

5.7 Requirements for Tenders and Selection of a Financial Organization by Subjects of Natural Monopolies and Various States and Municipal Bodies

The Competition Law provides for a list of actions in conducting tenders (including governmental tenders) which are prohibited if they lead to restriction of competition.

All federal and municipal bodies, bodies of Russian Federation constituent entities and subjects of natural monopolies shall select a financial organization by holding a public tender (in the procedures set down by other federal laws) to render certain number of financial services for them, a full list of which is provided by the Competition Law, and which includes granting credits, rendering services on the securities market and under leasing contracts, attraction of monetary funds of legal entities for deposits, opening and maintaining bank accounts of legal entities, and making settlements with these accounts, etc.

6. TAXATION

6.1 Introduction

Over the past 10 years, Russia has been engaged in a significant reform of its tax system, which has been implemented in phases. This reform has improved procedural rules and made them more favorable to taxpayers, has reduced the overall number of taxes, and has reduced the overall tax burden in the country.

Part I of the *Tax Code of the Russian Federation* (the “*Tax Code*”) came into effect in 1999, dealing largely with administrative and procedural rules. The latest significant amendments to Part I clarified certain administrative and procedural issues raised by over ten years of practice of the application of Part I of the *Tax Code* (in particular, regarding tax audit procedures, procedural guarantees for taxpayers, operations with taxpayer bank accounts and bank liability). Starting January 1, 2009, taxpayers are required to adverse appeal tax inspectorate decisions on a tax audit to a higher-tier tax authority before bringing a court claim. The provisions of Part II of the *Tax Code* regarding excise taxes, VAT, individual income tax, and the unified social tax came into force in 2001, followed by the profits tax and mineral extraction tax provisions of the *Tax Code* in 2002.

In 2003, further amendments introduced a simplified system of taxation, a single tax on imputed income, a new Chapter on transportation tax, and established a special tax regime for production sharing agreements in Russia. A Chapter on corporate property tax came into effect as of January 1, 2004. In 2005 the water tax, land tax, and state duty Chapters came into effect. Most of these Chapters of the Tax Code replaced and significantly updated or improved individual tax laws that initially were enacted as far back as 1991. The remaining Chapter of the *Tax Code* still under review covers the property tax on individuals, which is currently governed by the old 1991 legislation. In 2006, the inheritance and gift tax that was in existence since 1991 was repealed. In addition, over the last several years, various amendments have been made to the *Tax Code*, including several recent key changes largely intended to address the economic downturn in Russia.

The Russian authorities have announced that more tax reforms may follow, including revision of the social taxes, proposals to further modify the provisions governing the dividend exemption for “strategic investments,” transfer pricing and tax consolidation for certain groups of taxpayers. Thus, tax reform continues to be an ongoing process.

6.2 Types of Tax

The *Tax Code* sets forth three levels of taxation: federal, regional and local. Currently, federal taxes include VAT, excise taxes, profits tax, unified social tax, personal income tax, mineral extraction tax, state duty, special tax regimes, and several other taxes. Regional taxes include corporate property tax, transportation tax, and gambling tax, while local taxes include land tax and individual property tax.

There are four types of special tax regimes that may be applicable to certain activities and/or categories of taxpayers: single agriculture tax, simplified system of taxation, single tax on imputed income from certain kinds of activity, and taxation of production sharing agreements. These special tax regimes have the status of a federal tax and may provide exemptions from certain federal, regional, and local taxes.

6.3 Tax Audits

The Russian tax authorities may conduct off-site or on-site tax audits of taxpayers. Amendments that came into affect starting from January 1, 2009 clarified certain procedural aspects for both types of tax audits. Tax authorities may audit several different taxes simultaneously as part of on-site tax audits. However, except in cases

of a liquidation or reorganization, when a higher tax authority inspects the activities of a lower tax authority that conducted an on-site audit, or when a taxpayer files an amended tax return claiming a lower level of taxation, a tax for a given period may only be audited once. The taxpayer may also be repeatedly inspected for the same tax period upon a decision of the Head of the Federal Tax Service of Russia. In case during repeat tax audit the tax authorities find an underpayment that was not found during a previous tax audit, the penalty for such underpayment would not be applied to the taxpayer, except for cases where the undetected violation resulted from a conspiracy between the taxpayer and the tax authorities. In exceptional cases provided by the Tax Code, the Russian tax authorities may suspend an on-site tax audit. However the overall term of suspension in any case may not exceed nine months. The results of a tax audit relating to reviewed taxes may only be reconsidered by supervising tax authorities. In any case, however, tax authorities may only audit the three calendar years preceding the year of the tax audit. As a general rule, a three-year statute of limitations applies to the imposition of penalties for tax violations, although according to a position taken in Constitutional Court Ruling No. 9-P, dated July 14, 2005, this type of defense could be rejected by the court if the taxpayer impeded the tax audit by the tax authorities. Also, the tax authorities may levy for outstanding taxes and late payment interest unilaterally without a court decision. The imposition of penalties larger than 5,000 rubles in case of individuals and 50,000 rubles in case of legal entities for a given tax period requires a court decision. Starting from January 1, 2007, in certain circumstances the amount of tax that was not duly paid during the three months period may be collected from companies affiliated with the taxpayer if such affiliated companies receive payments for goods, works or services provided by the taxpayer.

6.4 Corporate Profits Tax

Prior to 2009, following the introduction of Chapter 25 of the *Tax Code* the maximum tax rate for all companies was set at 24%. To address the economic downturn in Russia, starting from January 1, 2009, the maximum tax rate is reduced to 20%, which is currently payable at a rate of 2% to the federal budget and 18% to regional budgets. The regional authorities may, at their discretion, reduce their regional profits tax rate to as low as 13.5%. Thus, the overall tax rate can vary from 15.5% to 20%.

In the course of ongoing reforms significant changes were recently introduced to dividends taxation. Effective January 1, 2008 the tax rate on dividends received from foreign companies decreased from 15% to 9% to match the rate applicable between Russian entities. Also, to promote Russian holding companies, starting from January, 1 2008, dividends payable by foreign and Russian entities qualifying as “strategic investments” to Russian companies are exempt from profits tax. The exemption applies provided on the day the corporate decision to pay the dividends is taken, the following four tests are met:

- (1) the recipient of the dividends continuously has held shares for not less than 365 days;
- (2) the recipient of the dividends owns not less than 50% of the shares in the company paying the dividends;
- (3) the shareholder’s cost of acquisition of shares or participation in the charter capital of the company paying dividends exceeds 500 million rubles (approximately USD 15 million); and
- (4) the company paying dividends is not located in a jurisdiction included in a “black list” of off-shore jurisdictions adopted by Order No. 108n of the Russian Ministry of Finance, dated 13 November 2007 (the “black list” includes most of the off-shore low-tax jurisdictions and territories, including Cyprus).

As a result of the significant investment requirement the dividend exemption has very limited application; however, the Russian Ministry of Finance is discussing relaxation of the exemption criteria by reducing (or repealing) the 500 million rubles requirement.

After these amendments to Chapter 25, the following tax rates apply to dividends:

- 0% withholding tax on dividends payable by Russian and foreign companies qualifying as “strategic investments”;
- 9% withholding tax on dividends payable by Russian and foreign companies to Russian shareholders in all other cases; and
- 15% withholding tax on dividends payable by Russian companies to foreign legal entities.

Chapter 25 also introduced special tax rates on income earned from Russian state securities and on the profits of the Russian Central Bank.

Taxable profit is defined as income less deductible expenses. Although, prior to 2002, deductions were limited and were subject to substantial restrictions, as of January 1, 2002, many of those expense limitations disappeared under the new profits tax provisions of the *Tax Code*. Under the current rules, a taxpayer is generally permitted to deduct economically justified and documentarily confirmed business expenses. Deduction of certain types of expenses are subject to restrictions (*e.g.* certain advertising costs and representational, including business entertainment, and travel costs). As of January 1, 2009 some of these restrictions were repealed, in particular, taxpayers are now entitled to deduct per diems (previously only within the limits set by the Russian Government) and expenses on education of employees in Russia and certain voluntary insurance expenses. Expenses on research and development (including those that failed to yield a positive result) falling into the list approved by the Russian Government (which has not been adopted yet) are now deductible in the reporting period at a rate of 150% of their actual amount. The positive changes contrast with the tax authorities recently having taken a more aggressive approach to the economic justification of expenses that in some instances has appeared to be an indirect way of reintroducing some of the old law restrictions. In some instances, unfortunately, the courts have supported this position of the tax authorities.

6.4.1 Interest Deductibility and Thin Capitalization Rules

Generally, under the *Tax Code*, interest is deductible as long as it does not deviate by more than 20% from market interest rates paid on comparable loans in the same calendar quarter. Any excessive part of the interest will not be deductible. If no such comparable loans exist, interest is deducted within certain limits. To meet the growth of interest rates forced by the global financial crisis, during the period September 1, 2008 - December 31, 2009 the interest deductibility limit for ruble loans has been increased from 1.1 times the Russian Central Bank refinancing rate up to 1.5 times (19.5% at the effective 13% refinancing rate) and for loans denominated in a foreign currency from 15% up to 22% per annum.

In addition, there is a specific provision with respect to “thin capitalization.” The *Tax Code* introduces a 12.5/1 debt-to-equity ratio limit for banks and leasing companies, and a 3/1 ratio limit for all other companies. If the ratio of the Russian borrower company’s internal capital to its outstanding debt owed to a foreign shareholder holding more than a 20% interest in the Russian borrower company (including debt owed to a Russian affiliate of the foreign shareholder and debt guaranteed by the

foreign shareholder or its Russian affiliate) exceeds these limits, the Tax Code restricts the deductibility of interest paid on the excess debt. Non-deductible interest is also considered to be a dividend payment to the foreign shareholder and hence is subject to a 15% withholding tax, unless the latter is reduced or eliminated by an applicable tax treaty.

6.4.2 Asset Depreciation and Carrying Forward Losses

Assets with a value exceeding 20,000 rubles (approximately USD 550; 10,000 rubles prior to January 1, 2008) and a useful life of more than 12 months are subject to depreciation. Chapter 25 allows taxpayers to split assets into ten groups, depending on the type of asset and its useful life, and to apply accelerated depreciation rates; for example, the useful life for buildings under the new rules is 30 years. Under Chapter 25, taxpayers are able to choose between a linear method (somewhat similar to the old method of asset depreciation) and a non-linear method. As of January 1, 2009, the non-linear method is substantially revised. Most importantly, the depreciation of assets under the non-linear method is performed by groups of assets (rather than on a stand-alone basis for each individual asset) and under a new formula and depreciation rates. Effectively, taxpayers can deduct approximately a half of the depreciation value of assets for 25% of their useful lifetime (certain limitations on the application of the non-linear method must be observed). Land, subsoil, and natural resource assets are not subject to depreciation and hence do not reduce the tax base of the profits tax.

Starting from January 1, 2006, a lump-sum deduction in the amount of 10% of the initial book value of newly acquired fixed assets is allowed to be made for profits tax purposes in the period when the fixed assets are acquired. As of January 1, 2009, for the capital assets with a useful life of from more than 3 to 20 years this special investment incentive is increased from 10% to 30%. As a downside, if the taxpayer alienates any capital asset during the first five years of its use, the investment incentive deduction must be recaptured. This provision applies both to the 10% and 30% investment incentive deductions.

Losses may be carried forward for ten years. Also, there is no requirement to spread the loss over the entire carry-forward term. Starting from January 1, 2007, the limitation on the amount of taxable profit that could be reduced by a loss carry-forward in a particular year was eliminated. In addition, capital losses may be offset against operating income; this deduction, however, must be evenly spread over the residual useful life of the capital asset for which the loss was incurred.

6.4.3 Investment Benefits

Russian companies enjoyed various regional and local tax concessions under the 1991 *Corporate Profits Tax Law*, and under the relevant regional and/or local laws of several territories (particularly Chukotka, Kalmykia, Mordovia, and Evenkia). Chapter 25 of the *Tax Code* abolished all tax incentives, including the capital investment allowance. Some types of tax benefits (including investment benefits) were grandfathered, although they ceased to be effective as of January 1, 2004. Presently, regional and local legislative bodies are no longer authorized to provide tax concessions, except for regional authorities, which may reduce their regional profits tax rate by 4% and thus reduce the overall tax rate to 15.5%. However, the effective tax rate could be even lower under the special tax regimes referred to under section 6.2 above or under the special economic zone regime.

In 2005, Federal Law No. 116-FZ *On Special Economic Zones in the Russian Federation*, dated July 22, 2005 was passed. It introduced a new concept for the provision of investment benefits. Please refer to section 2.3 above for more information on this topic.

6.4.4 Transfer Pricing Rules

The *Tax Code* contains several rules related to transfer pricing. Specifically, it sets forth the presumption that the contractual price agreed to by the parties is the “market price.” At the same time, in any of the following four circumstances, the tax authorities may exercise control over contractual prices:

- A transaction between affiliated parties;
- A barter transaction;
- A foreign trade transaction; or
- A transaction involving significant variations in prices (*i.e.* a fluctuation of more than 20%) for identical goods or services within a short period of time (in practice, this term is interpreted as 30 days immediately preceding the date in question).

If a transaction falls under one of the above four categories, the tax authorities can adjust the contract price based on the market value and impute additional taxes, penalties, and late payment interest accordingly.

Finally, Chapter 25 requires taxpayers to maintain a completely separate set of books for the purpose of calculating the tax base for profits tax. Traditionally, profits tax had been calculated based on book profit adjusted for tax purposes. However, from January 1, 2002, the tax base must be calculated from tax accounting ledgers; statutory accounting records are no longer the primary source of information for profits tax calculations.

The transfer pricing rules are currently being reviewed by the Russian government. Recent proposals to amend the transfer pricing rules provide for the following significant changes: an extended scope of controlled transactions, new methods for determining market prices, transfer pricing documentation requirements, and the introduction of advanced pricing agreements. There is no exact information on when these rules will be adopted. However, any new transfer pricing rules most likely will not be adopted and come into effect prior to 2010.

6.5 Taxation of Foreign Companies

Russian legislation taxes profits derived from a “permanent establishment” in Russia, as well as certain other types of income derived without a permanent establishment in Russia. Importantly, whether a permanent establishment exists under Russian law is unrelated to whether a foreign company’s office has been registered in Russia. A permanent establishment may exist even if the office is not registered, and the existence of a registered office may not necessarily give rise to a taxable permanent establishment. Profit derived by foreign legal entities from their having a permanent establishment in Russia is generally taxed at the same profits tax rates applicable to Russian taxpayers.

Chapter 25 sets forth a limited list of Russian source income not connected with a permanent establishment in Russia that is subject to Russian withholding tax. The list includes mainly passive types of income, such as royalties, interest, dividend income, and rentals. Other income received by non-Russian residents that is not specified in the list is not subject to any withholding tax.

Unless an applicable double taxation treaty provides for a lower rate, dividends payable by Russian companies to foreign shareholders are subject to a 15% withholding tax. Other listed income received by foreign legal entities from Russian sources is subject to either a 20% withholding tax (for most categories of income, including royalties

and most types of interest) or a 10% withholding tax (for income from freight and lease of transportation vehicles), subject to any reduction available under an applicable double taxation treaty.

Russia is now a party to 69 double taxation treaties, which can provide for the reduction of the withholding tax rate on dividend income to as low as 5% and generally provide for a 0% withholding rate on other income (*e.g.* interest, royalties, and capital gains). For example, the *1998 Russia-Cyprus Double Taxation Treaty* provides for a 0% withholding tax rate on interest, royalties, capital gains, and other income not related to a permanent establishment; a 5% withholding tax rate on dividends payable to Cypriot shareholders who have contributed over USD 100,000 to the charter capital of a Russian subsidiary responsible for paying out these dividends; and a 10% withholding tax rate on dividends payable to all other Cypriot shareholders. Many other tax treaties provide for similar rates.

Chapter 25 includes a provision that explicitly states that, in the event of a conflict, double taxation treaties override the *Tax Code*. Chapter 25 contains more beneficial rules than had existed under previous laws governing tax treaty relief for a foreign legal entity. Under the new rules, taxpayers should be allowed to obtain preliminary tax treaty relief from tax-withholding in Russia without any filings with the Russian tax authorities, by presenting documents evidencing the tax residency status of the taxpayer to the tax-withholding agent (usually the Russian payer). However, obtaining a tax refund where the tax was actually withheld would require the filing of the relevant forms with the Russian tax authorities.

The profits tax is payable on a quarterly basis. The annual tax return and a report on a foreign legal entity's activity in the Russian Federation must be submitted to the tax authorities by March 28 of the year following the close of the taxable year.

6.6 Double Taxation Treaties

Russia has entered into the following bilateral treaties for the avoidance of double taxation which are currently in force:

No.	Country	Dividends		Interest ²	Royalties
		Individuals, Companies	Qualifying Companies		
1.	Albania	10	10	10	10
2.	Armenia	10	5 ³	0	0
3.	Australia	15	5 ⁴	10	10
4.	Austria	15	5 ⁵	0	0
5.	Azerbaijan	10	10	10	10
6.	Belarus	15	15	10	10
7.	Belgium	10	10	10	0
8.	Bulgaria	15	15	15	15
9.	Canada	15	10 ⁶	10	0/10 ⁷
10.	China	10	10	10	10
11.	Croatia	10	5 ⁸	10	10

² Many treaties provide for an exemption for certain types of interest *e.g.* interest paid to the state local authorities, the central bank export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.

³ The rate applies if the value of the holding is at least USD 40,000.

⁴ The rate applies if the recipient company (other than a partnership) directly owns at least 10% of the company paying the dividends, and if the value of the holding is at least AUD 700,000, and the dividends to be paid by the Russian company are exempted from the Australian taxes.

⁵ The rate applies if the recipient company directly owns at least 10% of the capital in the Russian company and the value of the holding exceeds USD 100,000.

⁶ The rate applies if the recipient company owns at least 10% of the capital or voting power in the Russian company, as the case may be.

⁷ The lower rate applies to computer software, patents and know-how.

⁸ The rate applies if the recipient company owns at least 25% of the capital in the Russian company and the value of the holding is at least USD 100,000.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
12.	Cyprus	10	5 ⁹	0	0
13.	Czech Republic	10	10	0	10
14.	Denmark	10	10	0	0
15.	Egypt	10	10	15	15
16.	Finland	12	5 ¹⁰	0	0
17.	France	15	5/10 ¹¹	0	0
18.	Germany	15	5 ¹²	0	0
19.	Greece	10	5 ¹³	7	7
20.	Hungary	10	10	0	0
21.	Iceland	15	5 ¹⁴	0	0
22.	India	10	10	10	10
23.	Indonesia	15	15	15	15
24.	Iran	10	5 ¹⁵	7.5	5

⁹ The rate applies if the value of the holding is at least USD 100,000.

¹⁰ The rate applies if the recipient company directly owns at least 30% of the capital in the Russian company and the value of the holding is at least USD 100,000.

¹¹ The 5% rate applies if the French company: (1) has directly invested at least EUR 76,225 in the Russian company; and (2) is subject to tax in France, but is exempt with respect to the dividends (i.e. participation exemption). The 10% rate applies if only one of the requirements is fulfilled.

¹² The rate applies if the German company owns at least 10% of the capital in the Russian company and the value of the holding is at least EUR 81,806.70.

¹³ The rate applies if the Greek company (other than a partnership) owns at least 25% of the capital in the company paying the dividends.

¹⁴ The rate applies if the recipient company directly owns at least 25% of the capital in the paying dividends and the value of the holding is at least USD 100,000.

¹⁵ The rate applies if the recipient company directly owns at least 25% of the capital in the Russian company.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
25.	Ireland	10	10	0	0
26.	Israel	10	10	10	10
27.	Italy	10	5 ¹⁶	10	0
28.	Japan	15	15	10	0/10 ¹⁷
29.	Kazakhstan	10	10	10	10
30.	North Korea	10	10	0	0
31.	Korea (Rep.)	10	5 ¹⁸	0	5
32.	Kuwait	5	5	0	10
33.	Kyrgyzstan	10	10	10	10
34.	Lebanon	10	10	5	5
35.	Lithuanian Republic	10	5 ¹⁹	10	5/10 ²⁰
36.	Luxembourg	15	10 ²¹	0	0
37.	Macedonia	10	10	10	10

¹⁶ The rate applies if the recipient company directly owns at least 10% of the capital in the Russian company and the value of the holding exceeds USD 100,000.

¹⁷ The lower rate applies to copyright royalties.

¹⁸ The rate applies if the recipient company (other than a partnership) directly owns at least 30% of the capital in the company paying the dividends and the value of the holding is at least USD 100,000.

¹⁹ The rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the company paying the dividends and the value of the holding exceeds USD 100,000.

²⁰ The lower rate applies to the royalties for the use of industrial, commercial, and scientific equipment.

²¹ The 10% rate applies if the Luxembourg recipient directly owns at least 30% of the capital in the Russian company and the value of the holding is at least EUR 75,000.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
38.	Malaysia	-/15 ²²	-/15 ²³	15	10/15 ²⁴
39.	Mali	15	10 ²⁵	15	0
40.	Mexico	10	10	10	10
41.	Morocco	10	5 ²⁶	0/10 ²⁷	10
42.	Moldova	10	10	0	10
43.	Mongolia	10	10	10	_ ²⁸
44.	Namibia	10	5 ²⁹	10	5
45.	Netherlands	15	5 ³⁰	0	0
46.	New Zealand	15	15	10	10
47.	Norway	10	10	10	0
48.	Philippines	15	15	15	15
49.	Poland	10	10	10	10

²² The 15% rate applies to profits of joint ventures. Otherwise, the domestic rate applies; there is no reduction under the treaty.

²³ The 15% rate applies to profits of joint ventures. Otherwise, the domestic rate applies; there is no reduction under the treaty.

²⁴ The lower rate applies to industrial royalties.

²⁵ The rate applies if the value of the holding is at least FRF 1 million.

²⁶ The 5% rate applies if the value of the holding is at least USD 500,000.

²⁷ The lower rate applies to interest on foreign currency deposit.

²⁸ The domestic rate applies, there is no reduction under the treaty.

²⁹ The rate applies if the recipient company owns at least 25% of the capital in the Russian company and the value of the holding is at least USD 100,000.

³⁰ The rate applies if the Netherlands company directly owns at least 25% of the capital in the Russian company and has invested in it at least EUR 75,000 or its equivalent in national currency.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
50.	Portugal	15	10 ³¹	10	10
51.	Qatar	5	5	5	0
52.	Romania	15	15	15	10
53.	Serbia and Montenegro	15	5 ³²	10	10
54.	Slovakia	10	10	0	10
55.	Slovenia	10	10	10	10
56.	South Africa (Rep.)	15	10 ³³	10	0
57.	Spain	15	5/10 ³⁴	0/5 ³⁵	5
58.	Sri Lanka	15	10 ³⁶	10	10
59.	Sweden	15	5 ³⁷	0	0

³¹ The rate applies if the Portuguese company has owned directly at least 25% of the capital in the Russian company during an uninterrupted period of at least 2 years prior to the payment.

³² The rate applies if the recipient company owns at least 25% of the capital in the Russian company and the value of the holding is at least USD 100,000.

³³ The rate applies if the recipient company directly owns at least 30% of the capital in the Russian company and the value of the holding is at least USD 100,000.

³⁴ The 5% rate applies if: (1) the Spanish company has invested at least EUR 100,000 in the Russian company; and (2) the dividends are exempt in Spain. The 10% rate applies if only one of the conditions is met.

³⁵ The lower rate applies to long term loans (minimum seven years) granted by credit institutions resident in a contracting state.

³⁶ The rate applies if the company in Sri Lanka owns at least 25% of the capital in the Russian company.

³⁷ The rate applies if the Swedish company owns 100% of the capital in the Russian company (or in the case of a joint venture, at least 30% of the capital in such a joint venture) and the foreign capital invested exceeds USD 100,000.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
60.	Switzerland	15	5 ³⁸	5/10 ³⁹	0
61.	Syria	15	15	10	4.5/13.5/18 ⁴⁰
62.	Tajikistan	10	5 ⁴¹	10	0
63.	Turkey	10	10	10	10
64.	Turkmenistan	10	10	5	5
65.	Ukraine	15	5 ⁴²	10	10
66.	United Kingdom of Great Britain and Northern Ireland	10	10	0	0
67.	United States of America	10	5 ⁴³	0	0
68.	Uzbekistan	10	10	10	0
69.	Vietnam	15	10 ⁴⁴	10	15

³⁸ The rate applies if the Swiss company owns at least 20% of the capital in the Russian company and the value of the holding exceeds CHF 200,000.

³⁹ The lower rate applies to loans of any kind granted by a bank.

⁴⁰ The 4.5% rate applies to cinema movies and TV and radio broadcasting programs, the 13.5% rate applies to literature, art, and science products, and the 18% rate applies to computer software, patents, trademarks, and know-how.

⁴¹ The rate applies if the recipient company owns at least 25% of the capital in the company paying the dividends.

⁴² The rate applies if the value of the holding is at least USD 50,000.

⁴³ The rate applies if the recipient company owns at least 10% of the capital or voting power in the Russian company as the case may be.

⁴⁴ The rate applies if the Vietnamese company has invested directly in the capital of the Russian company at least USD 10 million.

In addition to the above, Russia has entered into the following tax treaties for the avoidance of double taxation which do not apply (*e.g.*, have not been ratified, the exchange of ratification instruments process is pending):⁴⁵

No.	Country	Dividends		Interest ⁴⁶	Royalties
		Individuals, Companies	Qualifying Companies		
1.	Algeria	15	5 ⁴⁷	15	15
2.	Argentina	15	10 ⁴⁸	15	15
3.	Botswana	10	5 ⁴⁹	10	10
4.	Brazil	15	10 ⁵⁰	15	15
5.	Chile	10	5 ⁵¹	15	5/10 ⁵²
6.	Cuba	15	5 ⁵³	10	0/5 ⁵⁴

⁴⁵ The double tax treaties concluded with Algeria, Brazil, Singapore, Thailand and Venezuela and the protocol amending the Germany-Russia Tax Treaty were ratified by Russia in 2008, however, have not become effective due to notification requirements.

⁴⁶ Many treaties provide for an exemption for certain types of interest *e.g.* interest paid to the state local authorities, the central bank, export credit institutions or in relation to sales on credit. Such exemptions are not considered in this column.

⁴⁷ The rate applies if the recipient company (other than a partnership) directly owns at least 25% of the capital in the company paying the dividends.

⁴⁸ The rate applies if the recipient company owns at least 25% of the capital in the company paying the dividends.

⁴⁹ The rate applies if the recipient company owns at least 25% of the capital in the company paying the dividends.

⁵⁰ The rate applies if the recipient company directly owns at least 20% of the capital in the company paying the dividends.

⁵¹ The rate applies if the recipient company directly owns at least 25% of the capital in the company paying the dividends.

⁵² The lower rate applies to the royalties for the use of, or the right to use, any industrial, commercial, or scientific equipment.

⁵³ The rate applies if the recipient company (other than a partnership) owns at least 25% of the capital in the company paying the dividends.

⁵⁴ The lower rate applies to copyright royalties.

No.	Country	Dividends		Interest	Royalties
		Individuals, Companies	Qualifying Companies		
7.	Estonia	10	5 ⁵⁵	10	10
8.	Ethiopia	5	5	5	15
9.	Georgia	10	10	10	5
10.	Laos	10	10	10	0
11.	Malta	10/ ⁵⁶	5 ⁵⁷	0	0
12.	Mauritius	10	5 ⁵⁸	0	0
13.	Oman	10	5 ⁵⁹	0	5
14.	Saudi Arabia	5	5	5	10
15.	Singapore	10	5 ⁶⁰	7.5	7.5
16.	Thailand	15	15	10 ⁶¹	15
17.	Venezuela	15	10 ⁶²	5/10 ⁶³	10/15 ⁶⁴

⁵⁵ The rate applies if the recipient company (other than a partnership) owns at least 25% of the capital in the company paying the dividends and the value of the holding exceeds USD 75,000.

⁵⁶ The rate shall not exceed the rate established for Maltese income tax purposes if the recipient company is a Russian resident.

⁵⁷ The rate applies if the recipient company (Maltese resident) directly owns 20% in the capital of the Russian company and the foreign capital invested exceeds USD 100,000.

⁵⁸ The 5% rate applies if the value of the recipient company's holding is at least USD 500,000.

⁵⁹ The rate applies if the value of the recipient company's holding exceeds USD 500,000.

⁶⁰ The rate applies if the recipient company owns at least 15% of the capital in the company paying the dividends and the value of the holding exceeds USD 100,000.

⁶¹ The 10% rate applies to loans granted by Russian banks.

⁶² The rate applies if the recipient company (other than a partnership) directly owns at least 10% of the capital in the company paying the dividends and the value of the holding is at least USD 100,000.

⁶³ The 5% rate applies to bank loans.

⁶⁴ The lower rate applies to the fees for technical assistance.

6.7 Value Added Tax (“VAT”)

VAT is imposed on all goods imported into Russia and is also applied to the sale of goods, work, and services. The period for VAT for all taxpayers and tax agents is the calendar quarter (previously for most taxpayers the tax period was a monthly period). Taxpayers must pay the VAT by equal installments not later than the 20th day of each month following the reporting quarter (this procedure replaced a single-installment payment effective as of the third quarter of 2008). Current legislation imposes a VAT rate of 18% on the sale of most goods. A lower 10% rate is applied to limited types of goods, such as pharmaceuticals, medical equipment, and certain food products and periodicals. The export of goods is subject to a 0% VAT. In addition, certain types of goods, work, and services are exempt from VAT (for example, land plots, dwelling houses and apartments, lease of office space to accredited representative offices and branches of foreign legal entities from jurisdictions which apply reciprocal benefits, certain medical goods and services, etc.). As of January 1, 2008 the assignment of exclusive IP rights (*e.g.*, patents, licenses, know-how), with the exception of trademarks, and rights to use the results of these IP rights (*e.g.*, software) based on licenses (including non-exclusive licenses) is no longer subject to Russian VAT. The import VAT exemption for technological equipment contributed to the charter capital of a Russian entity is narrowed to include only technological equipment that is not produced in Russia according to a list adopted by the Russian Government (the rule applies as of the first day of the quarter following the adoption of such list which has not yet been adopted).

Generally, VAT paid on the acquisition of goods, work and services may be offset against VAT collected from customers. Starting from January 1, 2009 Russian buyers are not required to postpone offsetting the input VAT on advance payments until the goods, work and services are dispatched and could take the offset on special advance VAT invoices. For barter transactions, taxpayers are no longer required to transfer VAT to each other in cash and remit VAT under general rules. In order to claim a refund of input VAT paid in relation to goods that subsequently were exported and subject to a 0% VAT, the taxpayer is required to file various supporting documents with the Russian tax authorities. Starting from January 1, 2009 instead of filing copies of numerous customs declarations the exporter is entitled to file registers of customs declarations stamped by the customs authorities. In capital construction, the input VAT paid to suppliers of goods, work, and services may be offset under a general procedure as the construction progresses (prior to 2006, such input VAT could be offset only when the constructed assets are recorded on the taxpayer’s balance sheet).

An enterprise ends up transferring to the state only the difference between VAT paid and VAT collected. As a general rule, however, a taxpayer may not offset input VAT if such VAT is incurred on goods, works or services used by the taxpayer for the sale of goods or the provision of services that are exempt from VAT. In this case, the taxpayer will be required to include such input VAT into its production costs and will effectively lose this input VAT for future recovery. In those cases where only a portion of certain input costs was used for the production of goods or the provision of services subject to VAT, the corresponding input VAT may be offset only on a pro-rata basis. Careful planning will therefore be required to maintain full recovery if part of a newly constructed building is to be directly leased to representative offices or branches of foreign legal entities accredited in Russia for which a VAT exemption applies.

Starting from 2006, foreign legal entities having more than one representative office and/or branch registered in various locations in Russia may consolidate all VAT accruals and offsets on a company level (prior to 2006, each representative office and/or branch was regarded as a separate VAT payer). For that purpose a foreign legal entity must choose a particular representative office or branch that would be responsible for VAT reporting on a company level and notify the local tax authorities responsible for each representative office and branch registered in Russia of its decision.

A Russian customer of a foreign company that is not registered with the tax authorities and is active (making sales or providing services) in Russia must withhold either 9.09% or 15.25% reverse charge VAT (depending on the applicable underlying VAT rate of 10% or 18%, respectively) from the amounts transferred to the foreign company and must itself remit such VAT directly to the state budget.

6.8 Mineral Extraction Tax

Prior to 2002, licensed subsoil users had to pay, *inter alia*, a tax on the restoration of the mineral resource base and subsoil use payments. The tax base was calculated as a percentage of the value of the minerals actually extracted. Chapter 26 of the *Tax Code* introduced a new mineral extraction tax, which came into effect on January 1, 2002. The mineral extraction tax has replaced the tax on restoration of the mineral resource base and the subsoil use tax payable on the value of minerals extracted. Subsoil users are now required to make subsoil use payments provided that they conduct at least:

- Prospecting and appraisal;
- Exploration of subsoil deposits; or
- Construction works on an extraction site (not connected with mineral extraction).

The law has set the minimum and maximum rates with respect to each type of activity, depending on the territory used within the subsoil activity, rather than on the value of minerals extracted (as was the case prior to 2002). Regional state executive bodies set specific rates within these limits, which are reflected in the relevant licenses.

The mineral extraction tax is generally calculated as the value of the mineral resources extracted from the subsoil based on the prices (excluding VAT and excise taxes) at which the extracted minerals were sold, subject to the transfer pricing provisions of the *Tax Code*, and effectively not lower than the market price. Taxpayers are required to calculate the tax base separately for each type of mineral resource extracted and pay it on a monthly basis. In particular, Chapter 26 sets out a tax rate of 6% for gold, 6.5% for silver, 17.5% for gas condensate, and 147 rubles (approximately USD 4) per 1,000 cubic meters of gas. Subsoil users that simultaneously meet the following requirements: (1) have prospected and explored an oilfield at their own expense and (2) were exempt from the tax on the restoration of the mineral resource base confirmed in the relevant license issued before June 1, 2001, are entitled to pay 70% of the tax normally due for the natural resources extracted from the relevant licensed oilfield. Subsoil users include the mineral extraction tax paid to the state budget in their deductible expenses, decreasing the taxable base of the corporate profits tax due. Chapter 26 does not provide for any special concessions for subsoil users.

The mineral extraction tax with respect to crude oil is determined as the quantity of extracted crude oil multiplied by the tax rate. The basic tax rate is 419 rubles (approximately USD 11.5) for a ton of crude oil, which is adjusted monthly by a multiplier reflecting fluctuations in world prices for Urals crude (M) determined under the following formula:

$$M = (P - 15) \times E / 261$$

where P is the average price for Urals crude in USD per ton and E is the average Ruble / USD exchange rate determined by the Central Bank of Russia over the calendar month. Starting from January 1, 2009 the non-taxable crude oil price minimum was increased from USD 9 to 15, which effectively was intended as an incentive for oil companies.

If the reserves depletion rate for oil or gas field equals or exceeds 80%, a special multiplier (RD) is added in calculating the mineral extraction tax rate: $(419 \times M \times RD)$. The reserves depletion rate is calculated as the accumulated volume of crude oil produced from the field (including normal shrinkage) based on the information in the state balance of mineral reserves (N) divided by the total volume of reserves (sum of reserves by categories A+B+C1+C2): $RD = 3.8 - 3.5 \times N/V$. The RD multiplier effectively reduces the mineral extraction tax rate for depleted fields.

Oil companies may enjoy tax holidays with respect to crude oil that is difficult to develop (*e.g.*, produced from oilfields located in certain regions of Russia, ultraviscous oil.).

6.9 Taxation Under Production Sharing Agreements

Pursuant to Chapter 26.4 of the *Tax Code*, effective as of June 10, 2003, companies extracting minerals under production sharing agreements (“Investors”) are subject to a special (and, in comparison with the mineral extraction tax, entirely different) tax regime. For instance, an Investor pays 50% of the mineral extraction rate for oil and gas condensate until it reaches a certain limit of commercial production, specified in the Production Sharing Agreement (“PSA”). Once an Investor has reached such limit, however, it pays the full mineral extraction rate for oil and gas condensate.

At the same time, Investors may be exempted from regional and local taxes (assuming applicable legislation at the regional levels of government), the corporate property tax, and the transportation tax, the latter with respect to fixed assets and vehicles used directly for the purposes of oil and gas extraction under the PSA. In addition, depending on the conditions of the PSA, Investors may secure a further refund of VAT, the unified social tax, subsoil use payments and water tax, state duties, customs fees and duties, the land tax, the excise tax, and the ecological tax previously paid to the budget within the terms of the PSA.

The PSA taxation regime introduced by Chapter 26.4 of the *Tax Code* has increased the number of tax law requirements for, and taxes payable by, Investors. These amendments (together with other legislative amendments described in Section 2.2 above) are unlikely to make PSA’s an attractive proposition to Investors, especially since Russia has only three PSA’s and has not entered into any new PSA’s since the mid-1990’s.

6.10 Corporate Property Tax

As of January 1, 2004, Chapter 30 of the *Tax Code* (covering the corporate property tax) came into effect, replacing the former 1991 *Corporate Property Tax Law*. The property tax is a regional tax, *i.e.* its imposition is regulated by the legislation of the relevant region, to a maximum rate of 2.2%. The tax base includes movable and/or immovable fixed assets owned by the taxpayer in Russia, and is calculated based on the depreciated book value of those assets. Taxable assets no longer include any costs or intangible assets recorded on the taxpayer's balance sheet, nor land and water objects, and such are not subject to the property tax either.

Chapter 30 of the Tax Code further exempts from taxation certain categories of property, such as assets used by religious organizations to maintain religious activities. Furthermore, when imposing property tax, Russian Federation regional governments may fix lower or differentiated rates for different categories of payers and/or types of taxable property. Corporate property tax is payable on an annual basis, with advances due every quarter. However, regional governments in the Russian Federation may exempt certain categories of payers, including both Russian and foreign organizations, from the obligation to assess and make such advance payments.

6.11 Unified Social Tax

Effective January 1, 2001, one Unified Social Tax replaced employers' contributions to four separate social benefit funds (the Pension Fund, the Social Security Fund, the Mandatory Medical Insurance Fund, and the Employment Fund). The Unified Social Tax is paid centrally and is afterwards distributed among these three funds (the Employment Fund having been abolished in 2001). The Unified Social Tax has a regressive tax scale from 26% to 2% of an employee's salary, with the lowest rate applicable to the portion of an employee's annual salary in excess of 600,000 rubles (approximately USD 16,700). The tax period is one year, and the tax is paid on a monthly basis.

In the past, the salaries of foreign citizens employed or acting as individual entrepreneurs in Russia were exempt from the Unified Social Tax, provided that under Russian legislation or the relevant employment/service contract those expatriates were not eligible for Russian state pensions, social benefits, and state-subsidized medical treatment. However, this tax exemption has ceased to exist effective January 1, 2003, and the salaries of expatriates working in Russia have become subject to the Unified Social Tax pursuant to the rules outlined above.

The salaries of foreign personnel employed by foreign branches of Russian companies and/or of foreign personnel working abroad are specifically exempt from the Unified Social Tax under amendments to the *Tax Code* effective from January 1, 2008.

6.12 Personal Income Tax

Individuals who are defined as “Russian tax residents,” *i.e.* those who have been in the country for 183 days or more during any 12 consecutive months, are subject to personal income tax on all their income, both that earned in Russia and that earned elsewhere. Individuals who do not meet this criterion are subject to tax on any income received from Russian sources. From January 1, 2001, Russia has enacted various income tax rates, including: a 13% flat rate applicable to most types of income; a 9% rate applicable to dividend income; a 35% rate applicable to income from gambling, lottery prizes, deemed income from low-interest or interest-free loans (except loans directed at new construction or acquisition of a residence) and excessive bank interest; and a 30% rate applicable to Russian-source income received by non-residents.

By April 30 of the following year, a taxpayer must file a tax return based on his/her actual income for the previous year, and settle tax obligations for that year. Foreign individuals are required to file annual tax returns with the tax authorities by April 30 of the year following the reporting year only if they receive income from non-Russian sources, or income where no income tax was withheld at the source of payment. Those foreign individuals who leave the country during a calendar year should file a tax declaration for the relevant taxable period no later than one month prior to leaving Russia.

6.13 Regional and Local Taxes

Regional and local legislative bodies may, at their discretion, introduce various tax incentives and credits with regard to regional and local taxes. Regional taxes currently include corporate property tax, transportation tax, and gambling tax. Local taxes currently include property tax on individuals and land tax. Although these taxes are set regionally and locally, the federal legislature has enacted limits on their overall rates.