

# Framework legal and tax requirements in Russia

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# Agenda

- Market entry & company registration
- Special Economic Zones
- Localization of production in Russia
- Corporate law
- Financing options
- Contract law
- Currency control
- Russian tax map
- Double tax treaties
- Labor and migration law

# Typical market entry options

- Branch / representative office of foreign company
- Founding a subsidiary
- Acquisition of existing company
  - NDA, letter of intent / term sheet, due diligence
  - SPA, warranties and indemnity, disclosure letter, fulfilment of conditions precedent, closing
- Joint venture with a local partner
  - Product portfolio & investment volume
  - Legal form, distribution of shares
  - Management bodies, SHA
  - Financing, know-how transfer
- Contract manufacturing

# Legal forms for setup

	Russia
<b>Joint Stock Company (AO)</b>  <b>Public / non-public</b>	<ul style="list-style-type: none"> <li>• <b>Min. charter capital:</b> ~ EUR 135 / ~ 1,335</li> <li>• Can be opened for third parties</li> <li>• Registration 8–12 weeks</li> <li>• Global rules and management bodies are limited by Russian law</li> </ul>
<b>Limited Liability Company (OOO)</b>	<ul style="list-style-type: none"> <li>• <b>Min. charter capital:</b> RUB 10,000 (~ EUR 135)</li> <li>• Open for third parties</li> <li>• Registration 4–8 weeks</li> <li>• Global rules and governance bodies are subject to adaptation</li> </ul>

# Legal forms for setup

	Russia
<b>Branch of a foreign company</b>	<ul style="list-style-type: none"> <li>• <b>No min. charter capital</b></li> <li>• No public information about participants</li> <li>• Registration approx. 4 months</li> <li>• Liabilities of head office</li> <li>• Applying global head office rules possible (if adopted under Russian law)</li> </ul>
<b>Rep. office of a foreign company</b>	<ul style="list-style-type: none"> <li>• Not limited in time</li> <li>• No commercial activity</li> </ul>

# Legal forms for setup

	Russia
<b>Subdivision / Project PE</b>	<ul style="list-style-type: none"> <li>• Performing activity of foreign company in Russia (technical supervision etc.)</li> <li>• Creation of working places for more than 30 days</li> <li>• Tax registration at a place of project</li> <li>• Tax accounting in line with local rules</li> </ul>

# Russian SEZ



## Benefits

**0% Free customs zone regime**

**Ready-to-use infrastructure**

**Favorable administrative procedures**

**Tax preferences**

	RUSSIA	SEZ	EFFECTIVE PERIOD
<b>INCOME TAX, %</b>	20	<b>0-15,5</b>	<i>For the SEZ residency period</i>
<b>PROPERTY TAX, %</b>	2,2	0	10 years
<b>LAND TAX, %</b>	1,5	0	5 years (10 years)
<b>TRANSPORT TAX (Euro/hp)</b>	0,1 – 3,5	0	10 years
<b>SOCIAL PAYMENTS, %</b>	30	<b>21</b> <b>28</b>	till 01.01.2019 till 01.01.2020
<b>LAND PURCHASE PRICE</b>	100% market price	<b>4 - 50%</b> cadastral price	<i>For the SEZ residency period</i>

# Import substitution and localization

- **“Carrot”**:
  - Government incentives, e.g. subsidies, SIC
  - Guarantee for stability, immunity to later legislation changes
- **“Stick”**:
  - Preferences for local (EEU) products
  - Restriction or exclusion of foreign goods in tenders of state agencies and state-owned enterprises



What is my product?  
Is it affected by import substitution?

Who is my customer?



Are there any government incentives?



# Public tenders: Prohibitions and Restrictions

## – Prohibitions

- Machinery construction
- Light industry
- Software
- Goods, works, and services for state defence and security
- Furniture and woodworking industry

## – Restrictions

- Medical products
- Vital and Essential Drugs
- Radio electronics
- Food
- Stents for coronary arteries
- Wide range of other goods

# Corporate law essentials

- **Management bodies:** mandatory (general meeting, GD) and optional (board of directors, plural executive body) depending on company type
- Treatment of extraordinary transactions:
  - Approval / notification of major and interested party transactions
  - Additional criteria provided by the charter
- **Other specifics:**
  - Appointment of several general directors is possible
  - 36 standard charters

# Financing options

	Applicability
Loan financing	✓
Equity financing	✓
Services	✓
Contribution into assets	✓

- Each option requires proper structuring
- Tax and legal implications should be properly addressed

# Contract law

- Contract preparation
  - Usually contain detailed provisions:
    - Liability (penalties can be decreased by court)
    - Applicable law, place of dispute resolution
    - Prevailing language
  - Written / notarial form / state registration
- Civil Law reform – new opportunities for contract structuring

# Pre-contractual liability

- Dishonest negotiations
  - Absence of intention to conclude a contract
  - Wrong or incomplete information
  - Sudden and unjustified termination of negotiations, Reimbursement of damages
- Recommendation:
  - to conclude agreements on basis of negotiations:
    - General requirements
    - Distribution of costs
    - Confidentiality

# Currency control in Russia

## Submission of documents requested by the bank

- for contracts with non-residents exceeding RUB 200,000 / ~ EUR 2,600

## Obligatory contract registration at the bank by the contract value:

- RUB 3 m (~ EUR 40,000) for import contracts
- RUB 6 m (~ EUR 80,000) for export contracts
- According to exchange rate at the date of contract conclusion or latest amendments
- Contract or contract excerpt should be provided

## Transaction completion requirements:

- Setting of maximum deadlines for contract performance in foreign trade contracts is obligatory

# Tax map: rates and comments (1)

Tax	Rate
VAT	<p><b>20%</b> - standard</p> <p><b>10%</b> - special categories</p> <p><b>0%</b> - exports of goods</p>
Corporate Income Tax	<p><b>20%</b></p> <p>(special provisions for investors)</p>
Property Tax	<p><b>2.2%</b> (or lower)</p>

# Tax map: rates and comments (2)

	Russia
<b>Withholding tax on royalties and interest</b>	<b>20 %</b> reduction to 0% under DTT
<b>Withholding income tax / Dividend Tax</b>	<b>15%</b> reduction to <b>5%</b> under DTT
<b>Social contribution</b>	<b>~ 30 %</b> in total <b>15%</b> from 1 m RUB p.a.
<b>Personal income tax (PIT)</b>	<b>13%</b> for tax residents and HQS <b>30%</b> for non tax residents
<b>Land Tax</b>	Tax rates are defined on municipal level / on the level of Federal Subject for Moscow, St. Petersburg and Sevastopol based on cadastral value



# Taxation: International Aspects



**BEPS initiatives:** Russia actively introducing and enforcing



**Multilateral instrument (MLI)** adopted by Russia in summer 2017



**Automatic information exchange** was enabled



**OECD based 3 tier transfer pricing documentation** introduced in Russia

# Taxation in Russia : Areas for attention

- **International tax planning:** multiple cases of reclassification of interest and payments for services into dividends, i.e. Thin Capitalization
- **Transfer pricing control:** common reading and application of regulations is still in process
- **Currency control:** substantial limitations despite simplification
- **VAT reimbursement and corporate income tax losses recognition:** taxpayers are invited to provide explanations about their business plans to become profitable

# DTT with Australia

## – Withholding tax:

Paid to a nonresident company	Russia	DTT
Dividends	15%	5-15%
Interest (loans)	20%	10%
Royalties (IP)	20%	10%

- **Construction site duration before creation of PE: 12 Months**
- **Exceptions under DTT:** Storage, purchase, exhibition, or delivery do not count as a PE

# Labor agreements and HR documentation



Agreement:  
Place of work, functions, term, salary (only in local currency)



Order on appointment, employee data card, work record book



Documentation re. business trips, vacations etc.



Remote work: specific documentation, electronic document flow possible



# Hiring foreign employees

- Working visa and work permit
- Interim period by company registration:  
term for work permit issue to be considered
- No work permit required with:
  - Permanent / temporary residence permits
- HQS work permit:
  - min. salary: RUB 167,000 (~ EUR 2,200) gross
  - Term: 3 years instead of 1 year for general WP



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