxable unless:
— The profits are exempt from taxation in Russia (special rules apply), or
— The profits for the reporting year do not exceed the threshold established by law.

**Tax rates**
A 13% PIT rate applies generally to all types of income received by a tax resident except for certain types of non-employment income (e.g. deemed income resulting from the interest derived from the use of loans in certain conditions is taxable at the rate of 35%).
A 30% PIT rate applies generally to all types of income received by a tax non-resident, except for specific types of income including:
— 15% applicable to dividend income from Russian companies received by a tax non-resident;
— 13% applicable to the Russian employment income of tax non-residents who are foreign employees with the status of Highly Qualified Specialist, and to certain other specific categories of taxpayers.

**Tax deductions**

**Standard tax deductions**
Standard monthly tax deductions of RUB3,000 and RUB5,000 (USD48 to 81) can be granted to certain categories of individual taxpayer (such as disabled war veterans, handicapped persons, etc).
If a taxpayer is eligible for multiple tax deductions, the higher deduction applies.
In addition, a standard tax deduction of RUB1,400 (USD23) per child, per month, can be granted to a parent of up to two children, and RUB3,000 (USD48) for each additional child (the deduction is RUB12,000 (USD194) per child for those who are disabled) up to the age of 18, or for a child who is a full-time undergraduate student up to the age of 24. The tax deduction is doubled for one parent if the other parent agrees to refuse the deduction or if the parent is divorced.
These tax deductions are available only if cumulative annual income does not exceed RUB350,000 (USD56,455).

**Social tax deductions**
Social tax deductions are available on donations given to specific charities which qualify against government criteria, though only on up to 25% of the income received in the tax period.
Social deductions are also available on:
— Expenses incurred by the taxpayer on the education of him/herself and each of his/her children;
— Expenses for medical treatment and medicines for the taxpayer and his/her spouse, parents, children;
— Contributions to voluntary medical insurance for the taxpayer and his/her spouse, parents and children;
— Contributions to a private pension fund for the benefit of the taxpayer, his/her spouse, parents and any disabled children;
— Additional insurance contributions to the cumulative part of the state pension.
The above deductions cannot exceed RUB120,000 (USD1,935) in one calendar year per taxpayer (except expenses for certain expensive medical treatments on a specific list approved by the Russian Government, deductible by the actual expense amounts; and except for expenses for the education of the taxpayer’s children, deductible within a limit of RUB50,000 (USD806) per child).

**Property-related tax deductions**
Property related tax deductions are available, inter alia, on expenses related to the purchase of (construction of) dwellings and on land plots for the construction of a dwelling (or along with a dwelling place) in Russia (up to RUB2,000,000 (USD32,258)).
Interest on the loans used to pay for the above mentioned purchases / constructions may also be claimed as a deduction (up to RUB3 million (USD48,387)).
On the sale of residential property and land plots that have been owned for less than three or five years (depending on certain factors), a deduction up to RUB1,000,000 (USD16,129) or by the amount of documented actual expenses for the acquisition can be claimed. On the sale of other property owned for less than three or five years (depending on certain factors), a deduction of up to RUB250,000 (USD4,032), or by the amount of the actual documented expenses for the acquisition, may be claimed.
Income from the sale of property that has been owned by the seller for three or five years (depending on certain factors) or more is tax-exempt, provided that the seller is a Russian tax resident in the year of sale.

**Professional tax deductions**
Professional tax deductions can be granted to individuals conducting registered entrepreneurial activity.
These deductions apply to documented, business-related expenses. If business related expenses are undocumented, a sole proprietor can apply professional tax deductions of up to 20% of the income derived from business activities.
Professional deductions can also be granted to individuals who receive income under a civil-law service or work agreement. The deductions are based on documented expenditures related to the performance of services under these agreements.
Individuals who receive author’s fees or fees for the creation, execution or other use of specific intellectual property can apply for professional tax deductions that amount to their documented expenses or for a fixed amount if the documents supporting the expenses are unavailable (from 20% to 40%, depending on the type of intellectual property).
Individuals who provide services or perform work under relevant civil-law contracts may claim an expenses deduction (supported by documentation) directly related to their provision of services / performance of work.

**Investment tax deductions**
Certain deductions are available with regard to investments / financial results from the sale of specific types of securities via individual investment accounts opened in Russia.

**Filing and payment**
Generally, individual entrepreneurs, Russian legal entities, representative offices and branches of foreign legal entities registered in Russia, and which make payments to individuals, are all considered as tax agents. They are required to withhold PIT from the income payable to individuals and remit the associated PIT to the Russian tax authorities.
If PIT was not withheld by a tax agent, that agent must notify the tax authorities.
and the individuals who received the income that tax was not withheld. The onus then falls on the individuals to pay the outstanding PIT based on a tax assessment issued by the tax authorities (by 1 December of the year following the reporting year). In other cases where an individual has received income taxable in Russia, but which has not had tax withheld, the individual must file a PIT declaration and pay the outstanding tax after a self-assessment. Generally, the PIT declaration should be filed no later than the 30th April of the year following the reporting year in which the taxable income was received, with the tax being paid by 15th July of that year. Specific rules may apply to non-Russian citizens who depart from Russia.

An individual’s outstanding tax liability should be paid in Russian roubles. In certain cases tax payments can be made by a third party (an individual or a legal entity) on a taxpayer’s behalf.

**Tax refund**

Depending on the circumstances, a tax refund may be claimed from a tax agent or from the tax authorities. A PIT declaration may be required if individuals want to claim certain tax deductions.

**Other taxes payable by individuals**

**Personal property tax**

Houses, apartments, cottages, garages and other buildings, along with premises and constructions owned by individuals, are all subject to personal property tax.

Tax rates differ – from 0.1% to 2% – depending on the type and value of the property. The rates may be adjusted by regional laws.

Certain categories of taxpayer are exempt from personal property tax (e.g. pensioners).

Individual property tax is assessed by the tax authorities annually and should be paid by taxpayers based on a tax assessment issued by the tax authorities.

**Land tax**

Individuals owning land plots are subject to land tax.

The tax is generally assessed by the tax authorities on the cadastral value of the land plot.

The tax rate depends on the type of land plot and regional laws; it should not exceed 1.5% of the cadastral value of the land plot.

**Transport tax**

Individuals owning transport vehicles are subject to transport tax.

Taxable vehicles include automobiles, motorcycles, scooters, buses / coaches, airplanes, helicopters, motor vessels, yachts, sailing boats, ships, snowmobiles, etc.

Transport tax is determined based on the vehicle’s engine power, seating capacity and the respective tax rates established by regional laws.

If an individual did not receive a tax assessment on their property and/or transport vehicles, they are obliged to inform the tax authorities about their property / transport vehicles by 31 December of the subsequent calendar year.

**Social tax deductions**

Social tax deductions are available on donations given to specific charities which qualify against government criteria, though only on up to 25% of the income received in the tax period.

Social deductions are also available on:

- Expenses incurred by the taxpayer on the education of him/herself and each of his/her children;
- Expenses for medical treatment and medicines for the taxpayer and his/her spouse, parents, children;
- Contributions to voluntary medical insurance for the taxpayer and his/her spouse, parents and children;
- Contributions to a private pension fund for the benefit of the taxpayer, his/her spouse, parents and any disabled children;
- Additional insurance contributions to the cumulative part of state pensions.

The above deductions cannot exceed RUB120,000 (USD1,935) in one calendar year per taxpayer (except expenses for certain expensive medical treatments on a specific list approved by the Russian Government, deductible by the actual expense amounts; and except for expenses for the education of the taxpayer’s children, deductible within a limit of RUB50,000 (USD806) per child).
Russian Accounting Principles

Russian accounting is regulated by a system of legal acts consisting of four different levels.

The first level consists of laws regulating the way accounting is organised and maintained by companies, including:

— The Federal Law on Accounting, which contains basic accounting and reporting requirements.

— The Civil Code of the Russian Federation, which consolidates many accounting issues. The Civil Code of the Russian Federation defines a legal entity as having its own balance sheet, establishes the requirement that annual financial statements are approved annually, and provides definitions of subsidiary and associated companies. It also states the procedures by which different kinds of legal entities are reorganised or liquidated.


— The Federal Laws ‘On Joint Stock Companies’ and ‘On Limited Liability Companies’, which establish information disclosure and presentation requirements, stipulate that data contained in the annual financial statements must be confirmed by the internal auditor, and determines the procedure by which the annual financial statements are to be approved, as well as the situations in which an external audit opinion is required.

The second level consists of accounting regulations and federal accounting standards (which regulate accounting policies, the compilation and presentation of financial statements, and accounting for fixed and intangible assets, inventory, loans, income, expenses, financial investments, profits tax, etc). Federal accounting standards cannot contradict the Federal Law on Accounting.

Many of these regulations are in essence close to International Financial Reporting Standards (IFRS). Bringing the national accounting system into line with IFRS has been part of the accounting reform process that began in 1998.

It is intended that new federal accounting standards will be issued in the future. The topics covered will match the current list of IFRS standards. For instance, Russian accounting regulations currently have no standards on the leasing or impairment of assets. Additionally, existing accounting regulations are revised on a regular basis to enhance their compliance with IFRS.

Unless new federal accounting standards are issued, the accounting regulations have the same status as federal
standards. There is no requirement that accounting regulations comply with federal accounting standards.

**The third level** comprises methodological instructions on accounting, including industry accounting standards, regulations of the Central Bank of Russia, and recommendations on the specific procedures needed to apply accounting principles and regulations for particular types of activities.

Industry accounting standards and regulations of the Central Bank of Russia cannot contradict federal accounting standards or the Federal Law on Accounting. Neither can recommendations contradict federal and industry accounting standards or regulations of the Central Bank of Russia.

One of the most important documents at this level is the List of Accounts and its related instructions.

**The fourth level** includes documents issued by the company itself, which determine its accounting policies in all systematic, technical and organisational aspects and are approved by an internal decision taken by the company on its accounting policies. If there are any specific accounting methods that are not specified in the relevant accounting standards, companies have the right to develop them independently and to adopt them by including them in the decision they have taken regarding their accounting policies.

Branches and representative offices of foreign companies located in the Russian Federation are allowed to maintain their accounting on the basis of regulations established in the country in which the foreign company resides, unless these regulations contradict IFRS. However, branches and Representative Offices are still required to submit annual activity reports to the tax authorities, along with their tax returns.

The key accounting principles in the Russian Federation are the:

— **Separate entity principle**: in accordance with which the assets and liabilities of the company are separated from the assets and liabilities of the owner or assets provided to the entity by other persons.

— **Going concern principle**: in accordance with which it is assumed that the company will continue operating in the foreseeable future.

— **Principle of accounting policy consistency**: the accounting policy selected by the company is applied consistently from one reporting year to another, with changes to the policy only being possible if there are changes in the legislation of the Russian Federation or in accounting regulations, or if new accounting methods are developed by the company, or there are significant changes in operating conditions.

— **The matching principle**: this states that business operations are recorded in the reporting period in which they occur, regardless of when receipts or payments related to these transactions are actually made.

— **Principle of timeliness and completeness in recording transactions**: the accountant should make records on time and ensure that they reflect all transactions made.

— **Prudence principle**: the accountant should record liabilities and expenses rather than assets and income and should not allow for any hidden reserves.

— **Substance-over-form principle**: transactions should be accounted for based on their economic substance and business circumstances rather than their legal form.

— **Principle of non-contradiction**: analytical accounting data should be identical to synthetic accounting data on the last calendar day of each month.

— **Rationality principle**: application of a rational accounting method based on the company’s size and business environment.

— **Materiality principle**: data on material assets, liabilities, income, expenses and transactions should be recorded separately if this information is essential for evaluation of the entity’s financial position or financial results.

Companies use a working chart of accounts developed on the basis of the centrally (government) established Chart of Accounts.

All business operations performed by the companies should be supported by relevant source documents in Russian. These documents are the primary accounting documents underlying the financial statements. Source documents prepared in other languages should be translated into Russian on a line-by-line basis.

**Statutory reporting requirements**

A company’s financial statements must reflect the company’s economic and financial position fully and reliably, along with any change in this position and the financial results of the company’s activities.

In accordance with Russian legislation, commercial legal entities prepare annual financial statements for each financial year. A financial year is the calendar year (1 January – 31 December), with the exceptions being when a legal entity is registered, reorganised or liquidated. If required by law, a commercial legal entity must prepare and submit interim financial statements for periods that are shorter than a financial year. Annual financial statements, except for when directed otherwise by legislation, include the following:

— The balance sheet;
— Financial result reports;
— Appendices to the above two
reports containing additional information on changes in equity, cash flows, movements of borrowed funds, changes in accounts receivable and payable, notes, etc;
— Tax returns and audit opinions are not included in the financial statements.

The information in the financial statement for the reporting year and the previous year must be presented in comparable formats. A company’s financial statements must include the results of the activities of the company’s branches, representative offices and other structural subdivisions.

Companies submit annual financial statements to:
— Shareholders;
— Statistics authorities;
— Tax authorities;
— Other interested users (if the shareholders so decide).

Currently, according to the Federal Law “On Consolidated Financial Reporting”, the following Russian companies are obliged to consolidate financial reporting in accordance with the version of IFRS officially adopted and published by the Ministry of Finance of the Russian Federation: credit institutions, insurance companies (excluding insurance companies exclusively operating in the field of mandatory medical insurance), non-state pension funds, management companies of incorporated investment funds, and unit investment funds or non-state pension funds (excluding state funds that don’t draw on the state budget);
— Companies presenting and (or) publishing consolidated financial reports;
— Companies for which audits are mandatory, according to other Federal laws.

Audit requirements

The Federal Law on Audit requires that the following Russian entities have mandatory annual audits:
— Joint-stock companies;
— Listed companies;
— Credit institutions, credit history offices, professional stock market operators, insurance companies, clearing agencies, mutual insurance associations, currency, commodity and stock exchanges, non-state pension and other funds, incorporated investment funds, management companies of incorporated investment funds, and unit investment funds or non-state pension funds (excluding state funds that don’t draw on the state budget);
— Companies (except for agricultural cooperatives and unions of these cooperatives) whose annual earnings from the sale of goods (or the performance of work or provision of services) for the preceding financial year exceed RUB 400,000,000 (USD6,451,644), or for which the value of assets on the balance sheet at the end of the year preceding the financial year exceeds RUB 60,000,000 (USD967,747);
— Companies presenting and (or) publishing consolidated financial reports;
— Companies for which audits are mandatory, according to other Federal laws.

Audits of listed companies, credit and insurance companies, non-state pension funds, companies in which the state owns more than 25%, state corporations,
state companies, public not-for-profit organisations, and financial statements included in the listing prospectus and consolidated financial reporting, can only be carried out by professional audit organisations. Because audits are subject to self-regulation, in order to provide audit services in the Russian Federation, a professional auditing firm should be a member of an appropriate self-regulating organisation.

New industry accounting standards for non-credit financial organisations

Since 1st January 2018, a specific chart of accounts, along with industry accounting standards, has been introduced by the Central Bank for some types of non-credit financial organisations (NFOs). These NFOs are:

— professional participants on the stock market, acting as brokers;
— professional participants on the stock market, conducting dealer activities;
— professional participants on the stock market, engaged in forex dealing;
— professional participants on the stock market, providing securities management services;
— professional participants on the stock market, conducting depository activities, including the activities of specialised investment fund, unit investment fund and non-state pension fund depositories;
— professional participants on the securities market, maintaining registers of the holders of securities;
— trade organisers;
— central counterparties;
— clearing organisations;
— management companies of investment funds
## Appendix 1.

### Chart of Withholding Tax Rates

<table>
<thead>
<tr>
<th>Country</th>
<th>Dividends percent</th>
<th>Interest percent</th>
<th>Royalties percent</th>
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<tbody>
<tr>
<td>Albania</td>
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<td>Venezuela</td>
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<tr>
<td>Vietnam</td>
<td>10; 15*</td>
<td>10</td>
<td>15</td>
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</table>
— Algeria: 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 25% of the capital in the Russian company; otherwise, 15%. 0% on interest applies to interest paid by the government or its local authorities or paid to the government, its local authorities or the central bank; otherwise, 15%.

— Argentina: 10% on dividends — this rate applies if the recipient directly owns at least 25% of the capital in the Russian company; otherwise, 15%. 0% on interest applies to interest paid to the government or the central bank; otherwise, 15%.

— Armenia: 5% on dividends — this rate applies if the recipient company directly owns at least 25% of the capital in the Russian company; otherwise, 15%. 0% on interest applies to interest paid to the government or the central bank; otherwise, 10%.

— Australia: 5% on dividends — this rate applies to dividends paid out of profits that carry normal tax rates if the dividends are paid to an Australian company (not a partnership) that directly holds at least 10% of the capital of the Russian company. In addition, the Australian company's holding must be worth at least AUD700,000, and the dividends must be exempt from tax in Australia; in all other cases, 15%.

— Austria: 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 10% of the capital in the Russian company, and the holding value exceeds USD100,000; otherwise, 15%.

— Azerbaijan: 0% on interest applies to interest paid to the central bank; otherwise, 10%.

— Belarus: 0% on interest applies to interest paid to the government or the national bank; otherwise, 10%.

— Belgium: 0% on interest applies to interest paid to the government, its local authorities, public bodies and to banks and other financial institutions; otherwise, 10%.

— Botswana: 5% on dividends — this rate applies if the recipient directly owns at least 25% of the capital in the Russian company; otherwise, 10%. 0% on interest applies to interest paid to the government, its local authorities, political subdivision or the central bank; otherwise, 10%.

— Brazil: 10% on dividends — this rate applies if the recipient directly owns at least 20% of the capital in the Russian company; otherwise, 15%. 0% on interest applies to interest paid to the government or public bodies; otherwise, 15%.

— Bulgaria: 0% on interest applies to interest paid to the government or the Bank of Bulgaria; otherwise, 15%.

— Canada: 10% on dividends — this rate applies if the recipient company owns at least 10% of the capital or voting shares in the Russian company; otherwise, 15%. 0% on interest applies to interest paid to the central bank; otherwise, 10%. 0% on royalties — the rate applies to computer software, patents and know-how; otherwise, 10%.

— Chile: 5% on dividends — this rate applies if the recipient directly owns at least 25% of the capital in the Russian company; otherwise, 10%. 5% on royalties — the rate applies to equipment rentals; otherwise, 10%.

— China: 5% on dividends — this rate applies if the recipient company directly owns at least 25% of the capital in the Russian company and the holding value exceeds EUR80,000 or its equivalent in any other currency; otherwise, 10%.

— Croatia: 5% on dividends — this rate applies if the recipient company owns at least 25% of the capital of the Russian company, and the holding value is at least USD100,000 or its equivalent in another currency; otherwise, 10%.

— Cyprus: 5% on dividends — this rate applies if the holding value is at least EUR100,000; otherwise, 10%.

— Cuba: 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 25% of the capital in the Russian company; otherwise, 15%. 0% on interest applies to interest paid to the government, its local authorities or public bodies; otherwise, 10%.

— Egypt: 0% on interest applies to interest paid to the government, its local authorities, public bodies or the national banks; otherwise, 15%.

— Finland: 5% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 30% of the capital in the Russian company, and the holding value is at least USD100,000 or its equivalent in national currencies; otherwise, 12%.

— France: 5% on dividends — this rate applies if the French company (i) has directly invested at least FRF500,000 in the Russian company and (ii) is taxed in France but is exempt with respect to dividends (i.e. has a participation exemption). A 10% rate applies if only one of the requirements is fulfilled; otherwise, 15%.

— Germany: 5% on dividends — this rate applies if the German company owns at least 10% of the capital in the Russian company and the holding value is at least EUR80,000; otherwise, 15%.

— Greece: 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 25% of the capital in the Russian company; otherwise, 10%.

— Hong Kong: 0% on dividends — this rate applies if dividends distributed to the Government of the Hong Kong Special Administrative Region; to the Hong Kong Monetary Authority; to the Exchange Fund; to any entity wholly or mainly owned by the Government of the Hong Kong Special Administrative Region and mutually agreed upon by the competent authorities of the two Contracting Parties; 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 15% of the capital in the Russian company; otherwise, 10%.

— Iceland: 5% on dividends — this rate applies if the recipient company (not a partnership) owns at least 25% of the capital in the Russian company and the value of the capital investment is at least USD100,000; otherwise, 15%.
— India: a 0% tax rate on interest applies to interest paid to the government, its local authorities, public bodies or the central bank; otherwise, 10%.

— Indonesia: a 0% tax rate on interest applies to interest paid to the government, its local authorities, political subdivisions, the central bank; otherwise, 15%.

— Iran: 5% on dividends — this rate applies if the recipient company (not a partnership) directly owns at least 25% of the capital in the Russian company; otherwise, 10%. 0% on interest applies to interest paid to the government, its local authorities, public bodies, and the central bank; otherwise, 10%. 5% on royalties — this rate applies to equipment rentals; otherwise, 10%.

— Japan: a 0% tax rate on interest applies to interest paid to the government, its local authorities, public bodies or the central bank; otherwise, 10%.

— Italy: 5% on dividends — this rate applies if the recipient company directly owns at least 10% of the capital in the Russian company and the holding value is at least USD100,000; otherwise, 10%.

— Japan: a 0% tax rate on interest applies to interest paid to the government, its local authorities, public bodies or the central bank; otherwise, 10%. 0% on royalties — this rate applies to copyright royalties; otherwise, 10%.

— Kazakhstan: a 0% tax rate on interest applies to interest paid to the government, local authorities or public bodies; otherwise, 10%.

— South Korea (Rep.): 5% on dividends — this rate applies if the recipient company owns directly at least 30% of the capital in the Russian company and the value of the holding is at least USD100,000; otherwise, 10%.

— Kuwait: 0% on dividends — this rate applies if dividends are distributed to the government, local authorities, public entities, the central bank, and public financial institutions; otherwise, 5%.

— Kyrgyzstan: a 0% tax rate on interest applies to interest paid to the government, its local authorities, public bodies and the central bank; otherwise, 10%.

— Latvia: 5% on dividends — this rate applies if the recipient company (other than a partnership) owns directly at least 25% of the capital in the Russian company and the capital invested exceeds USD75,000; otherwise, 10%. 5% on interest applies to interest on loans of any kind granted by a bank or other financial institution of one of the contracting states to a bank or other financial institution of the other contracting state; otherwise, 10%.

— Lebanon: 0% on interest applies to interest paid to the government, its local authorities, and public bodies; otherwise, 5%.

— Lithuania: 5% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the Russian company and the value of the capital investment is at least USD100,000; otherwise, 10%. 0% on interest applies to interest paid to the government, its local authorities, public bodies, and the central bank; otherwise, 10%. 5% on royalties — this rate applies to equipment rentals; otherwise, 10%.

— Luxembourg: 5% on dividends — this lower rate applies if the Luxembourg recipient directly owns at least 10% of the capital in the Russian company and the holding value is at least EUR80,000 or its equivalent in national currency; otherwise, 15%.

— Malaysia: 15% on dividends — this rate applies to profits of joint ventures; otherwise, the domestic rate applies; there is no reduction under the treaty. 0% on interest applies to interest paid to the government and the central bank; otherwise, 15%. 10% on royalties — this rate applies to authors’ rights and equipment rentals; 15% on royalties — this rate applies to films and broadcasting programs and copyrights on items of literature or art.

— Mali: 10% on dividends — this rate applies if the value of the holding is at least FRF1 million; otherwise, 15%. 0% on interest applies to interest paid by the government or its local authorities, paid to the government, its local authorities or the central bank; otherwise, 15%.

— Malta: 5% on dividends — this rate applies if the recipient company owns at least 25% of the capital in the Russian company and the total amount of investments into capital is at least EUR100,000; otherwise, 10%. The zero rate applies to dividends paid to a pension fund, if such dividends are derived from investments made using the assets of that pension fund.

— Mexico: 0% on interest — this lower rate applies to interest paid to the government, the central bank and public bodies, and interest paid in respect of a loan for a period of at least three years granted, guaranteed or insured by specified banks; in other cases, 10%.

— Mongolia: 0% on interest — this lower rate applies to interest paid to the government or the central bank; in other cases, 10%. Taxation of royalties — the domestic rate applies; there is no reduction under the treaty. 10% on royalties — this rate applies to interest paid to the government and the central bank; otherwise, 10%. 5% on royalties — this rate applies to equipment rentals; otherwise, 10%.

— Montenegro: 5% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the Russian company and the value of the capital investment is at least USD100,000; otherwise, 15%.

— Morocco: 5% on dividends — this rate applies if the value of the holding of the recipient company is at least USD500,000; otherwise, 10%. 0% on interest — this lower rate applies to
interest on foreign currency deposits or interest paid by the government; otherwise, 10%.

— Namibia: 5% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the Russian company and the value of the capital investment is at least USD100,000; otherwise, 10%. 0% on interest — this lower rate applies to interest paid to the government, its local authorities or public bodies; otherwise, 10%.

— Netherlands: 5% on dividends — this rate applies if a Dutch company (other than a partnership) directly owns at least 25% of the capital in a Russian company and has invested in it at least EUR75,000 or its equivalent in national currency; otherwise, 15%.

— Norway: 0% on interest if paid to the government, local authorities, Central Bank or other agreed financial institutions; otherwise 10%.

— Philippines: 0% on interest — this lower rate applies to interest paid to the government, its local authorities or public bodies; otherwise, 15%.

— Portugal: 10% on dividends — this rate applies if the Portuguese company has directly owned at least 25% of the capital in the Russian company for an uninterrupted period of at least 2 years prior to the payment; otherwise, 15%. A 0% tax rate on interest applies to interest paid to the government, its local authorities or public bodies; otherwise, 10%.

— Qatar: 0% on interest — this lower rate applies to interest paid to the government, its local authorities or public bodies; otherwise, 5%.

— Romania: 0% on interest — this lower rate applies to interest paid to the government, the national bank, foreign trading bank, or Eximbank; otherwise, 15%.

— Saudi Arabia: 0% on dividends — this lower rate applies to dividends distributed to the government, its local authorities, public bodies, the central bank; otherwise, 5%. 0% on interest — this lower rate applies to interest paid by the government, its local authorities or paid to the government, its local authorities, public bodies; otherwise, 5%.
— Serbia: 5% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the Russian company and the value of the capital investment is at least USD100,000; otherwise, 15%.

— Singapore: 5% on dividends — this rate applies if the recipient of the dividends is the company which directly owns at least 15% of the share capital in the company paying dividends; otherwise, 10%. 10% tax rate also applies on payments distributed by property investment fund.

— South Africa: 10% on dividends — this rate applies if the recipient company owns at least 30% of the capital in the Russian company and has directly invested in this company at least USD100,000; otherwise, 15%. A 0% tax rate on interest applies to interest paid by public bodies; otherwise, 10%.

— Spain: 5% on dividends — this 5% rate applies if (i) the Spanish company has invested at least EUR100,000 in the Russian company and (ii) the dividends are exempt in Spain. A 10% rate applies if only one of the conditions is met; otherwise, 15%. 0% on interest — this lower rate applies to interest paid to public bodies; otherwise, 5%.

— Sri Lanka: 10% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the Russian company; otherwise, 15%. 0% on interest — this lower rate applies to interest paid to the government, its local authorities, public bodies, the central bank; otherwise, 10%.

— Sweden: 5% on dividends — this rate applies if a Swedish company (other than a partnership) owns 100% of the capital in a Russian company (or in the case of a joint venture, at least 30% of the capital in the joint venture) and foreign capital invested exceeds USD100,000 or its equivalent in national currencies; otherwise, 15%.

— Switzerland: 0% on dividends — this rate applies if dividends distributed to a pension fund (or similar institution), the government, any political subdivision, local authority or the central bank; a 5% rate on dividends applies if the Swiss company (other than a partnership) directly owns at least 20% of the capital in the Russian company and the holding value exceeds CHF200,000 or its equivalent in another currency; otherwise, 15%.

— Syria: 0% on interest — this lower rate applies to interest paid to the government, its local authorities, and public bodies; otherwise, 10%. 4.5% on royalties — this rate applies to films and broadcasting programs, and to recordings for radio/TV broadcasting; 13.5% on royalties — this rate applies to copyrights on items of literature, art or science; 18% — this rate applies to patents, trade mark design or models, plans, secret formula/processes, any computer software programs, or for information concerning industrial, commercial or scientific experience.
— Tajikistan: 5% on dividends — this rate applies if the recipient company directly owns at least 25% of the capital in a Russian company; otherwise, 10%. A 0% tax rate on interest applies to interest paid to the government, its local authorities, public bodies or the central bank; otherwise, 10%.

— Thailand: A 0% tax rate on interest applies to interest paid to the government, public bodies, the central bank, the Export-Import Bank of Thailand; a 10% tax rate on interest applies to interest paid to financial institutions. The domestic rate applies in other cases; there is no general reduction under the treaty.

— Turkey: A 0% tax rate on interest applies to interest paid to the government or the central bank, or to the Turkish Eximbank; otherwise, 10%.

— UAE: 0% on dividends — this rate applies only if the recipient is a financial or investment institution. A 0% tax rate on interest — this rate applies only if the recipient is a financial or investment institution. The treaty does not cover royalties.

— UK: 10% on dividends — applies if dividends in the hands of the recipient company are subject to tax.

— Ukraine: 5% on dividends — this rate applies if the holding value is at least USD50,000; otherwise, 15%. A 0% tax rate on interest applies to interest paid to the government or the central bank; otherwise, 10%.

— USA: 5% on dividends — this rate applies if the recipient company owns at least 10% of the capital or voting power in the Russian company; otherwise, 10%.

— Uzbekistan: A 0% tax rate on interest applies to interest paid to the government, its local authorities or the central bank; otherwise, 10%.

— Venezuela: 10% on dividends — this rate applies if the recipient company (other than a partnership) directly owns at least 10% of the capital in the Russian company and the holding value is at least USD100,000; otherwise, 15%. A 0% tax rate on interest applies to interest paid by (or to) the government, its local authorities, the central bank or public bodies. If the interest is paid on a loan granted/guaranteed by a financial institution of a public character with the objective of promoting exports and development, then a 5% tax rate on interest applies to interest paid to the bank; otherwise, 10%. 10% on royalties — this rate applies to fees for technical services; otherwise, 15%.

— Vietnam: 10% on dividends — this rate applies if the recipient company has invested in the capital of the Russian company at least USD10 million; otherwise, 15%.
Appendix 2.
Fines for the most widespread tax and customs violations

Fines based on the Tax Code

<table>
<thead>
<tr>
<th>Type of infringement</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Late registration with the tax authorities</td>
<td>RUB 10,000 (approximately USD 161) if the registration deadlines are missed. If activities have been conducted without registration: 10% of the income received as a result of the activities, but not less than RUB 40,000 (approximately USD 645)*</td>
</tr>
<tr>
<td>Late submission of tax returns</td>
<td>5% of the amount due for each full or part month late, but not more than 30%, and not less than RUB 1,000 (approximately USD 16)*</td>
</tr>
<tr>
<td>Substantial violation of the rules governing the accounting of taxable income and expenses</td>
<td>RUB 10,000 (approximately USD 161)* If committed in several tax periods: RUB 30,000 (approximately USD 484)* If this has resulted in understatement of the tax base: then 20% of the amount of tax underpaid (if any), but not less than RUB 40,000 (approximately USD 645)*</td>
</tr>
<tr>
<td>Payment default or underpayment of taxes</td>
<td>20% of the tax underpaid as a result of understating the taxable base or other incorrect calculations of tax, or other illegal actions. 40% of the tax underpaid if the tax underpayment was deliberate.</td>
</tr>
<tr>
<td>Non-withholding and/or default of payment of taxes by a tax agent</td>
<td>20% of the tax not withheld and not paid by the tax agent.</td>
</tr>
</tbody>
</table>

In the above cases, if a taxpayer corrects the errors themselves and pays the additional taxes and late payment interest payable, fines for erroneous bookkeeping and tax calculation are not assessed. Normally late payment interest is charged at 1/300th of the refinancing rate of the Central Bank of the Russian Federation (7.5% as at 21 February 2018) for each day the tax payment was delayed. As of 1 October 2017, after the thirtieth day of delay in payment, the late payment interest rises higher to 1/150 of the Russian Central Bank’s refinancing rate. At present, the interest would be 0.025% per day during the first thirty days of delay in payment. After the thirtieth day of delay in payment interest, would be 0.05% per day (since October 2017).

Fines based on the Administrative Code

<table>
<thead>
<tr>
<th>Type of infringement</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Violation of the terms of registration with the tax authorities</td>
<td>RUB 500–RUB 1,000 (from USD8 to USD16), or a warning for missing the registration deadlines; RUB 2,000–RUB 3,000 (from USD32 to USD48), if activities were undertaken without registration. These apply to company executives.</td>
</tr>
<tr>
<td>Violation of the terms for submission of tax returns</td>
<td>RUB 300–RUB 500 (from USD5 to USD8), or a warning. These apply to company executives.</td>
</tr>
<tr>
<td>Non-submission of essential information for tax control purposes</td>
<td>For individuals: RUB 100–RUB 300 (from USD2 to USD5), For company executives: RUB 300–RUB 500 (from USD6 to USD8) for not submitting information, or submitting information that was incomplete during tax control procedures.</td>
</tr>
</tbody>
</table>
Fines based on the Russian Criminal Code

Among other clarifications, the Russian Criminal Code prescribes the liability faced by individuals and legal entities when evading tax on large and very large amounts.

The respective criteria for individuals and legal entities on whether non-taxed amounts qualify as large of very large are established in the Russian Criminal Code.

For instance, for legal entities, amounts are deemed to be large (very large in brackets) if:

— the amount of tax underpaid exceeds RUB 5 (15) million/USD80,646 (USD241,937) for 3 financial years AND the share of the tax underpayments exceeds 25% (50%) of tax liabilities, OR

— tax underpayment exceeds RUB 15 (45) million/USD80,646 (USD725,810)**.

The criminal liability for the above tax evasion by legal entities is as follows for large amounts (very large amounts, or tax evasions committed by a group of persons, shown in brackets):

— penalty of RUB 100,000 – RUB 300,000 (200,000 – 500,000)/ from USD1,613 to USD4,839 (from USD3,226 to USD 8,065), OR

— penalty consisting of the amount of salary or other income received by the guilty person for 1-2 (1-3) years, OR

— forced labour for up to two (five) years, and maybe disqualification from the right to hold certain positions or to perform certain activities for a period of up to three years, OR

— arrest for up to six months (only for tax evasions on large amounts), OR

— imprisonment for up to two (six) years, and maybe disqualification from the right to hold certain positions or to perform certain activities for a period of up three years**.

The tax officials of a company will be subject to criminal liability for the above tax evasions if the evasion is committed with express malice.

An organisation is exempted from criminal liability if it has committed tax evasion for the first time and has paid to the state budget, in full, the amount of tax owed, late payment interest, and all associated fines.

Fines for customs violations

<table>
<thead>
<tr>
<th>Type of violation</th>
<th>Fine</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illegal movement of goods and/or vehicles across the customs border of the Eurasian Economic Union (EEU)</td>
<td>Fine of 50% to 300% of the value of the goods and/or vehicles, with the possibility of the goods / vehicles being seized.</td>
</tr>
<tr>
<td>Non-declaration of goods in accordance with established procedures</td>
<td>Fine of 50% to 200% of the value of the goods, with the possibility of the goods being seized.</td>
</tr>
<tr>
<td>Incorrect declarations (e.g. provision of incorrect information regarding the name, description, classification code of goods, etc.), if the declaration led to underpayment of customs duties</td>
<td>Fine of 50% to 200% of the underpaid customs payments, with the possibility of the goods in question being seized.</td>
</tr>
<tr>
<td>Violations of customs procedures</td>
<td>Fine of 50% to 200% of the value of goods, with the possibility of the goods being seized.</td>
</tr>
<tr>
<td>Illegal acquisition, use, storage, or transportation of goods</td>
<td>Fine of 50% to 200% of the value of goods, with the possibility of the goods being seized.</td>
</tr>
<tr>
<td>Evasion of customs duties</td>
<td>Fine of RUB 100,000–RUB 500,000 (from USD1,613 to USD8,065) or of 1–3 years’ salary, or forced community service for a period of up to 480 hours, or forced labour or confinement for a period of up to two years. If there has been an especially large evasion of customs duties, a fine of RUB 300,000–RUB 500,000 (from USD4,839 to USD8,065) or of 2–3 years’ salary, or forced labour or confinement of up to 5 years, possibly accompanied by a forfeit of the right to hold some posts or carry out some activities for a period of up to 3 years. Evasion of customs duties is considered large scale if the total sum of unpaid customs duties exceeds RUB 2,000,000 (USD32,258), and is considered exceptionally large scale if it exceeds RUB 6,000,000 (USD96,775).</td>
</tr>
</tbody>
</table>

** Article 199 of the Russian Criminal Code
Appendix 3.
KPMG’s Tax & Legal Department

Why KPMG

KPMG in Russia and the CIS employs more than 400 tax and legal consultants, including both local and foreign specialists. They bring with them vast experience not only in advisory services but in the business world as well.

With his extensive knowledge of tax advisory services in Russia, Mikhail Orlov, the Head of Tax & Legal in Russia and the CIS, also chairs the Tax and Customs Law Expert Council of the Russian State Duma and drafts legislation and works as a Public Tax Ombudsman under the Russian Federation’s Presidential Commissioner for the Rights of Business People.

As the head of a strong and cohesive team of professionals, Mikhail makes it the department’s priority to be not only our clients’ consultants who help solve urgent and sensitive issues quickly and efficiently, but also to be their trusted partners.

Our team

KPMG in Russia employs more than 400 tax and legal professionals, including both local and foreign specialists. They bring with them vast experience not only in advisory services but in the business world as well.

Our approach to key issues:

— **Tax effectiveness.** To raise tax effectiveness, KPMG uses a combined approach, which includes improving cash flow, centralising funds, realising the group’s management expenses, international planning, implementing appropriate ERP and tax management systems and fiscal management.

— **Transfer pricing.** We have completed more than 100 complex analyses of transfer prices for Russian and international clients across many different sectors.

— **International tax planning.** We will help you find the most effective way to build your international group structure. If you have subsidiaries located abroad, we will help you structure their activities.

— **Mergers and acquisitions.** Our team provides a full range of services from financial, legal and tax due diligence to restructuring advice and legal advice on transaction agreements.

— **Tax dispute resolution.** Our litigation group provides support during tax disputes, which includes representing clients’ interests in court, supporting clients during tax audits and throughout the pre-trial settlement process, preparing appeals to court decisions and appeals to tax authorities to take action or to remain uninvolved, and interpreting laws and practice for clients who are dealing with state authorities.

Corporate tax services

KPMG has teams dedicated to addressing all of the tax issues that corporations confront:

— Indirect tax;
— Transfer pricing;
— Effective management of tax liabilities (and its outsourcing);
— Development of problem-solving methods;
— Tax considerations during restructuring;
— International tax planning;
— Tax structuring for mergers and acquisitions, including support for the times after companies have been integrated.

People services

We provide services for private clients and company staff. These services include helping to ensure personal compliance with tax legislation, implementing relevant company-wide programmes, pension planning and private client services. Our specialists are also able to provide professional wealth management services. Personal services also tie into secondment structuring, both inbound and outbound, and related tax, legal and immigration issues.

Legal advice

KPMG’s Law practice consists of more than 50 lawyers and attorneys with international legal experience based in Moscow and Saint Petersburg, including PhDs in law and lawyers who qualified and practiced in England and the United States.

We have direct access to KPMG Law’s international network, superior in its global coverage to most other international law firms, covering more than 70 jurisdictions and providing international legal solutions to our global clients as they conduct transnational projects.

Complex tax projects

The specialists at KPMG Tax & Legal have experience supporting, from a tax and legal perspective, IT projects and projects requiring financial and strategic consulting. We analyse financial risks, develop progressive approaches and adapt systems to conform with Russian and international legislation. Our experience includes introducing new software systems, overseeing commercial restructuring of holding companies, advising on money laundering, issues related to corporate intelligence and resolving commercial issues. Moreover, we actively participate in projects where we work to improve personnel management and support the improvement of operational efficiency within our clients’ companies.

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### Glossary of terms

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AUD</td>
<td>Australian dollar</td>
</tr>
<tr>
<td>BRIC</td>
<td>Brazil, Russia, India And China</td>
</tr>
<tr>
<td>BVI</td>
<td>British Virgin Islands</td>
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<tr>
<td>CHF</td>
<td>Swiss franc</td>
</tr>
<tr>
<td>CIS</td>
<td>Commonwealth of Independent States</td>
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<tr>
<td>CJSC</td>
<td>Closed joint stock companies</td>
</tr>
<tr>
<td>ERP</td>
<td>Enterprise Resource Planning</td>
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<tr>
<td>EUR</td>
<td>Euro</td>
</tr>
<tr>
<td>FCZ</td>
<td>Free customs zone</td>
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<tr>
<td>FDI</td>
<td>Foreign direct investment</td>
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<tr>
<td>FLE</td>
<td>Foreign legal entity</td>
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<tr>
<td>FMS</td>
<td>Federal Migration Service</td>
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<tr>
<td>FRF</td>
<td>French Franc</td>
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<tr>
<td>FZ</td>
<td>Federal law (Federalniy Zakon)</td>
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<tr>
<td>GDP</td>
<td>Gross domestic product</td>
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<tr>
<td>HQS</td>
<td>Highly qualified specialist</td>
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<tr>
<td>ID</td>
<td>Identification</td>
</tr>
<tr>
<td>IFRS</td>
<td>International Financial Reporting Standards</td>
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<tr>
<td>IT</td>
<td>Information and technology</td>
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<tr>
<td>JSC</td>
<td>Joint stock companies</td>
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<tr>
<td>Kg</td>
<td>Kilogram</td>
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<tr>
<td>LLC</td>
<td>Limited liability companies</td>
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<tr>
<td>OJSC</td>
<td>Open joint stock companies</td>
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<tr>
<td>PE</td>
<td>Permanent establishment</td>
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<tr>
<td>PIT</td>
<td>Personal income tax</td>
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<tr>
<td>R&amp;D</td>
<td>Research and development</td>
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<tr>
<td>RA</td>
<td>Rating agency</td>
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<tr>
<td>RLE</td>
<td>Russian Link Exchange</td>
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<tr>
<td>RO</td>
<td>Representative office</td>
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<tr>
<td>RUB</td>
<td>Russian rouble</td>
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<tr>
<td>RF</td>
<td>Russian Federation</td>
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<tr>
<td>SEZ</td>
<td>Special economic zone</td>
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<td>UCT</td>
<td>Unified Customs Tariff</td>
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<td>UK</td>
<td>United Kingdom</td>
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<tr>
<td>US</td>
<td>United States</td>
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<tr>
<td>USD</td>
<td>United States dollars</td>
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<tr>
<td>USSR</td>
<td>Union of Soviet Socialist Republics</td>
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<tr>
<td>VAT</td>
<td>Value added tax</td>
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<tr>
<td>YoY</td>
<td>Year-on-year</td>
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</tbody>
</table>
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