

Rödl & Partner

INVESTMENT GUIDE UZBEKISTAN

Overview of the legal framework for investments and taxes

2024

Give hints



Give hints

“Uzbekistan, a country rich in historical sights and natural resources, is at the beginning of a new era of economic development. The liberalization reforms carried out in the economic and judicial sectors are opening up the country significantly to foreign trade and investment and taking Uzbekistan back to its roots by reviving its centuries-old tradition as a center of trade.

The new investment climate and the establishment of new free trade zones with tax concessions make foreign investment in Uzbekistan extremely attractive as a new country offering business opportunities.”

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Business practice

INTRODUCTION

Corporate structures in Uzbekistan are regulated by various laws and normative acts. The most important legal foundations include

1. Civil Code of the Republic of Uzbekistan
2. Law of the Republic of Uzbekistan No. 223-I “On Joint Stock Companies and the Protection of Shareholders’ Rights (new version)” dated 26.4.1996
3. Law No. 295-XII of the Republic of Uzbekistan “On cooperation between the cooperation” of 14.6.1991
4. Law of the Republic of Uzbekistan No. 308-II “On Economic Partnerships” dated 6.12.2001
5. Law No. 310-II of the Republic of Uzbekistan “On Limited and Additional Liability Companies” dated 6.12.2001
6. Law of the Republic of Uzbekistan No. 558-II “On Private Enterprise” dated 11.12.2003
7. Law of the Republic of Uzbekistan No. 602-I “On Agriculture (new version)” dated 30.4.1998
8. Law of the Republic of Uzbekistan No. 69-II “On Guarantees of Entrepreneurial Activity (new version)” dated May 25, 2000
9. Law of the Republic of Uzbekistan – 327 “On family support take” from 26.4.2012
10. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 215 of 16.10.2006 “On measures to ensure effective management of enterprises with state share in authorized capital and proper accounting of state property”
11. Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 66 dated 9.2.2017 “On measures to implement the Decree of the President of the Republic of Uzbekistan” dated October 28, 2016 No. PP-2646 “On improving the system of state registration and registration of business entities” Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 704 of August 21, 2019 “On the adoption of the Regulation on the procedure for voluntary liquidation and termination of activity of business entities and exclusion from the state register of persons not engaged in financial and economic activity”

12. Decree of the Cabinet of Ministers of the Republic of Uzbekistan No. 398 dated 12.10.1995 “On the Adoption of the Regulation on Holdings”
13. Decree of the President of the Republic of Uzbekistan No. President decree 5739 of 7.6.2019 “On measures to simplify the procedure for liquidation of business entities”
14. Rules for the Issue of Securities and State Registration of Issues of Equity Securities, registered by the Ministry of Justice on 30.8.2009 No. 2000

This legal framework ensures the proper establishment, administration and liquidation of companies in Uzbekistan.

Entering the market in Uzbekistan brings many opportunities for companies, but also challenges. In particular, the complexity of legal, tax and accounting issues can quickly overwhelm companies and get them into difficulties.

The main objective of market entry in Uzbekistan is the business continuity plan, which is designed to ensure that the company is able to maintain critical functions following an emergency or disruption. These can be natural disasters, cyber-attacks or economic crises.

The key to a successful market entry is an efficient and interdisciplinary approach that takes into account the specifics of your company and makes optimum use of your internal resources.

Company forms for entering the market

Commercial companies can be established in the form of partnerships (general partnerships and limited partnerships), corporations (joint-stock companies and limited liability companies), production cooperatives, sole proprietorships and in other forms provided for by law (e.g. family businesses, partnerships, agricultural businesses, etc.). The most common forms of entrepreneurial activity with the establishment of a legal entity in the economic sectors (except agriculture) are

- Open joint stock companies;
- Limited liability companies;
- Partnerships;
- State-owned unitary enterprise.

Other organizational and legal forms have sectoral, company-internal and target-oriented characteristics and are therefore less common.

Tashkent



OVERVIEW OF THE TYPES OF COMPANIES

Commercial companies can be founded in various organizational and legal forms in order to meet the different requirements and objectives of entrepreneurs. The most common forms include

1. Corporations

Open Joint-Stock Company (OJSC): This form of company is particularly suitable for larger companies. The share capital is divided into shares that are freely tradable. Liability is limited to the company's assets. A stock corporation is a company whose share capital is divided into a certain number of shares. A share is a registered security with no fixed term that gives the holder the right (1) to receive a portion of the profits in the form of dividends, (2) to participate in the management of the company and (3) to receive a portion of the assets remaining after the liquidation of the OJSC.

Only an OJSC is authorized to issue shares (with the exception of bearer shares) and other equity securities. Authorized capital cannot be formed from assets other than shares. Shares and bonds are issued in the form of uncertificated securities.

Shareholders (legal entities or natural persons) can own two types of shares: Ordinary shares and preference shares. The stock corporation determines in its articles of association which types of shares are issued, how they are to be placed and how dividends are to be paid.

Limited liability company (LLC): This is a widespread form for small and medium-sized companies. The shareholders are only liable with their capital contribution and not with their personal assets. A limited liability company is a business entity founded by one or more persons whose authorized capital is divided into shares of certain sizes that are specified in the founding documents.

The size of a LLC shareholder's share in the authorized capital is determined as a percentage or fraction. The size of a shareholder's share in a company corresponds to the ratio between the nominal value of his share and the authorized capital of the company. The actual value of a shareholder's share in a company corresponds to a portion of the cost of the company's net assets that is proportional to the size of the shareholder's share.

2. Individual entrepreneurship

This is the simplest form of company formation, in which a single person manages the business and has unlimited liability with all their assets.

3. Production cooperatives

This form is particularly common in the agricultural and craft sectors. The members are both owners and users of the cooperative and share the profits.

4. State-owned unitary enterprise

This form is founded and managed by government agencies. It is less common and is usually found in specific sectors that pursue particular state interests.

5. Other forms provided for by law

- Family businesses: Often in the form of partnerships or limited liability companies in which family members manage and own the company.
- Agricultural businesses: These can be organized in various legal forms, often as sole proprietorships or cooperatives.

The choice of organizational and legal form depends on many factors, including liability, capital requirements, company size and structure and tax aspects. The forms presented here are the

most common in most economic sectors outside of agriculture. Other forms, such as sectoral and company-internal forms of organization, are less common due to their specific requirements and objectives.

LEGAL FRAMEWORK FOR INVESTMENTS

Uzbekistan has an adequate legal framework for regulating investment activity, consisting of a number of laws and regulations.

The constitutional law of a country has a direct influence on the economy and the protection of the property of civil law subjects. Several laws are important in connection with the regulation of foreign investments. Uzbekistan's investment legislation consists of a large number of laws, ordinances and resolutions that define the regulation and promotion of investments in the country. The most important laws include the Law "On Investments and Investment Activities" as well as various presidential decrees and resolutions of the Cabinet of Ministers. These measures aim to improve the investment climate, promote foreign direct investment and simplify the procedures for investment projects. The main aim is to increase the efficiency and quality of investment projects and support the country's economic growth.

This law contributes to the creation of a legal framework that promotes foreign investment and supports the development of the economy in Uzbekistan.

INSTITUTIONS

The competent state body for state regulation of investments and investment activities is the Ministry of Investments and Foreign Trade of the Republic of Uzbekistan. The Ministry of Investments and Foreign Trade of the Republic of Uzbekistan implements the following main strategic tasks and policies:

- Implementation of a uniform state investment policy
Coordination of work to attract foreign investment, effective cooperation with international economic and financial institutions and financial organizations of foreign governments at bilateral and multilateral level;
- Coordination of the activities of state authorities and organizations and foreign economic and financial institutions;
- Participation in the preparation, approval and signing of international treaties of the Republic of Uzbekistan on investment cooperation;
- Implementation of a uniform national foreign trade policy, support and guarantee of the effective functioning of the national export promotion system.

Functioning of the national export support system, coordination of the activities of state and organizations in the field of foreign trade regulation.

Protection and promotion of investments

LAW ON INVESTMENTS AND INVESTMENT ACTIVITIES

Uzbekistan has adopted the Law on Investments and Investment Activity, which came into force on January 27, 2020. The most important innovations include the consolidation of the forms of state support in the area of investment and investment activity in the form of:

- Benefits;
- Allocation of centralized investments to co-finance the investment project;
- Financial support, advice and information.

Benefits may include, but are not limited to:

- Transfer of property rights and other ownership rights at a preferential or zero redemption value;
- Tax and payment concessions;
- Low-interest loans.

The level of benefits and preferences depends on the size of the investment, the location, the sector of the investment project, the expected socio-economic impact and the creation of jobs.

At the same time, it is expressly prohibited to grant the investor benefits that could lead to a dominant position of the investor on the relevant market. It is therefore all the more important to check the criteria for a dominant position before entering a market.

The law defines the basic guarantees for investors, including guarantees against nationalization and requirements upon termination of investment activities, guarantees for the repatriation of income in foreign currency and guarantees for the free use of profits.

There is also a guarantee that investments will be protected against future changes in the law. If the legal framework changes and the investment conditions deteriorate as a result, the legislation in force at the time of the investment will be applied within ten years of the date of the investment. A foreign investor has the right, at its own discretion, to apply the provisions that improve the conditions for its investment.

An important innovation is the dispute resolution mechanism. Previously, the law provided for the possibility of appealing to either a state court of the Republic of Uzbekistan or an arbitration court¹, but now the following mandatory measures and stages of dispute resolution are established.

- Conciliation negotiations for the settlement of disputes;
- Conducting a mediation procedure if the dispute could not be settled by amicable negotiation;
- Referral of the dispute to a commercial court if the two previous measures have not helped to resolve the dispute².

If all of the above measures have failed to resolve the dispute, the parties may submit the dispute to international arbitration in accordance with a valid arbitration clause.

The country particularly welcomes foreign investors who produce goods in Uzbekistan for further export or replace goods that would otherwise be imported. Only companies that meet the following conditions are recognized as foreign-invested enterprises and can take advantage of the legislation:

¹ Law of the Republic of Uzbekistan “On Guarantees and Measures to Protect the Rights of Foreign Investors” No. 611-I of April 30, 1998, Article 10

² Law of the Republic of Uzbekistan “On Investments and Investment Activities” No. 598 of February 25, 2019, Article 63

- One of the shareholders of the Uzbek company is a foreign legal entity;
- The share capital of the company is at least 400 million sum;
- The share of foreign investment amounts to at least 15% of the share capital.

The Uzbek government is trying to achieve the distribution of investments across all regions of the country. Officials have been appointed in each region who are responsible for attracting investment and implementing investment projects. The government has declared that the process is under the strict control of the presidential administration. Parliament, in turn, receives quarterly reports from those responsible and assesses progress.

In order to create more favorable conditions for investors, the government has also introduced a procedure for issuing residence permits for a period of ten years to foreigners who invest at least USD 3 million. The Ministry of Foreign Affairs is also planning to introduce “compatriot” visas and passports for people with family ties to Uzbekistan who wish to visit the country, work there or make investments³.

PRIVATE FOREIGN DIRECT INVESTMENT

Since July 1, 2005, local companies that attract foreign private direct investment in economic sectors such as textiles, meat and dairy products, etc. have been exempt from income tax:

- Taxes on profits;
- Property taxes, etc.

³ <https://lex.uz/ru/docs/6600404>

The above-mentioned benefits can be claimed under the following conditions:

- The company is based in any region of the country with the exception of Tashkent and the Tashkent region;
- The investments are made without a state guarantee;
- The foreign share of authorized capital does not amount to less than 33 %, and no less than 15 % for stock corporations;
- Investments are made in freely convertible currency or in the form of modern technological equipment;
- At least 50 % of the income from the granting of these benefits must be used for reinvestment in the development of the company for the duration of their application;
- Investments are made in the economic sectors defined in Presidential Decree No. 4434 of April 10, 2012⁴.

These tax concessions are granted for the volume of private foreign direct investment:

- From USD 300,000 to USD 3 million – for a period of 3 years
- Over USD 3 million to USD 10 million – for a period of 5 years
- Over USD 10 million – for a period of 7 years.

In addition, according to the Law of the Republic of Uzbekistan-783 dated 12.07.2022, participants in special economic zones are exempt from paying income tax depending on the amount of their investments⁵:

- In the amount of USD 3 million to USD 5 million – 3 years
- From USD 5 million to USD 15 million – 5 years
- In the amount of USD 15 million and more – for 10 years.

⁴ Presidential Decree No. 4434 of 10.04.2012. On additional measures to promote the Attractiveness of foreign direct investment (lex.uz)

⁵ Law of the Republic of Uzbekistan No. 783- 12.07.2022. On Amendments and Changes to the Tax Code of the Republic of Uzbekistan (lex.uz)

INVESTMENT INCENTIVES

Uzbek legislation also provides for certain tax concessions for manufacturers, importers and exporters of strategically important goods.

Foreign companies that carry out oil and gas exploration projects are granted benefits. These include exclusive rights for the exploration of mineral resources in certain regions, including the subsequent possibility of extracting raw materials, whereby the exploration can be carried out either via a joint venture or on the basis of a concession. Investors and their foreign contractors and subcontractors are exempted from paying all types of taxes and social security contributions for the duration of the exploration work. In addition, as an exception, no customs duties will be levied on the import of equipment, material and technical resources required for exploration and related projects. Furthermore, joint ventures in the field of oil and gas production that are established with the participation of foreign companies involved in exploration are granted a profit tax exemption for seven years from the date of commencement of production.

Certain investment incentives are also offered in the area of energy-saving technologies and renewable energy sources. In order to promote the use of renewable energy sources, the Law of the Republic of Uzbekistan “On the Use of Renewable Energy Sources” exempts such energy producers from paying property tax on the areas used by these installations (with a nominal capacity of 0.1 MW or more) and solar power plants for a period of ten years from the date of commissioning⁶.

⁶ Law of the Republic of Uzbekistan “On the use of renewable energy sources” No. - 539 of May 21, 2019, Article 14

PUBLIC-PRIVATE PARTNERSHIP

For the development and regulation of relations in the field of public-private partnership, including concessions, the Law “On Public-Private Partnership” No. 6 Law of the Republic of Uzbekistan – 537 dated 12.06.2019 was adopted⁷. The authorized state body in the field of Public-Private Partnership (hereinafter referred to as “PPP”) is the Agency for the Development of PPP under the Ministry of Finance of the Republic of Uzbekistan (hereinafter referred to as “authorized state body”).

A PPP project can be initiated by a public institution (organization) (hereinafter referred to as the “public partner”) or by an individual entrepreneur or legal entity (hereinafter referred to as the “private partner”). The approval of the PPP project concept and its amendments and/or additions are carried out:

- PPP project with a total value of up to USD 1 million that is carried out independently of the responsible government agency (organization);
- PPP project with a total value of more than USD 1 million up to and including USD 10 million, which is implemented by the responsible government agency (organization) in coordination with the authorized government agency;
- PPP project with a total value of more than USD 10 million by the Cabinet of Ministers of the Republic of Uzbekistan.

A PPP agreement can come about in two ways: through a call for tenders or through direct negotiations. If a PPP project is initiated by a private partner, a one-stage tender takes place, otherwise a two-stage tender.

⁷ Law of the Republic of Uzbekistan No. 537 dated 10.05.2019. On public-private partnerships (lex.uz)

The following types of assistance may be provided by the Republic of Uzbekistan to protect the interests of the private party and (or) creditor(s) under a PPP agreement:

- Subsidies, including subsidies to ensure a guaranteed minimum income for the private partner from the implementation of the PPP project;
- Contributions in the form of assets and real estate required for the implementation of the PPP project;
- Funds from the budget of the Republic of Uzbekistan used to pay for the consumption or use of a certain quantity or part of goods (works, services) produced or supplied within the framework of the implementation of the PPP project;
- Provision of budget loans, credits, grants, credit lines and other forms of financing;
- Additional guarantees by mutual agreement to ensure the fulfillment of the investors' obligations;
- Tax incentives and preferences and other benefits
- Other guarantees and / or indemnities⁸.



⁸ Law of the Republic of Uzbekistan “On Public-Private Partnerships” No. - 537 of 10.05.2019, Article 38

Special economic zones

According to the legislation of the Republic of Uzbekistan, special economic zones can be established in the form of free economic zones, special scientific and technical economic zones, tourism and recreation zones, free trade zones and special industrial zones. According to the State Committee for Statistics⁹ of the Republic of Uzbekistan, as of October 1, 2022, there are a total of 19 special economic zones (hereinafter SEZs), 208 small industrial zones, 20 Technoparks and 471 clusters. Among them are:

SEZ of the industrial sector	SEZ of the pharmaceutical industry
Free Economic Zone Navoi	“Nukus Pharm” Free Economic Zone
Free Economic Zone Angren	“Zomin Pharm” Free Economic Zone
Free Economic Zone Jizzak	“Boisun Pharm” Free Economic Zone
Free economic zone Urgut	“Sirdaryo Pharm” Free Economic Zone
Free Economic Zone Gijduvan	“Kosonsoy Pharm” Free Economic Zone
Free Economic Zone Kokand	“Bostonlick Pharm” Free Economic Zone
Free Economic Zone Khazarasp	“Parkent Pharm” Free Economic Zone

⁹ <https://stat.uz/en/press-center/news-of-committee/30469-information-on-free-economic-zones-in-january-september-2022>

Free Economic Zone Termez	“Andijon-Pharm” Free Economic Zone
Free Economic Zone Namangan	
Free Economic Zone Syrdarya	
Free Economic Zone Chirokchi	
EPZs in the agricultural sector	FEZs of the tourism industry
Free Economic Zone “Balik ishlab chikaruvchi”	Free Tourist Zone “Tscharvak”
Free Economic Zone “Buhoro agro”	

Presidential Decree No. 5719 of 15.5.2019 defines the entire area of the Navoi region as a free trade zone for innovative, high-tech, export-oriented and import-substituting industries for the period until 1.1.2030 (may be extended thereafter).

Company law – the most important types of legal entities under commercial law

THE CONCEPT OF “LEGAL PERSON”

The legislation of the Republic of Uzbekistan enshrines the term “legal entity”, which describes general rules that apply to companies of all organizational forms (with the exception of representative offices and branches). According to the Civil Code, a legal entity is considered to be any organization that owns, disposes of or manages separate assets and is liable for its obligations with these assets, can acquire and exercise property and personal non-property rights in its own name, assume obligations and act as a plaintiff and defendant in court.

Legal entities are subject to state registration. The legal address (registered office) of a legal entity is located at the place of its state registration, unless otherwise provided for in the constituent documents. In addition, foreign legal entities must rent an office for the completion of the deregistration procedure in order to complete the registration procedure. Foreign investors can carry out their activities in Uzbekistan by operating through foreign companies (and, if necessary, establishing tax permanent establishments), registering representative offices or branches, or by establishing their own legal entity in Uzbekistan.

In accordance with the legislation of the Republic of Uzbekistan, the following companies may be established:

- Public limited company;
- Limited liability company and company with additional liability;
- General partnership and limited partnership;
- so-called family businesses;
- so-called private companies;
- Sole proprietor;
- Representative offices and branches.

OUR RECOMMENDATIONS

Based on our many years of experience, foreign investors are usually advised to register a company in the form of a limited liability company (with a foreign shareholding of 100 percent). The limited liability company or “LLC” is the most suitable legal form for foreign investors. In contrast to a joint-stock company, the formation of a “LLC” offers various advantages. These include low requirements for the submission of documents, a simple corporate structure of the management bodies and the absence of strict state control. Therefore, investors usually prefer to register a company in the legal form of a limited liability company, rarely in the legal form of a joint stock company.

COMPANIES WITH LIMITED AND ADDITIONAL LIABILITY

In this section, we explain the special features of the registration of legal entities (LLC, ALC) and dependent branches of (foreign) legal entities. A limited liability company or LLC is a company established by one or more natural or legal persons; the share capital is divided into shares, the value of which is determined in the constituent documents.

In contrast to stock corporations, the shares of a LLC are not securities. The founding documents of a LLC founded by two or more persons are the founding agreement and the articles of association. If a LLC is founded by only one person, the articles of association are the only founding document of the LLC.

The shareholders of a LLC are not liable for the company’s liabilities and bear the risk of losses associated with the company’s activities only to the extent of their personal contributions. Shareholders who have not paid their contributions in full are jointly and severally

liable for their liabilities to the extent of the unpaid portion of each shareholder's contribution. The company's liability is limited to the value of its assets.

Since 2019, the general requirement for mandatory statutory share capital has been abolished. The minimum size of a company's authorized capital (share capital) can only be determined in areas where a license is required. The share capital must be fully formed, i.e. paid up, within one year of the date of registration. The shareholders' meeting, which must be convened at least once a year, is the supreme administrative body of a LLC. Its responsibilities include determining the main directions of the company's activities and regulating financial issues. Current business activities are managed by the director or the management board (collective executive body), which are appointed by the shareholders' meeting. The powers of the Management Board are set out in the company's founding documents. The company may also appoint a supervisory board (the existence of which is not mandatory).

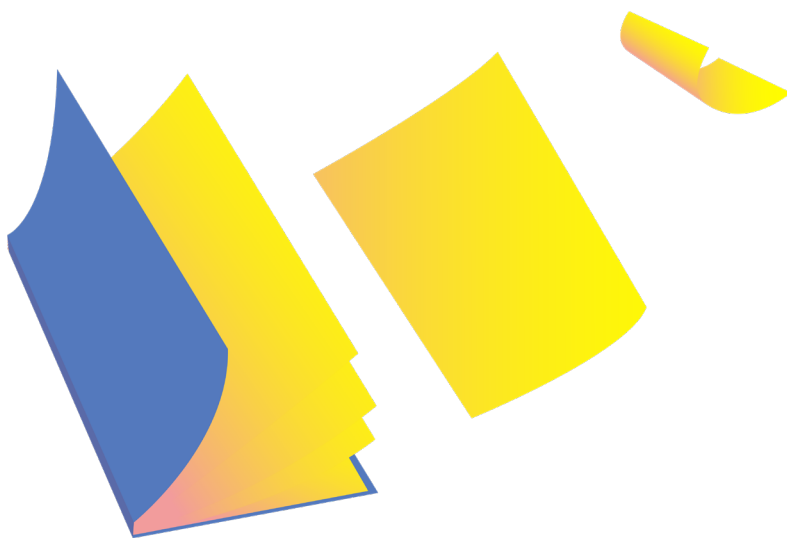
An Additional Liability Company or ALC is a company founded by one or more natural or legal persons; the share capital is divided into shares, the value of which is determined in the founding documents. As in the case of the LLC, an ALC cannot issue shares as securities. The founding documents of the ALC are the same as those of a LLC: the founding agreement and the articles of association, or only the articles of association if the ALC is founded by only one person.

ALC has the same organizational structure as LLC. The main difference is the liability of the shareholders. The shareholders of an ALC have more obligations than those of a LLC. In contrast to a LLC, the founders of an ALC are jointly and severally liable for

the company's obligations. The amount of liability can be limited by the articles of association. If one of the shareholders becomes insolvent, the liability for the company's obligations is divided between the other shareholders in proportion to the amount of their contributions, unless otherwise provided for in the company's founding documents.

FOUNDING DOCUMENTS

The founding documents of a company founded by two or more persons are the articles of association and the memorandum and articles of association. If a company is founded by only one person, only the articles of association are deemed to be the founding document. In the event of contradictions between the articles of incorporation and the articles of association, the articles of association take precedence. A formation agreement is concluded between the shareholders, which must contain the procedure for forming the company and other information required by law. The articles of association contain specific matters on which the shareholders have agreed, as well as other provisions that are not contrary to the law.



REPRESENTATIVE OFFICES AND BRANCHES

Representative offices of foreign companies are not considered to be independent legal entities in their own right. A representative office is a fixed place of business of a legal entity that does not carry out any economic or other commercial activity. (Representative offices of foreign airlines that are registered as permanent business establishments are an exception).

The representative office acts on the basis of the representative office regulations approved by the parent company. The representative office is managed by the head of the representative office, who acts on the basis of the authority of the foreign company and the representative office regulations reflecting his powers. While representative offices of local legal entities do not require accreditation or registration, a representative office of a foreign legal entity must be accredited with the Ministry of Investment and Foreign Trade of the Republic of Uzbekistan. The procedure for the accreditation and operation of representative offices of foreign trade organizations in Uzbekistan is set out in Resolution of the Cabinet of Ministers No. 410 of 23 October 2000.

According to the Law of the Republic of Uzbekistan “On State Fees”, the state fee for accreditation of a representative office from June 1, 2022 is 48 times the assessment base – 14,400,000 Uzbekistani soums (approx. USD 1,300)¹⁰. Accreditation is usually granted for 1 year; in practice, accreditation is possible for up to 3 years. In addition, the representative office of a foreign bank on the territory of the Republic of Uzbekistan is accredited by the Central Bank. The establishment of branches by foreign banks is not permitted.

¹⁰ Law of the Republic of Uzbekistan No.600- 6.1.2020. In the civil service (lex.uz)

A branch is a permanent business establishment of a legal entity that can carry out all or part of the legal entity's activities, including entrepreneurial activities aimed at making a profit. Like representative offices, branches operate on the basis of a set of rules (company rules) that define the framework conditions for branch activities. While branches of local legal entities are not subject to registration, branches of foreign legal entities are essentially established in the same way as companies with foreign participation and are subject to the same registration procedures.

In accordance with the Presidential Decree “On Measures to Further Improve the Legal Bases of Economic Relations” (PP No. 415 of 8 November 2022)¹¹, the following requirements for the activities of economic organizations will be lifted from 1 December 2022.

The establishment of internal audit services in the following organizations:

- LLC
- Joint stock companies with a state holding of 50% or more and state-owned unitary enterprises whose book value of assets is less than one hundred thousand times the amount of the base calculation value ((BCV) – 375,000 UZS));
- The state registration of the articles of association of LLC;
- Notarization of the power of attorney granted to the representatives of the LLC shareholders to attend the shareholders' meeting;
- The determination of the size of the reserve fund, if it is established in a limited liability company, to not less than 15 percent of its authorized capital.

¹¹ Presidential Decree No. 415 of 8.11.2022. On measures to further improve the Legal framework for corporate relations (lex.uz)

As of April 1, 2023: Contributions in kind to the share capital of an LLC whose value exceeds ten thousandths of the BRV are valued by an expert organization and may not exceed the estimated value;

When legal entities are converted, the rights and obligations of the legal entities are deemed to have been transferred to the converted legal entity.

From July 1, 2023, information on the establishment of branches, representative offices and the formation of charter capital (authorized capital), as well as on the opening of insolvency proceedings against a business entity will be published on the Unified Portal of Interactive State Services (my.gov.uz).



OPENING OF BANK ACCOUNTS

Newly registered legal entities and dependent branches of legal entities must open bank accounts with an Uzbek bank to process transactions¹². Uzbek banks usually ask their potential clients to provide the foreign founder's corporate documents (e.g. articles of association, registration certificate, regulations, etc.), an extract from the commercial register and a power of attorney (all documents must be notarized, apostilled or legalized in the country of origin). These documents are usually requested by the bank for compliance purposes and to comply with the internal procedures for analyzing the client (know-your-client) or to verify the client in accordance with the anti-corruption laws of the Republic of Uzbekistan.

GENERAL REQUIREMENTS

In general, a company must have a general director and a chief accountant. The general director is the person who is authorized to act on behalf of the company without power of attorney. He is responsible for the organization of the company's legitimate activities.

FOREIGN NATIONALS AS MANAGING DIRECTORS AND SENIOR EXECUTIVES

Foreign nationals employed by a local company, including directors and responsible persons, must obtain a permit authorizing the foreign national to work in the country prior to actual employment. Obtaining such permits takes an average of one month for each foreigner. According to local labor legislation, the company must initiate this procedure by submitting the necessary documents to the local migration authority. The specifics of employing foreigners are described in the section on labor legislation.

¹²

Resolution of the Board of Directors of the Central Bank of the Republic of Uzbekistan "On Instructions for the Bank accounts opened in Uzbekistan" No. 7/2 of March 16, 2009

Labor law

The Labor Code (hereinafter referred to as the LC, new edition dated 30.04.2023) is the main legal act regulating labor relations in Uzbekistan. It applies to all employers and employees working on the territory of Uzbekistan. Foreign nationals working in Uzbekistan therefore have the same rights and obligations as Uzbek nationals.

The new code lays down the basic principles of the legal regulation of individual employment relationships:

- Equality of employee rights, prohibition of discrimination in employment and occupation;
- The freedom to work and the prohibition of forced labor
- Social partnership in the world of work;
- The guarantee of employee rights and the fulfillment of employee obligations;
- Inadmissibility of the deterioration of the employee's legal position.

The amendments to the Labor Code also include the regulation of the social partnership procedure, the consolidation of the list of socially vulnerable groups, the definition of the criteria for mass dismissals of employees, the regulation of the “job offer”, the extension of the obligatory conditions and details of the employment contract, etc.

MINIMUM WAGE

In accordance with Presidential Decree No. UP-5723 of May 21, 2019, the minimum wage (hereinafter referred to as “MW”) was introduced on September 1, 2019. The MW is used in the area of employment relationships to determine the amount of the official salary, allowances, supplements, fees and other types of payments of an incentive nature, as well as deductions and other payments established by law, and is binding for all employers, regardless of their legal form and employment relationships, as a lower limit for the remuneration of employees who have fully complied with the established labor standards.

From 1 September 2024, the minimum wage (MW), pensions and allowances will be set at 1,155,000 sums per month. MW is mandatory for all employers in Uzbekistan, regardless of their legal form and employment relationship. The wage of an employee who fully complies with the specified labor standards may not fall below 1 MW.

SALARY PAYMENTS

The payment deadlines are specified in a company agreement or other internal regulation; payment must be made at least every two weeks. In exceptional cases, the Uzbek government may set other deadlines for the payment of salaries for individual employee categories.

Salaries in Uzbekistan can only be paid in Uzbek sum, except in cases where the salary is transferred to the account of a foreign employee abroad.

WORKING HOURS

As provided for in Article 115 of the Labor Code, the standard working time for employees may not exceed 40 hours per week. In the case of a six-day working week, the duration of daily work may not exceed 7 hours. In the case of a five-day working week, the working time is limited to eight hours. The rest break must be at least one hour per working day. The duration of the daily work (shift) on days before (non-working) public holidays is reduced by at least one hour for all employees. In individual cases, a shift duration of up to twelve hours may be provided for. In such cases, the law obliges the employer to make additional overtime payments. A probationary period can be stipulated in the employment contract. The maximum duration of the probationary period is usually three months. Either party can terminate the employment contract before the end of the probationary period by giving the other party three days' notice.

PAID VACATION

The minimum annual leave is 21 calendar days. Certain categories of employees are entitled to a longer annual leave of 30 calendar days (persons under the age of 18, disabled persons in disability groups I and II and other categories defined by law).

An employee is entitled to paid annual leave for the first year after six months of uninterrupted employment from the date of commencement of employment under the employment contract. Before the end of the six-month period of employment, the employee may, by agreement between the parties to the employment contract and in certain other cases (women – before or after maternity leave, persons under the age of 18 and other categories provided for by law).

TERMINATION OF THE EMPLOYMENT CONTRACT

By Western standards, it is difficult to dismiss an employee in Uzbekistan. There is no concept of “employment on demand”. An employee can only be dismissed for certain reasons, which are defined in the Labor Code.

Dismissal procedures are quite complex and labor-intensive. Many employers prefer to terminate the employment relationship on the basis of a mutual (written) agreement with the employee. According to the Labor Code, the employer and employee can agree to terminate the employment relationship at any time and at any date. The termination of an employment contract on the basis of such a mutual agreement is relatively simple. From the employer’s point of view, this is the most attractive way of terminating the contract.

No notice period is required to terminate the employment relationship on this basis. Although the employer is not legally obliged to pay the employee a severance payment, the parties can agree that the employer will pay the employee a certain amount as compensation for the termination of the employment relationship.

A fixed-term employment contract shall be deemed terminated

upon expiry of the fixed term. If the employment relationship is continued after the expiry of the fixed term and neither party requests its termination within one week, it is deemed to have been extended for an indefinite period. An employment contract concluded for the period of absence of an employee whose job (position) has been retained shall end on the day the employee returns to work.

In the event of a change in technology, production or work organization, a reduction in the scope of work that leads to a change in the number of employees or the type of work, or in the event of the dissolution of the company, the employer must observe a two-month notice period before terminating a fixed-term or open-ended employment contract and the employee must sign a confirmation of receipt. This period can only be shortened with the employee's consent. Termination of an open-ended or fixed-term employment contract at the instigation of the employer before the end of the contract term requires good cause.

Reasons for terminating the employment contract at the instigation



of the employer include

- A reduction in the scope of work that could result in a change in the number of employees or a change in the type of work or the liquidation of the company – grounds for dismissal for operational reasons;
- Lack of suitability of the employee for the work to be performed due to lack of qualifications or health condition;
- Systematic breach of work obligations by the employee. A systematic breach of work obligations is defined as the repeated commission of a disciplinary offense by the employee within one year of the employee's disciplinary or substantive charge or the imposition of other measures provided for by laws or normative legal acts on employment for breaches of work obligations;
- The list of one-time gross violations of work obligations for which the employee's employment contract may be terminated is drawn up in accordance with:
 - the internal work regulations;
 - the employment contract between the shareholder and the head of the company;
 - the rules and regulations on discipline in relation to individual employee categories.

The question of whether an employee's breach of employment duties is considered a gross breach is decided in each specific individual case, based on the seriousness of the breach committed and the consequences that this breach had or could have had:

- Termination of the employment contract with secondary employees in connection with the hiring of another employee who is not employed as a secondary employee and as a result of the restriction of secondary employment in accordance with the terms and conditions of employment;
- Termination of the employment contract with the head of the company, his deputies or the chief accountant in connection with the change of ownership within three months of the

takeover of the company by the new owner, is drawn up in accordance with:

- with the internal work regulations;
- with the employment contract between the shareholder and the head of the company;
- with the rules and regulations on discipline in relation to individual employee categories;

The question of whether an employee's breach of employment duties is considered a gross breach is decided in each specific individual case, based on the seriousness of the breach committed and the consequences that this breach had or could have had;

Employees cannot waive their legal rights, including the right to sue their employer for wrongful dismissal or other violations of their employment rights. An agreement to this effect would not be enforceable.

The new Labor Code also contains provisions prohibiting the termination of employment contracts at the initiative of the employer. According to the Labor Code, an employer cannot terminate an employment contract for the following reasons:

- For reasons not provided for in the Labor Code or other laws;
- Violation of the prohibition of discrimination in employment and occupation enshrined in the Labor Code;
- During the period of temporary incapacity for work, during the employee's leave provided for by the Labor Code and other legal acts on work, the employment contract;
- During the period in which the employee is released from work to perform state or public duties;
- During a business trip by the employee;
- Without meeting the requirements set out in the guarantees for pregnant women (Art. 408 of the Labor Code) and for employees with a child under the age of three (Art. 409 of the Labor Code).

Employees cannot waive their statutory rights, including the

right to file a lawsuit against the employer in connection with an unlawful dismissal or other violation of their employment rights. Any agreements to this effect are ineffective.

PUBLIC HOLIDAYS

The following days are public holidays (non-working days) in Uzbekistan:

- January 1 is the day of the New Year;
- March 8 is International Women's Day;
- March 21 – Nowruz holiday;
- May 9 is a day of remembrance and tribute;
- September 1 is Independence Day;
- October 1 is the day of the teacher and the mentor;
- December 8 is Constitution Day;
- The first day of the religious holiday “Ruza Hayit” (Eid-al-Fitr);
- The first day of the religious holiday Eid-al-Adha.

Further list of non-working days may be specified by presidential decree.

If the weekend falls on a non-working holiday, the non-working day is moved to the next working day after the holiday in accordance with the Labor Code. In the interest of rational use of weekends and non-working holidays, weekends may be moved to other days by presidential decree.

DEPLOYMENT OF FOREIGN WORKERS IN UZBEKISTAN

In order to be able to pursue gainful employment, foreign nationals require a certificate authorizing them to pursue gainful employment in Uzbekistan (hereinafter: certificate).

The procedure for the employment of foreigners consists of four phases:

1. Applying for a B-2 visa (for nationals of foreign countries) countries that are subject to visa requirements);
2. Preparing the necessary documents, including the draft employment contract (with salary) and requesting confirmation;
3. Receipt of the confirmation;
4. Signing of the employment contract.



To obtain a confirmation, the employer must submit an application to the Agency for External Labor Migration of the Ministry of Employment and Labor Relations of the Republic of Uzbekistan (hereinafter referred to as the “Migration Agency”) through public service centers or through a special online platform – a unified platform for interactive public services (EPIGU). The migration agency examines the documents and decides within 20 working days whether to grant or reject the work permit. The application fee is 1 BCV (375,000 UZS). The entire process of compiling the required documents, applying for the visa, processing the application and confirmation can take a month or longer.

The costs for issuing a confirmation (work permit) vary depending on the category of workers:

- for highly qualified specialists as well as for teachers and specialists working in presidential schools and universities in the amount of 1 time the BCV;
- for qualified specialists – in the amount of 2 times the BCV;
- for compatriots – in the amount of 2 times the BCV;
- for other foreign citizens – in the amount of 30 times the BCV.

The certificates are issued for the duration of the employment contract, but for a maximum of one year, and can be renewed an unlimited number of times.

In addition, foreign nationals are obliged to register and apply for a personal identification number (PINFL).

There is no obligation to obtain a confirmation of receipt for:

- Foreign nationals who have made investments in the Republic of Uzbekistan – the amount of investment varies from year to year;
- Employees of permanent representations of foreign states, representations of international intergovernmental organizations and governmental organizations of foreign states who have received accreditation, as well as other persons with diplomatic status;
- Specialists hired at the request of the State Committee of the Republic of Uzbekistan for the development of tourism for a period of up to three months to work in the field of tourism;
- Founders of companies and joint ventures with foreign participation, including managing directors / general directors, for a period of up to three months.

CHANGES TO VISA / ENTRY REQUIREMENTS

In Uzbekistan, the principle of visa-free entry for citizens of a total of 76 countries, including Germans and Austrians, applies for stays of up to 30 days¹³. These are

¹³ Further information can be found on the website of the Uzbek Ministry of Foreign Affairs at find: <https://mfa.uz/ru>

Australia	Spain	Slovenia	Barbados
Andorra	South Korea	Czech Republic	St. Lucia
Argentina	Norway	Croatia	Grenada
Belgium	San Marino	Japan	St. Kitts and Nevis
Bosnia and Herzegovina	Sweden	Chile	Dominican Republic
Brunei Darussalam	Mongolia	Great Britain	Costa Rica
Denmark	Serbia	Antigua and Barbuda	Jamaica
Greece	United Arab Emirates	Brazil	Nicaragua
Ireland	Portugal	Germany	Panama
Iceland	Bulgaria	Finland	Trinidad and Tobago
Israel	New Zealand	Turkey	Cuba
Italy	Indonesia	France	El Salvador
Canada	Cyprus	Montenegro	St. Vincent and Grenadines
Liechtenstein	Malta	Switzerland	Commonwealth Bahamas
Luxembourg	Lithuania	Singapore	Guatemala
Monaco	Poland	Estonia	Commonwealth of Dominica
Austria	Netherlands	Tajikistan	Belize
Hungary	Malaysia	Slovakian	Honduras
Vatican	Latvia	Romania	Mexico

On the basis of bilateral international treaties and the principle of parity, nationals of eight countries are permitted to enter the country without a visa for an unlimited period of time¹⁴ :

Azerbaijan	Armenia	Kazakhstan	Russia
Georgia	Belarus	Moldova	Ukraine

On January 16, 2024, the Ambassador of Uzbekistan to the United Arab Emirates, Abdulaziz Akkulov, and the Deputy Minister of Foreign Affairs of the United Arab Emirates, Khalid Abdullah Belhoul, signed a protocol between the two governments on the reciprocal exemption from the visa requirement for a stay of up to 30 days (effective February 16, 2024).

¹⁴ Further information can be found on the website of the Uzbek Ministry of Foreign Affairs at find: <https://mfa.uz/ru>

Issuance of licenses

Certain types of activities can only be carried out on the basis of a license issued by approved licensing authorities. In particular, the following activities require a license:

- Medical activity;
- Pharmaceutical activity;
- Planning, construction and repair of bridges and tunnels;
- Financial services;
- Planning, construction and operation of plants with a high hazard potential and potentially hazardous industrial operations.

The list of activities requiring a license has recently been significantly shortened. As of 1 January 2021, the following activities in particular are not subject to a licensing requirement

- Audit activities;
- Activities of investment funds;
- Valuation activity;
- Real estate activity;
- Activities for the operation of bridges and tunnels;
- Activities for the reproduction of audiovisual works, sound recordings and computer programs;
- Activities for the extraction of precious and rare earth metals, gemstones;
- Activities for urban, suburban and long-distance freight transportation, etc.

Licenses for the right to carry out certain types of activities are issued without restriction on their period of validity. With regard to certain licensed types of activities, the legislation may set a limited period of validity of the license, but not less than for five years. From January 1, 2021, the issuance of licenses, permits and the notification procedure will be carried out via the special digital system "License".

TAXATION OF LEGAL ENTITIES AND NATURAL PERSONS

The tax system in Uzbekistan is regulated by the Tax Code. On January 1, 2020, the Tax Code came into force, replacing the previous version of the Tax Code.

The special feature of Uzbek tax legislation is that the tax rates are not set in the tax code itself, but rather annually by resolution of the President of Uzbekistan. In addition, sub-legislative acts establish various lists and registers required for calculating taxes, for example, lists of types of activities subject to simplified taxation. Therefore, other normative legal acts are an important part of Uzbek tax legislation. While the Tax Code sets out the general taxation rules and specifics for certain categories of taxpayers, the final amount of tax to be paid depends on the sub-legislative provisions.

The State Tax Committee is the central state authority responsible for administering the tax system, issuing instructions on the application of tax legislation and making recommendations to tax authorities. The main tax authorities of the city of Tashkent, the autonomous republic of Karakalpakstan and the twelve regions are directly subordinate to the State Tax Committee. There are also local tax inspectorates in the districts, cities and urban districts.

Legal entities must be registered with the local departments of the state tax inspectorate at the registered office of the legal entity (legal address) in order to fulfill tax obligations. These local state tax inspectorates are responsible for collecting taxes and ensuring that taxpayers comply with tax laws.

The following taxes and fees are levied on the territory of the Republic of Uzbekistan:

- Value added tax;
- Excise duties;
- Taxes on profits;
- Income tax;
- Tax on the use of natural resources;
- Taxes for the use of water;
- Property tax;
- Property tax;
- social tax.

The main tax rates for 2024 are set at the following amounts:

- Value added tax – 12%;
- Profit tax – 15% for certain categories of taxpayers – 20%;
- Income tax – 12%;
- Wealth tax for legal entities – 1.5%;
- Property tax for agricultural land – 0.95%;



REQUIREMENT FOR TAX REGISTRATION

All legal entities must be registered at their place of business. If a legal entity has dependent branches in Uzbekistan, registration with the tax authorities takes place at the location of each individual dependent branch.

Registration of a foreign legal entity at the place of its activity or dependent branch and (or) representative office is carried out on the basis of information provided by the Ministry of Investment and Foreign Trade of the Republic of Uzbekistan.

In other cases, the registration of a foreign legal entity is carried out on the basis of an application, which must be submitted to the tax authority no later than thirty days after the start of its activities in the Republic of Uzbekistan.

SPECIAL TAX REGULATIONS

Special tax regulations are provided for certain categories of taxpayers:

- Simplified taxation of turnover (instead of levying corporation tax);
- A special procedure for the taxation of participants in so-called production sharing agreements;
- A special procedure for taxing participants in special economic zones and certain categories of taxpayers. Special tax assessment systems may provide for exemption from the payment of certain taxes, the application of reduced tax rates and other tax benefits.

SIMPLIFIED TAXATION OF TURNOVER (instead of levying a corporation tax)

Applicable to the following groups of cases:

- Legal entities of the Republic of Uzbekistan whose total income for the tax period (one calendar year) does not exceed one billion sums;
- Individual entrepreneurs whose income from the sale of goods (services) for the tax period is more than 100 million sums, but not more than one billion sums.
- This does not apply to the following taxpayers, irrespective of the criterion of total annual income:
 - Legal entities and individual entrepreneurs who import (import) goods across the customs border of the Republic of Uzbekistan;
 - Legal entities that produce excisable goods (services) and (or) persons involved in the extraction of minerals;
 - Legal entities – agricultural producers, if they cultivate agricultural land with an area of fifty hectares or more;
 - Legal entities that sell gasoline, diesel fuel and gas;
 - Legal entities that carry out activities for the organization of the lottery;
 - Trustees – participants in a simple partnership who are entrusted with the management of the affairs of a simple partnership – for activities carried out under a simple partnership agreement, including

However, the tax rate varies depending on the type of activity of the company. The (minimum) basic tax rate is 4% of turnover.

ISSUING SALES TAX INVOICES (so-called Schyot-faktura invoices)

When selling goods (services), entrepreneurs must issue VAT invoices (so-called Schyot-Faktura invoices), which are mandatory for the reimbursement of VAT. According to the latest legal provisions, the VAT invoice is issued in electronic form. In some established cases, for example when taxpayers carry out business transactions related to state secrets, it is permissible to issue a VAT invoice in paper form.

An exception applies to foreign legal entities that provide services in electronic form. They are exempt from the obligation to issue VAT invoices. A strict formal requirement applies to so-called Shyot-Faktura invoices or VAT invoices. The form and procedure for completing the VAT invoice are determined by the State Tax Committee of the Republic of Uzbekistan. In accordance with the legislation of the Republic of Uzbekistan, taxpayers must submit annual financial reports to state tax offices and other state bodies.

TAXATION OF NATURAL PERSONS

The following persons are liable for income tax (hereinafter referred to as referred to as taxpayers in this section):

- Natural persons – citizens of the Republic of Uzbekistan;
- Natural persons – other persons who are considered non-residents of Uzbekistan for tax purposes and who earn income in Uzbekistan.

The income tax rate depends on whether the person is considered a resident of Uzbekistan. Tax residents are persons who stay in Uzbekistan for a total of more than 183 calendar days in a 12-month period. A natural person may be recognized as a resident of the Republic of Uzbekistan before the expiry of a 12-month period if this person submits a long-term employment contract or other document confirming the fulfillment of the residence conditions. The actual period of residence of a person in the Republic of Uzbekistan is not interrupted for periods of his departure outside

the Republic of Uzbekistan for short-term treatment or training (less than six months).

For a resident of the Republic of Uzbekistan, the tax rate is rate of 12%, dividends and interest are taxed at 5%.

Income of an individual, non-resident of the Republic of Uzbekistan, derived from a source of income in the Republic of Uzbekistan, is taxed as follows, depending on the type of income:

- Income from employment contracts (contracts) and contracts of a civil nature – 20 %;
- Dividends and interest – 10 %;
- Revenue from the provision of transportation services for international traffic (revenue from freight) – 6 %;

Personal income tax is withheld by the so-called tax agent, who is responsible for withholding tax, before payment and paid to the Uzbek tax authorities. In the case of employment relationships, this is the employer.

DOUBLE TAXATION AGREEMENT

Uzbekistan has signed comprehensive double taxation agreements with 55 countries. The agreements relate to direct taxes, in the case of Uzbekistan to income and corporation tax.

The application of international tax law regulations must always be checked by an experienced tax consultant before entering the market. The local application practice of the Uzbek tax authorities must be considered. We look forward to assisting you with your market entry and will be happy to answer any legal and tax-related questions you may have.

RECEIPT OF THE SO-CALLED INDIVIDUAL IDENTIFICATION NUMBER (“IIN”)

The Taxpayer Identification Number (TIN) is a numerical identifier that is issued in the form of a document and is automatically assigned to each citizen as soon as they are registered in the State Tax Committee’s database. This number is used by all government agencies when processing matters.

Regardless of whether you run a private company or only pay income tax from your salary, registration in the country’s tax system is required to ensure that the data is processed correctly.

To obtain the coveted taxpayer identification number, it is no longer necessary to submit an application to the authorities. Instead, it is sufficient to turn on your computer, open the website of the unified portal my.gov.uz and use the service “Obtaining the taxpayer identification number (TIN) for individuals”. All required fields must be completed.

A SELECTION OF THE MOST IMPORTANT TAX LAW REGULATIONS

Virtually all relevant provisions of Uzbek tax law are summarized in the Uzbek Tax Code. Important amendments to the Tax Code were introduced on 28.12.2023. The basic structure of the Tax Code is essentially investor-friendly. The Uzbek tax authorities are responsible for clarifying any ambiguities regarding key issues.

REQUIREMENTS FOR THE TAX DEDUCTIBILITY OF EXPENSES FOR SERVICES

The national regulations of the Uzbek tax code are supplemented by numerous international tax treaties. For example, Uzbekistan has concluded numerous agreements to avoid double taxation – including with Germany. For investors, this leads to a more attractive investment climate and increased legal certainty at the level of tax law.

RELATIONSHIP BETWEEN UZBEK TAX LAW AND INTERNATIONAL TAX LAW – PRACTICAL RELEVANCE

This section deals with the relationship between the standards of Uzbek tax law and the principles of international tax law as laid down in the respective agreements on the avoidance of double taxation (DTA) and, where applicable, in additional protocols to these agreements.

In practice, more and more individual issues arise in business cooperation with Uzbek partners. These questions concern the establishment of a permanent establishment for tax purposes, the levying and withholding of taxes at source by Uzbek contractual partners, the submission of tax residency certificates and, last but not least, the problem of profit deferral and the legal consequences of engaging a subcontractor.

Rather, the problem with the terms within the meaning of Art. 5 para. 1 OECD-MA cannot be precisely grasped and requires clarification of the terms enterprise, business establishment, power of disposal (with regard to subcontractors) and, above all, the minimum duration vis-à-vis the customer.

The latter issue arises when the parent company carries out its activities in Uzbekistan through the permanent establishment located there. Recently, this issue has been attracting more and more attention from the German tax authorities. Many German companies are constantly expanding their presence in Uzbekistan. According to official sources, more than 200 German companies are active in Uzbekistan. Instead of making direct investments through independent subsidiaries, German companies relatively often carry out their business activities through permanent establishments. Although from a legal point of view the parent company and the permanent establishment form a single entity, from a tax point of view they must be considered separately. The profit from the activities of the permanent establishment is only taxable in the state in which the permanent establishment is located in accordance with the provisions of the agreement.

By determining the profit of the permanent establishment, the distribution of the profit of the entire company between the states involved in this (economic) process of value creation must be ensured.

The correct distribution of profits, which is also provided for in principle in the US Tax Code, is therefore becoming increasingly important in practice.

CREATION OF A PERMANENT ESTABLISHMENT – RISKS OF A FACTUAL DOUBLE TAXATION

Article 36 of the Tax Code stipulates that a permanent establishment includes any place of management, branch, department, office, branch, room, agency, factory, workshop or laboratory. It is also clarified that a building site, a construction, assembly or erection site or a related supervisory activity which exists or is carried out for more than 183 days in any consecutive period of twelve months is deemed to be a permanent establishment.

The agreement on the avoidance of double taxation between Germany and Uzbekistan in the area of taxes on income and capital is regulated in Articles 5 and 7 of the agreement. Article 5 defines the concept of a permanent establishment and its exceptions. Article 7 stipulates that profits made by a company of a contracting state can only be taxed in that state, unless the company carries out its activities in the other contracting state through a permanent establishment located there. In this case, the profits may be taxed in the other State, but only to the extent that they can be attributed to that permanent establishment.

The requirements for the establishment of a permanent establishment are governed by Article 2 in conjunction with Article 36 and Article 130 of the Tax Code of the Republic of Uzbekistan. However, Article 2 of the Tax Code states that if there is an international treaty containing deviating provisions, the provisions of the treaty apply. In this case, there is a double taxation treaty

between Germany and Uzbekistan, which takes precedence. According to Article 5 (3) of the agreement, a construction or assembly project is only considered a permanent establishment if its duration exceeds twelve months.

WITHHOLDING TAX

Foreign legal entities that do not carry out their activities in Uzbekistan through a permanent establishment are subject to withholding tax on income from Uzbek sources if a corresponding double taxation agreement provides for this.

If the permanent residence of the person to whom the income is paid and who has no actual right to this income is located in a state (territory) with which no international tax treaty of the Republic of Uzbekistan is in force, the withholding tax shall be withheld at the rates specified in this Code. Withholding tax shall be withheld at the same rates if such income is paid to a person who does not have a real right to such income and does not know in which state (territory) the person who has a real right to such income (part thereof) is a tax resident.

The following apply as withholding taxpayers:

- Natural persons - residents of the Republic of Uzbekistan;
- Non-residents of the Republic of Uzbekistan who receive income from sources within the Republic of Uzbekistan;
- Tax residents of the Republic of Uzbekistan are natural persons who stay in the Republic of Uzbekistan for a total of more than 183 calendar days within an uninterrupted period of twelve months, which begins or ends during the tax period for which the corresponding status is determined.

The tax base is determined on the basis of the average annual residual value (annual average value) of the taxable assets, which is calculated periodically as one twelfth of the amount resulting from the addition of the residual values (annual average values) of the taxable assets on the last day of each month of the taxable period.

THE TYPES OF INCOME SUBJECT TO WITHHOLDING TAX IN UZBEKISTAN ARE AS FOLLOWS

Income in the form of earned income

Income from employment includes all payments (wages and salaries, bonuses, allowances, compensation, etc.) made to an employee who is in an employment relationship with an employer and performs work on the basis of an employment contract.

Income from assets

Income from capital assets of natural persons includes interest, dividends, income from renting and leasing, income from the sale of real estate and other income.

Income granted in the form of a pecuniary benefit

Income in the form of a pecuniary benefit includes payments made by the tax representative in the interest of the taxpayer for goods (services), property rights and debts of an individual to the tax representative that have been waived by a decision of a legal entity, etc.

Other income

Other income of natural persons includes pensions and allowances, benefits in kind, profits, etc.

ADVANTAGES OF COMPLYING WITH WITHHOLDING TAX REGULATIONS IN UZBEKISTAN

Subsequent registration of a permanent establishment is actually always associated with tax problems/disadvantages, as taxes have to be paid retrospectively and the accounts have to be prepared again. A company should therefore check the national regulations before operating abroad to avoid having to register a permanent establishment retrospectively, which entails considerable financial disadvantages for the company.

Withholding tax in Uzbekistan, it is important to clarify in advance whether a permanent establishment exists. The requirements for establishing a permanent establishment are set out in Article 2 in

conjunction with Article 36 in conjunction with Article 130 of the Tax Code of the Republic of Uzbekistan, as amended. However, Article 2 of the Tax Code of the Republic of Uzbekistan provides that if an international treaty of the Republic of Uzbekistan contains provisions other than the Tax Code of the Republic of Uzbekistan, the provisions of the international treaty shall apply.

It would be necessary to carefully examine all the facts (twelve-month period, construction and assembly work, duration of construction work, interruptions, calculation of the period, applicability of national and international regulations). A proper determination and clarification of the facts as to whether a permanent establishment exists has many advantages for the company: It does not have to pay back taxes and saves a lot of administrative work and possibly a lot of legal complications.

SANCTIONS AGAINST RUSSIA AND IMPLEMENTATION OPTIONS IN UZBEKISTAN

Although the Republic of Uzbekistan has communicated its position on sanctions against Russia to the international community, it has not enshrined it in law. The review of sanctions in the broader sense is already being practiced in Uzbekistan. Many banks, as well as other companies, have drawn up their own rules on how they can work with business partners on the sanctions list or break off cooperation.

It should be noted that the measures to determine whether a company or business partner is significantly affected by the sanctions were taken exclusively on the basis of opinions from international legal consultancies. All export and import contracts of commercial banks with foreign partners of their customers registered in Russia and Belarus are currently being inventoried. In addition, commercial banks constantly update the list of sanctions for foreign trade transactions with foreign partners and give their customers recommendations for conducting financial relationships with partners and banks that are not affected by the strict sanctions.

FEASIBILITY OF THE SANCTIONS CLAUSE IN THE INVOICE

Many parent companies would at least like to include the sanctions clauses in the invoice. However, this is a problem with Uzbek legislation. Not the sanctions clause, but the note on the invoices.

According to our legislation, the invoice forms are Uzbek standards and no company has any influence to change or adapt these government invoice forms. A penalty clause would be to change the billing forms and this is also not in accordance with the applicable law or against the regulations which clearly state that changes or adjustments to the forms are not allowed as they are considered standard by the city.

In accordance with the Resolution of the Cabinet of Ministers of the Republic of Uzbekistan dated August 14, 2020 No. 489¹⁵ in conjunction with the Law of the Republic of Uzbekistan “On Amendments to the Tax Code of the Republic of Uzbekistan and Fees” dated December 30, 2019, LRU- 599¹⁶, the Cabinet of Ministers issues the regulations on the form of invoices and the procedure for their preparation, submission and acceptance in accordance with Appendix 2; specifies exactly which ones may not be changed. As an interim result, it can be stated that the current law does not permit the inclusion of penalty clauses in an invoice.

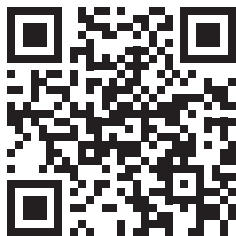
¹⁵ No.489-14.8.2020. on measures to improve tax administration with regard to Foreign legal entities and value added tax (lex.uz)

¹⁶ Law of the Republic of Uzbekistan No.599- 30.12.2019. On the introduction of amendments and additions to the Tax Code

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