



Doing Business and Investing in Tajikistan 2013

Legal Aspects

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We are delighted to present you the first edition of our annual guide Doing Business and Investing in Tajikistan.

This guide was prepared by our entire team of lawyers with the intention of providing busy investors and businessmen a quick overview of the investment climate, forms of business organizations, tax, employment and natural resources regulations in the Republic of Tajikistan. The guide is based on the Tajik laws as of January 1, 2013.

We express our special gratitude to our clients who facing difficulties of finding basic useful legal information about Tajikistan inspired us to prepare this guide. Apart from this, the desire of contributing to the development of the country encouraged us to briefly introduce Tajikistan's legal system to a wide range of potential investors.

We understand that this brief guide will not answer all your questions, but it will provide you with some valuable insight into the Tajik laws. We hope that you find this guide helpful and practical.

Nazrisho & Mirzoev Law Firm has substantial experience in providing legal advice and services to businesses and individuals in Tajikistan. We have extensive experience in almost all areas of law and are ready to offer legal services tailored to your specific needs.

We look forward to having an opportunity to work with you in the future.

Nazrisho & Mirzoev, LLC

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1. General Country's Profile

Geography

Location	Central Asia
Area	143.000 km ² (93% of the territory are mountains)
Land boundaries	China (to the east); Kyrgyzstan (to the north); Uzbekistan (to the west and north); Afghanistan (to the south)
Climate	In general climate is continental, subtropical, and semiarid, with some desert areas. In the country's low elevations, the average temperature ranges from 23 to 30 °C (73.4 to 86 °F) in July and from -1 to 3 °C (30.2 to 37.4 °F) in January
Time zone	GMT +5
Capital	Dushanbe

Government

Country name	Tajikistan or officially the Republic of Tajikistan
Government structure	Tajikistan is a unitary state with republican form of government. The President is the head of the state and Hukumat (Government).
Legislature	The Supreme Legislative authority is Majlisi Oli (Parliament), which consists of Majlisi Milli (the upper Chamber of Parliament) and Majlisi Namoyandagon (the lower Chamber of Parliament).
Legal system	The legal system is based on statutory law rather than case law. The main legal normative acts are the Constitution, Constitutional laws, Laws, Codes, joint and separate decrees of the Parliament, Presidential decrees, as well as decrees of the Government.

People

Population	7 800 000 (2012 est.)
Ethnic groups	Tajiks (the main ethnic group), Uzbeks, Kyrgyz, Russians
Religion	98% of population follows Islam. However, according to the Constitution, the Republic of Tajikistan is a secular state.
Language	Tajik (the state language), Russian (the language of inter-ethnic communication)

Economic Indexes (01.01.2013)¹

GDP (official exchange rate)	\$ 7.6 billion
GDP per capita	\$ 974
GDP real growth rate	7.5%
Inflation rate	6.4%
Currency	TJS (Tajik Somoni) ²

¹ www.stat.tj

² All figures quoted in this guide in US Dollars are converted at the rate of USD 1 = TJS 4.76

2. Foreign Investment

2.1 Investment Climate

The Government of Tajikistan regularly declares the attraction of foreign investment and high technology as one of the priorities of the economic development. Most recent changes in the laws simplifying registration procedures were adopted to clear some hurdles and encourage investment activity. The law does not place any restriction on foreigners with regard to purchase and sell of the businesses, repatriation of investment or revenue.

The Tajik law generally puts the foreign investment on the same footing as domestic investment and there is no investment permit required for foreigners to obtain before starting a business. However, it should be noted that some activities shall be carried out only by businesses (whether domestic or foreign) holding appropriate licenses. Foreign investors are generally not required to seek special approval from authorities for foreign direct investment, but the establishment of subsidiaries, joint-venture companies, branch or representative offices must be in accordance with the prescribed procedures and should be registered with appropriate government agencies.

2.2 Brief Description of Some Regulatory Laws

There is no single legal normative act that covers all the investment activities. In order to better understand any issue within the investment relations it is necessary to piece several laws together. The following laws generally regulate different aspects of investment relations, in addition to Tax and Customs Codes:

- The **Civil Code** is one of the main laws regulating different aspects of private relations, such as types of legal entities, contractual relations, intellectual property issues, ownership rights and other issues.
- The **Law No. 260 “On Investment” dated May 12, 2007 (Investment Law)**, serves as declaratory document stating the investor’s rights and guarantees. Investment Law acknowledges and guarantees the equality of foreign and domestic investor’s rights and guarantees. It sets out that foreign investors are entitled to repatriate the profit relating to investments without any restrictions; convert the income into hard currency; receive compensation at the market value of the nationalized or confiscated for public use property; and export the originally imported property and information without quota system or licensing. Also, the Investment Law provides that in case of introduction of new amendments to investment laws the investors shall have the right to choose the existing favorable conditions within five years from the date of official publication of such amendments. However, this is not applicable in the case of amendments to the Constitution and legislation related to national security, public health, environmental protection, morality and ethics.
- The **Law No. 508 “On State Registration of Legal Entities and Individual Entrepreneurs” enacted on May 19, 2009 (Business Registration Law)** sets out the

procedure for state registration of legal entities, branch offices, representative offices and individual entrepreneurs, as well as registration of amendments to company charters.

- The **Law No. 198 “On Competition and Restriction of Monopoly in Commodity Markets” dated July 28, 2006 (Antimonopoly Law)** was adopted for the purpose of restricting monopolistic behavior and unfair competition, creating an environment for fair competition in the markets and protecting consumer rights.
- The **Law No. 235 “On Natural Monopolies” effective from March 5, 2007 (Natural Monopolies Law)** is aimed at reaching a balance between the interests of consumers and businesses operating in specific areas through the state price control. Generally, the concession should be granted for foreigners operating in these spheres. The general terms and conditions for granting of concessions are stipulated by **Law No. 783 “On Concessions” enacted on December 26, 2011.**
- The **Law No. 37 “On Licensing of Separate Types of Activities” dated May 17, 2004 (Licensing Law)** defines the activities for carrying out the licenses which are necessary and prescribes the general procedures for obtaining these licenses.

In addition to these general acts, other laws and regulations were enacted that specifically deal with banking, insurance and other industries.

2.3 Free Economic Zones (FEZ)

The Law on FEZ defines the FEZ as a separate (limited) part of the territory of the Republic of Tajikistan with precisely defined boundaries, where favorable economic conditions and a special legal regime is designed for carrying out entrepreneurship and investment activity. The special legal regime means preferential regime of taxation, currency circulation, customs, employment, etc. for the purpose of attracting investment. Some of the benefits applicable to businesses operating within FEZ are described below:

- free transfer of income abroad;
- import of goods to the territory of FEZ is exempt from customs and taxes, as well as application of prohibitions and restrictions of economic nature, established in accordance with the Tajik law; export abroad of goods from FEZ is exempt from customs and taxes, as well as application of prohibitions and restrictions of economic nature, established in accordance with the Tajik law; exemption from all taxes, except the individual income tax and social tax;
- profits of foreign investors and wages of foreign employees, resulting in a foreign currency may be freely repatriated, and when exported abroad are not taxed; and
- simplified procedure of entry and exit for foreign employees. It is worth to mention that certain types of businesses are not allowed to enjoy the preferential conditions of doing business within FEZ. Such businesses, *inter alia*, include mining; manufacture of excisable goods (except motor vehicles for transportation of goods and passengers); production of securities, banknotes and coins, postage stamps; production, processing, storage and sale of drugs, psychotropic substances and precursors; retail sale of goods and raw materials.

In order to enjoy the preferential conditions of doing business within FEZ the business shall:

- 1) be registered under Business Registration Law;
- 2) enter into agreement on carrying out business activity within the territory of FEZ with the administration of FEZ; and
- 3) obtain a Certificate of FEZ participant.

Currently there are four FEZ that are active in Tajikistan. These are Sugd, Panj, Ishkoshim and Dangara FEZs.

2.4 Regulation of Natural Monopolies

Natural monopolies are considered to be one of the significant parts of Tajik economy. The reason that natural monopolies exist in Tajikistan is the same as in other market economies where in some industries multiform production is more costly than production by a monopoly. The Government's approach for regulating natural monopolies is based on the assumption that only specific activities named in Natural Monopolies Law are regarded as production (sales) of goods and services in the state of natural monopoly. Thus, the Natural Monopolies Law is only applicable to the following business activities:

- transportation of oil via pipelines;
- procurement and transmission of natural gas through main and (or) distribution pipelines, exploitation of gas distribution systems and related gas distribution pipelines;
- production, transmission, and (or) distribution of electricity (or) heat;
- rail transport services;
- services of transport terminals, airports and air navigations;
- postal services, telecommunications using the network of local lines;
- services of water supply and (or) sanitation systems; and
- local lines of air transportation services.

The State Agency on Antimonopoly Policy and Support of Entrepreneurship (Antimonopoly Agency) is the authorized state agency that oversees the compliance with the requirements of Natural Monopolies Law by businesses carrying out activities described above. The prices of goods and services of businesses carrying out activities stipulated by Natural Monopolies Law are subject to approval by Antimonopoly Agency.

It should also be noted that the law does not impose any restriction on foreign companies in order to do business as natural monopolists and as a matter of practice, generally concessions are granted for such purposes.

2.5 Recognition and Enforcement of Foreign Arbitral Awards

The Tajik legal system is based on statutory law, but many investors encounter difficulties on a practical level due to misapprehension of market economy oriented laws by officials, including judges, that diminish the creditability of the Tajik courts. On the other hand, the practice of settlement of disputes by means of arbitration is not widespread amongst Tajik businesses and there is no reputable arbitration institution, despite the existence of the Arbitration Law³. The only available option for foreign investors is the use of arbitration clause in contracts (or arbitration agreement) that refers all disputes or claims to foreign arbitration institutions. In 2012 Tajikistan ratified the New York Convention on Recognition and Enforcement of Foreign Arbitral Awards. Consequently, it has become possible to enforce foreign arbitral awards in Tajikistan, although with some limitations such as inapplicability of Convention to disputes related to real estate (immovable property).

³ Law No. 344 “On arbitration tribunals” dated January 5, 2008

3. Establishing Legal Presence

3.1 General

The Tajik company law consists of Civil Code and separate laws on limited liability companies, joint stock companies and production cooperatives. To conduct business, foreign investors may choose primarily from a number of different types of commercial entities stipulated by Civil Code. The Civil Code divides organizations into commercial and nonprofit organizations and further names the following types of commercial organizations:

- **companies** - limited liability companies (LLCs); double (additional) liability companies (DLCs); joint stock companies (JSCs);
- **partnerships** - general and limited (also the law describes the contract on joint activity as “simple partnership”);
- **production cooperatives**; and
- **state enterprises** (unitary or treasury enterprises).

Except the state enterprises, foreign investors may establish wholly-owned companies, or together with other local investors joint ventures and partnerships, or acquire ownership interests in such entities, or participate in production cooperatives as members. **Representative offices and branches**, pursuant to Civil Code, are also options for foreign investors to establish a legal presence in Tajikistan. Representative offices and branches, contrary to other legal entities, are not deemed by law as distinct from owner parties to relationships and therefore their activities entail parent companies’ liability. The two most popular forms of corporate structuring are LLCs and JSCs.

3.2 Registration Requirements

The newly adopted Business Registration Law introduced “one-stop shop” principle for registration of different types of entities, representative offices and branches of foreign legal entities and individual entrepreneurs. It simplified the registration procedures, shortened the registration timeframe and is aimed to encourage small and medium size businesses.

The Business Registration Law has an exhaustive list of documents upon presentment of which the state registration authority shall issue the Certificate of Registration within 5 (five) business days. The listed documents shall be presented in Tajik and in some cases the notary certified translation and legalization (authentication) of documents is required. All the applications may be filed with District Tax Inspection either by executive officers or by other duly authorized representatives. The Certificate of Registration is the only document that certifies the state registration of the entity, representative and branch offices. The District Tax Inspection where the head office (representative or branch office) is located serves as state registration authority. Upon registration, the District Tax Inspection as registration authority appropriates each entity, representative and branch office **Singular Identification Number (SIN)** and as tax authority

Individual Taxpayer Number (ITN). All the information provided by applicant and required by law will be included by Tax Inspection into the **Singular State Register of legal entities and individual entrepreneurs (SSR)**. The law stipulates that the state registration in SSR also means registration with state statistics and social security authorities, but in reality the **Insurance Identification Number** is usually issued by social security authorities upon approaching directly those authorities.

In order to keep the information contained in SSR updated, the law also requires the registration of the amendments to such information. The legal entities, representative and branch offices and individual entrepreneurs are under obligation to notify in writing the District Tax Inspections about those amendments within 5 (five) business days from the approval date of the decision that has changed the information contained in SSR. Depending on the nature of the amended information the District Tax Inspection issues Extraction from SSR or new Certificate of Registration upon registration of the amendments.

3.3 Limited Liability Companies (LLCs)

Due to the fact that public trading of securities almost does not exist, LLCs, as closely held companies (the number of participants cannot exceed thirty), are the most attractive forms of business associations in Tajikistan. Majority of companies are registered as LLCs. The attractiveness of this hybrid business form basically arises from its combination of desirable business features: 1) limited liability for all of its owners; 2) easier to establish (compare to JSC) and 3) internal flexibility in terms of management and control. Because investors' interests in an LLC are not securities as defined by law and are not subject to registration with authorized securities state agency, LLCs are easier to maintain.

An LLC can be established by one or several persons with its authorized capital divided into members' shares according to constituent documents. The liability of each member is limited to the value of its contribution to authorized capital. The constituent documents of an LLC, in case of more than one member, are the Founding Agreement and Charter; and in case of one member is the Charter. The Founding Agreement is an agreement between members that regulates the relations of the parties with regard to formation of an LLC, while the Charter is the main bylaw of an LLC. Neither of the abovementioned documents shall be filled with any state agency.

The minimum authorized capital is established at the amount of TJS 500 (USD 105). All the authorized capital must be paid within the first twelve months, otherwise the authorized capital shall be reduced and the Charter amended or in case if the paid authorized capital is less than the minimum authorized capital, the LLC shall be liquidated.

The default rules set out that LLCs have two management bodies:

- the Members General Meeting; and
- the Executive body (single Executive Officer or Board).

The members vote proportionally to their interests in the LLC's authorized capital and resolutions may be approved without convening a meeting by the way of exchange of documents (absentee voting). The **Law No. 53 "On Limited Liability Companies" from May 10, 2002 (LLC Law)** lists the issues that should be resolved exclusively by the Members General Meeting and those issues cannot be assigned for resolution to other management bodies. The Board (or single Executive Officer) is responsible for managing the day-to-day activities of the LLC and representing the LLC against third parties. The LLC Law provides that the Charter may prescribe the establishment of the Board of Directors (Supervisory Board) and the Auditing Committee, and their authority. If there are two or more members in the LLC, the members should be aware of the following rules:

- The default rules state that members in an LLC may transfer their participatory interest in the company's capital to third parties, but other members have a pre-emptive right to acquire the participatory interest in an LLC. The default rules also prescribe other terms for realization of such pre-emptive rights.
- Successors (heirs) may inherit the participatory interest and in case if a member's property is insufficient to satisfy the personal creditors' claims, those creditors may demand to withdraw member's share in LLC's capital to settle his debts.
- A member has the right to withdraw from an LLC at any time, despite the consent of other members. Upon withdrawal, a member is entitled to his proportionate share of the assets of the LLC that should be paid by the LLC within six months after the end of the financial year in which the application for withdrawal was filed.
- The members who hold together not less than 10% of the participatory interest in LLC's capital may exclude judicially a member who grossly violates his duties, or whose actions make the LLC's operations impossible or substantially complicated.
- If the LLC acquires more than 20% of a JSC's voting shares or more than 20% of another LLC's authorized capital, it should immediately disclose this information in a newspaper where information on state registration of entities is published.
- The law does not require the LLC's to publish their financial reports or audit their operations unless one is demanded by its members. A member has the right to demand the audit in which case the same member should pay the auditor services.

3.4 Double (additional) Liability Companies (DLCs)

The DLCs are similar to LLCs in all aspects, except the liability of its members. The members of such a company shall bear in common the subsidiary liability with their personal property in the amount, divisible by the cost of their contributions, equal for all of them, which shall be defined by the company's bylaws. Because of such vicarious liability of members DLC's are not popular amongst the investors. All the default rules for LLC's are applicable to DLC's.

3.5 Joint Stock Companies (JSCs)

JSCs are the only entities in Tajikistan that can issue shares (stocks) that are deemed as securities and generally are under more control of state agencies than any other types of legal entities. JSCs are governed by the Civil Code, **Law No. 237 “On Joint Stock Companies” of March 5, 2007 (JSC Law)** and **Law No. 745 “On Stock Market” from June 28, 2011**. A JSC’s capital is divided into a definite number of shares and the shareholders are not liable for company’s obligations and accept the risks of losses in connection with its activity within the limit of their shares.

Two types of JSCs exist in Tajikistan: **Closed Joint Stock Companies (CJSC’s)** and **Open Joint Stock Companies (OJSC’s)**, which are broadly equivalent to private and public companies. An OJSC may have an unlimited number of shareholders, while the number of shareholders in a CJSC may not exceed fifty. It is interesting to note that in the other type of private company in Tajikistan – an LLC, the number of participants may not exceed thirty and the LLC must be transformed only into an OJSC or production cooperative should this number be exceeded. An OJSC’s shares may be sold through a public offer or private placement and may be further traded on a stock exchange. By contrast, shares in a CJSC may only be sold to its founding shareholders and to other persons within a group defined in advance, and such a company does not have the right to carry out a public subscription for its shares or to offer them in any other way for acquisition to an unlimited number of persons. The shareholders in a CJSC have a right of first refusal to acquire shares sold by other shareholders to third parties at the price offered to the third parties. The shareholders in an OJSC are not endowed with this right of first refusal. Shareholders in both JSCs have a preemptive right to acquire newly issued shares in proportion to their existing shareholdings. OJSCs must disclose certain financial and other information annually, while CJSC’s are not required to disclose any of such information. Before disclosing any annual financial information OJSCs must contract independent auditors for verification of financial reports. The authorized capital of a JSC is composed of the nominal amount of shares acquired by the shareholders and the minimum capital for OJSC and CJSC is TJS 5,000 and 1,000 respectively (USD 1,053 and 210).

A JSC may be established by one or several individuals and/or entities. The Charter of a JSC is the main internal legal document of the company which must contain specific provisions prescribed by JSC Law. The founders of a JSC may enter into agreement to regulate their joint activities with regard to formation and operation of a JSC. In addition to filing all the necessary documents with tax authorities for registration purposes, the shares of a JSC should also be registered with authorized agency on securities, which involves filing a set of documents prescribed by law and regulations.

A JSC can issue common shares and/or several classes of preferred shares, as well as bonds and debentures. The total value of a JSC’s preferred shares may not exceed 25% of its authorized capital. Generally, the holders of preferred shares do not have any voting rights. However, in cases where their interests are concerned the law grants them voting rights as well. The preferred shares may be convertible into common shares; and bonds may be convertible into common or preferred shares.

The JSCs are required to maintain a shareholder's register. Contrary to OJSC that must delegate the maintenance and keeping of the shareholders' register to a licensed register, the CJSC is allowed to maintain for itself the shareholders' register. The register includes information about each shareholder, including the number, category and classes of shares held.

All the JSC's (except when all the shares are held by one individual or entity) shall have two management bodies:

- the Shareholders General Meeting; and
- the Executive Body.

The Shareholders General Meeting is the highest managing body overseeing the activities of a JSC and its decisions are made based on the results of the voting. The Executive Body may be comprised of one person, the General Director, or consist of management council. The Executive Board is responsible for the daily management of a JSC and is responsible for all matters which do not fall within the authority of superior management bodies. The Shareholders General Meeting may delegate the powers of the Executive Body to other managing company or manager, but only if such proposal is made by Board of Directors.

The OJSCs with more than fifty shareholders are required to elect a Board of Directors (supervisory board). A Board of Directors may also be appointed pursuant to a JSC's Charter where the number of shareholders is less than fifty. In case if a Board of Directors does not exist in management structure of a JSC, the corresponding authority must be vested with the JSC's Shareholders General Meeting. In a JSC with more than 100 holders of voting shares a Returning Board that is empowered to canvass and make an official statement of the votes cast at a Shareholders General Meeting, should be established. In addition to these management bodies, the shareholders of a JSC must either establish an internal auditing commission or elect an internal auditor to oversee its financial and economic activities. The Charter of a JSC may stipulate the establishment of other corporate governing bodies.

3.6 Net Asset Requirement for Companies

According to Civil Code, the contributions made by the participants of an LLC or DLC, as well as the par value of all the shares purchased by shareholders of a JSC, form the **authorized capital** of a company. The authorized capital of the company is the minimal property owned by such company that guarantees the interests of its creditors. The net asset requirement establishes that if, on the expiry of the second or of every subsequent fiscal year, the cost of the net assets of the company proves to be less than its authorized capital, the company has to make a statement on the reduction of its authorized capital and to register its reduction in conformity with the established procedure. The net asset requirement is stipulated primarily for the protection of the interests of the parties who are engaged into contractual relations with companies in order to better assess their risks. The law also provides that if the value of net assets decreases below the statutory minimum capital, the company shall be liquidated.

3.7 Vicarious Liability of a Parent Company

While Tajik corporate law lacks a well-defined doctrine of piercing the corporate veil, there are mainly two statutory exceptions to the presumption of limited liability of a Parent Company:

- (1) being responsible for the insolvency or bankruptcy of a Tajik subsidiary; and
- (2) giving binding instructions to a Tajik subsidiary as its “parent (dominant) company”.

A company shall be recognized as a subsidiary, if the other (parent) company has the ability to determine its decisions on the basis of (1) a predominant shareholding, (2) an agreement with it, or (3) other means (this last basis is not well-defined). The parent company is secondarily liable for subsidiary’s obligation if such person is at fault in causing the subsidiary’s insolvency (bankruptcy). A “fault” under Civil Code ordinarily means negligence and generally plaintiffs must establish a specific causal connection between the subsidiary’s insolvency and the parent company’s actions.

The second important basis for vicarious liability applies if a subsidiary suffered damages due to execution of parent company’s binding instructions, but this risk will not apply if there are no unaffiliated shareholders (members) directly in the subsidiary. The risk of liability seems greatest if the relevant decision is formally made by the parent company and the subsidiary had no discretion to act otherwise.

The doctrine of vicarious liability of a parent company neither well-regulated statutory nor well-defined by decision of courts. To declare a parent company vicariously liable by filling statutory gaps only on the basis of good faith, reasonableness and fairness requirements of the Civil Code seems to be a rather complicated issue.

3.8 Partnerships

The Tajik Civil Code provides for the establishment of two types of partnerships: (1) general and (2) limited. The partners in a general partnership are jointly and severally liable for the partnership’s obligations, if the partnership’s property is not enough to cover all the debts. The partners in a general partnership may not be general partners in other partnerships. A limited partnership has both general partners and partners whose liability is limited to their contributions (limited partners). The rights of limited partners in management of partnership are also limited. General and limited partnerships are separate legal entities and are taxed as companies at two levels. Because of unlimited liability of general partners the general and limited partnerships are not widely used.

The Tajik Civil Code also uses the term “simple partnership” to describe the contract on joint activities for the purpose of deriving any profit or for other non-commercial purposes. This contract shall be in writing and generally should govern the relation of the parties. The parties to

such a contract do not have to file any document with registration authorities, as this type of partnership is not deemed by law as separate legal entity and the parties are taxed individually as individual entrepreneurs.

3.9 Production Cooperatives

The production cooperatives can be formed only by individuals. A production cooperative is not a popular form of business association, because in addition to contribution of capital, the members must personally perform activities for the production of goods or services, and the liability of members for the cooperative's obligations is not limited.

3.10 Representative Offices and Branches

Both, branches and representative offices, do not qualify as a separate legal entity under Tajik Law and are deemed as an officially recognized extension of a foreign legal entity and should be registered as generally described in section 3.2 of this document.

A representative office is entitled to carry out liaison and ancillary representation functions. Representative offices are not expected to engage in commercial activities. A branch is a subdivision of a foreign legal entity, which may fulfill all or part of the functions of its foreign founder. These functions include contracting with Tajik entities, sales, marketing and other business activities.

4. Licensing

As a general rule once an entity or branch has been registered it becomes eligible to carry out any lawful activity, unless it desires to do a business that is subject to licensing. The Licensing Law and Licensing Regulation⁴ are the main legal normative acts that govern licensing issues in Tajikistan. The Licensing Law lists more than sixty types of business activities that are subject to licensing, including banking, insurance, mining, production and transmittal of electricity, pharmaceutical activity and etc. It should be mentioned that banking and carrying out other operations with foreign currency are subject to special licensing rules of banking and foreign exchange control legislation.

Different state agencies are empowered to issue licenses depending on the type of business that a company desires to carry on. For example, banking is supervised by the National Bank of Tajikistan and only National Bank of Tajikistan is authorized to issue licenses in this sector. The authorized state agencies shall make a decision on issuance or refusal to issue a license within 30 days of the submission date of all required documents. The authorized state agencies also oversee licensee's compliance with respective licensing requirements during the term of the license. The licenses may be issued for a minimum term of 3 or 5 years depending on the type of activity.

The issue of transfer of licenses is not well-regulated and licenses in Tajikistan are not freely transferable. This means that they cannot be sold, pledged or otherwise encumbered. Therefore, the "sale" of licenses is often structured as a sale of licensee's shares.

⁴ Regulation on Licensing of Separate Types of Activities from April 3, 2007

5. Employment and Social Security

5.1 Regulations and Employment Agreement

The principal statute regulating labor relationships in Republic of Tajikistan is the **Labor Code, effective May 15, 1997**. In addition to it, the **Law No. 757 “On Labor Unions”** from August, 2, 2011 (Labor Union Law); the **Law No. 517 “On Social Insurance”** effective December 13, 1997; as well as other legislation and regulations on minimum wages, labor safety and other labor issues govern different aspects of labor relationships. The labor relationships in Tajikistan are governed similarly to most CIS countries.

The Article 12 of the Labor Code establishes that the employment relations of all employees working in Tajikistan are governed by Tajik labor law, regardless of citizenship or status of employee or employer, unless otherwise prescribed by law or international agreement.

The Labor Code can be described as employee friendly, as it sets out the minimum guarantees for employees and employment – related benefits and compensations that cannot be superseded by any internal policy, collective bargaining agreement or employment agreement. The Labor Code minimum guarantees are the starting point for employers to engage into labor relationships with employees. As employee friendly piece of legislation, the Labor Code contains safeguards to protect employees against dismissal or termination of employment agreement by employer, a harmful working environment and excessive working hours.

Employees are free to establish or join trade unions that protect the rights and interests of employees. Despite the Labor Code and Labor Union Law, which empower employees to join and bargain collectively for the better working conditions, union memberships are not widespread. This situation makes it easier for employers to deal with labor issues and disputes.

Employment agreements may be entered into orally or in writing. If there is no any agreement in writing between an employer and employee, but the employee has started to work for employer with the knowledge of the latter, an employment agreement will be deemed concluded and effective starting the same day of performance. The Labor Code requires the employment agreements to define the employment duties and obligations of an employee, since an employee cannot be required to perform tasks outside the scope of his/her job duties described in employment agreement. It will be difficult to prove what was specifically defined as job duties of an employee in case of oral employment agreements and therefore the written agreement seems to be advantageous.

As a general rule employment agreements should be term-less. A fixed-term employment agreement may also be concluded, but the term of such agreement cannot exceed five years. A fixed-term agreement may only be concluded when the nature or conditions of work make it impossible for the parties to enter into term-less agreement or the interests of employee require so. After the expiration of a fixed-term employment agreement the parties may prolong it for a new term, otherwise the continuation of labor relationships without prolongation will be deemed

as alteration of a fixed-term agreement to a term-less agreement. An employment agreement cannot prohibit an employee from holding a second job in addition to his/her full time employment, with certain limited exceptions provided by Labor Code.

5.2 Labor Books and Employment-Related Orders

The labor book is the principal document containing information regarding each employee's employment history and it confirms the employee's right to a state pension and other social benefits. The record in employee's labor book should be made, if such an employee has worked for more than five days. The employees should hand over their labor books to employers when accepted for employment and receive them back on the last day of employment. Employers are responsible for keeping their employees' labor books and making required records in them in a timely manner.

One of the formalities of the labor relationships are employment-related orders. The employers should issue employment-related orders each time an employee is hired, transferred to a new job, granted vacation, disciplined or terminated. All the records in labor books should be made on the basis of the employment-related orders.

5.3 Probationary Period

The employment agreement may be concluded with probationary period. As a general rule the probationary period cannot exceed three months. If during the probationary period the employer determines that the employee's level of proficiency does not meet the criteria established for the position for which he/she was hired, the employment contract can be terminated by employer without payment of severance pay. If after the expiration of probationary period either of the parties did not terminate the employment agreement, such agreement will be deemed in force and may be canceled on general terms.

5.4 Working Time

Normally, the working time is restricted to 40 hours per week, with a five-day or six-day working week. The five-day or six-day working week should be introduced by the employer's internal regulations or in the absence of such regulations under the agreement of the employer and employee. Any time worked over 40 hours per week is classified as overtime and may only be demanded by employers in extraordinary circumstances and generally with an employee's consent. The total amount of overtime hours cannot exceed 4 hours over two consecutive days and 120 hours a year. The overtime hours shall be paid at double rate of the regular hourly rate. If the nature of the works makes it impossible to comply with standard working hours per week, a summarized record of working hours may be used, but in any case the working hours cannot exceed 12 hours per day. Employers are required to keep a record of all the time worked by each employee, including any overtime.

The labor legislation also contains provisions that entitle some employees to work shorter weeks, such as employees performing work under harmful conditions, disabled employees, children under the age of 18 and other categories of employees.

5.5 Paid Holidays and Leaves

There are ten 10 official holidays in Tajikistan per year. Employees may only be required to work on a public holiday in extraordinary circumstances and must receive payment at no less than twice the regular hourly rate or must be given time off in lieu of payment with employees' prior consent.

Employees in Tajikistan are entitled to annual paid leave and social leaves. It is prohibited to substitute the leaves with monetary compensations. The annual paid leave must not be less than 24 calendar days, excluding non-working holiday days, the period of temporary disability and maternity leave. The Labor Code also prescribes that for certain categories of employees the annual paid leave should be more than 24 calendar days. The annual paid leave for the first year of work shall be available for an employee who has worked for the employer for at least eleven months, but in some circumstances employees are entitled to use their leave earlier. The employees' vacation allowance should be paid at least one week before the first day of the annual paid leave.

The social leaves are divided into maternity leave; childcare leave; educational leave; sabbatical and unpaid leave. The social leaves' compensations are mainly paid out of the State Social Insurance Fund.

5.6 Salaries

Salaries and other payments in Tajikistan should be paid in Tajik Somonies (TJS). Salaries should be paid at least twice each month. The salaries may not be lower than the minimum monthly salary established by regulations that is regularly adjusted. As a matter of fact it is almost impossible to violate this rule, because the minimum salary is set at such a low rate that it will be difficult to find anyone who is agree to work for this salary. At the present time the minimum monthly salary is set at TJS 200 (USD 42).

5.7 Termination of Employment

Employers must strictly comply with specific procedures and documentary requirements provided by Labor Code when terminating employment for any reason. The employment agreement may be terminated by the employer only on the specific grounds prescribed by the Labor Code, such as the employee's repeated failure to perform employment duties without justified reasons, the employee's unjustified absence for more than three hours during a working day, a reduction in the workforce and other reasons. On the other hand, employees are entitled to

terminate term-less employment agreements at any time, without stating any reason, with only two weeks' written notice to the employer. As a general rule, the fixed-term employment agreement may be terminated by employee only on the basis of justified reason, such as sickness, disability or any other reason. The Labor Code gives additional protection to a number of specific categories of employees, including employees with children, female employees, minors and other categories in case of employment termination.

5.8 Employment of Foreigners

Generally, when hiring foreign national employees, employers should make sure that before commencement of work foreign national employees have obtained: (i) work visas (if applicable) and (ii) individual work permits. The above would equally apply to representative offices and branches of foreign companies registered in Tajikistan should they wish to employ foreign nationals. The work permissions are issued for a period of one year and the work visas may be extended based on the term of work permissions.

The issuance of work permit is subject to the state fee of 14 calculation indices⁵ in case of nationals of CIS countries and 30 calculation indices⁶ in case of nationals of other countries. The Migration Service under the Government should make a decision on issuance of or refusal to issue work permission within 15 days from the submission day of all the necessary documents. The Migration Service under the Government issues work permissions within the quota approved annually by President of the Republic of Tajikistan, except work permissions for highly qualified specialists.

5.9 Social Security

The state social security covers pensioners, employees and their dependants for work related accidents, illness, retirement, death and disability benefits, maternity benefits, severance benefits and provides for child and family allowances.

The state unified social contribution, known as social tax, applies to all salaries paid through the payroll of an employer, as well as compensation paid to individuals, except individual entrepreneurs, on the basis of civil agreements. Contributions are made from both employers' and employees' monetary funds. For employees, social tax is withheld by employer at the rate of one (1%) percent of the employee's gross salary and remitted directly to the appropriate authorities. Employers are liable to pay social tax in respect of employees' salary payments at the rate of 25% of the gross salary payment.

⁵ $14 * 40 = 560$ TJS (118 USD)

⁶ $30 * 40 = 1\ 200$ TJS (252 USD)

6. Natural Resources

6.1 Overview

Despite of being the smallest country of Central Asia and having the lowest per capita GDP among the CIS countries, Tajikistan is rich in natural resources. Amongst the most widespread discovered resources are gold, uranium, silver, gem stones, antimony, zinc, lead, wolfram, copper, mercury, tin and iron. There are also deposits of oil, gas, coal, marble and construction materials that have been explored and discovered within the territory of Tajikistan. Since the mining (oil and gas) industry is capital-intensive and the Government, including national investors lack the necessary capital, the Government sees foreign investment in mineral resources as one of the key factors for development of the mentioned industry.

6.2 Subsoil Use Legislation

Similar to most CIS countries in Tajikistan the rights to extract mineral resources are detached from the rights to land above the subsoil resources. Both, the land and the subsoil resources beneath it, are exclusively owned by the state. The state issues separate licenses for the use of land and for extraction of minerals. Irrespective of who holds the land use license, the subsoil resources are owned by the state and the land user does not have any right to the resources. The privilege to extract subsoil resources can be granted under subsoil licenses which, as a rule, provide that ownership rights to the extracted resources belong to the holder of the relevant license.

The principal pieces of legislation governing subsoil use relations in Tajikistan are the **Law of the RT “On Subsoil” dated 20 July 1994 (the Subsoil Law)** and the **Law of the RT “On Production Sharing Agreements” dated 5 March 2007 (the PSA Law)**. The Subsoil Law sets forth the general legal framework for the use of subsoil resources in Tajikistan, while the PSA Law provides legal framework for entering into a subsoil use contract with the state.

The other very important legal normative act governing the relations related to operations with (processing, use and disposal of) precious metals and gem stones in Tajikistan is the **Law of the RT “On Precious Metals and Gem Stones” dated 12 May 2011 (the Precious Metals Law)**.

6.3 Subsoil Use Licenses

Under the Subsoil Law, the exercise of the right to use subsoil is governed by licensing agencies. A subsoil license is a formal permit that provides all the terms and conditions for the licensed activities (the type of right, the permitted use of the underground sector, the period of subsoil use and the term for the use of such underground sector by the licensee, etc). Both Tajik and foreign companies may hold subsoil licenses, but the latter, however must have legal and physical presence in Tajikistan through registered representative offices and/or branches. License holders

should also be mindful of environmental and industrial safety requirements established by Tajik law.

Subsoil use licenses are issued on behalf of the Government of the Republic of Tajikistan by Ministry of Energy and Industry or the Main Geology Administration under the Government. Subsoil use licenses amongst others include geologic survey and exploration licenses and production/mining licenses. Subsoil use licenses may be issued either through a tender or without a tender based on an application of interested party. Subsoil use licenses are not freely transferable and the “sale” of subsoil use licenses is often structured as a sale of licensee’s shares.

6.4 Contractual Regulation of Subsoil Use

The PSA Law provides an alternative way of structuring mining (including oil and gas) activities in Tajikistan on the basis of agreed contractual terms. However, only those mineral deposits that appear on the approved list of the Government of the RT may be granted to investors for conducting geological survey, exploration and/or production/mining of minerals under PSAs. The grounds for inclusion of a specific deposit in the list are the unfavorable conditions of investment into this deposit under the standard licensing terms and being a capital intensive project.

Subsoil users operating under PSAs are taxed based on preferential tax regimes of Chapter 48 of Tax Code effective from January, 1 2013. Two types of preferential tax regimes are applicable to investors depending on the production sharing terms of PSA, but under both regimes investors are exempt from profit tax.

It should also be mentioned that even in the case of PSA, investors are required to obtain the subsoil use licenses. However, the subsoil use licenses in this case are issued by authorized authorities within 30 days from the date of execution of PSA without requiring any additional documents. The subsoil use licenses under PSAs are issued as a formality for the purpose of complying with the subsoil use established procedures.

6.5 Precious Metals and Gem Stones

Only gold, silver, platinum and platinum group metals (palladium, iridium, rhodium, ruthenium and osmium) are legally recognized as precious metals. Gem stones include natural diamonds, emeralds, rubies, sapphires, spinel and alexandrite and natural pearls (in raw and processed forms). Pursuant to Precious Metals Law both lists of precious metals and gem stones are exhaustive.

Similar to other mineral resources the mining of precious metals and gem stones requires a subsoil use license. The extracted precious metals, with the exception of nugget metals, should be affined (refined) by a limited number of organizations approved and authorized by the

Government. In addition, only after completion of a certification procedure, precious metals and gem stones can enter the market. However, the Tajik authorities reserve the right of first refusal and may purchase precious metal and gem stones from mining companies. The prices for the sale of precious metals in such cases are determined on the basis of the world market prices, while pricing of gem stones are carried out by experts who should determine prices on the basis of the world market prices.

7. Taxation

7.1 Introduction

The Tajik tax system is relatively new and many tax concepts and issues that are standard in most market economies are just beginning to emerge in Tajikistan. Today, tax reform has largely been completed in terms of codification. The new **Tax Code of the RT effective from January 1, 2013** summarizes the general tax principles, rights and obligations of taxpayers and tax authorities, a description of taxes payable and other provisions.

The principle reason behind the introduction of the new Tax Code was to alleviate overall tax burden in the country by reducing taxes and tax rates. A lot was written in media that the number of taxes was reduced from 21 to 10. The ground for such erroneous conclusion was the visual comparison of listed taxes under the Article 6 of the old Tax Code and Article 6 of the new Tax Code. The old Tax Code was ill-structured and different state dues, as well as tax regimes were named as separate taxes. The new Tax Code is better structured in terms of differentiating taxes from other state dues and tax regimes. In fact only 3 taxes were abolished, namely minimal revenue tax (although appearing as a part of profit tax), tax on processed products and retail sales tax. Also, under the new Tax Code the road users' tax rate will decrease in 2015 and starting from 2017 this tax will be completely repealed.

In terms of reduction of tax rates it is worth mentioning that some tax rates were reduced, some were unchanged, while others were raised instead. On this ground it is difficult to assess the overall impact of the new Tax Code on businesses in general and it is advisable to do this assessment on the industry or individual basis.

The Tax Code sets forth two levels of taxation: state and local. The state taxes include:

1. Individual income tax;
2. Profit tax;
3. Value added tax;
4. Excise tax;
5. Social tax;
6. Natural resources taxes;
7. Road users' tax; and
8. Lint cotton and primary aluminum sales tax.

The local taxes are the following:

1. Vehicle tax; and
2. Real estate tax.

The Tax Code also provides for special and preferential tax regimes. Taxpayers who do not fall under any of the special tax regimes are taxed under the general tax regime. The qualified

businesses under the special tax regimes pay some of the state and local taxes under a simplified formula, while preferential tax regimes provide for some tax exemptions.

7.2 Individual Income Tax

Individual residents, i.e. those who have been present in Tajikistan for more than 182 days during any given year and citizens of the RT, are subject to individual income tax on their worldwide income. Individual non-residents, i.e. those who do not meet the residency criterion, are subject to individual income tax only on income received from Tajik sources.

The taxable income is determined as the difference between the gross income and allowed personal deductions. The gross income consists of (1) income previously taxed at the time of earning, and (2) income not taxed previously at the time of earning. For calculation of taxable income in the case of individual income tax, income previously taxed at the time of earning should be deducted from gross income.

The taxable income further is divided into two categories: (1) employment related income; and (2) other income. The employment related income of individual non-resident is taxed at a flat rate of 25%. On the other hand the same income of individual resident is taxed based on the following progressive tax rate:

	Taxable income (per month)	Tax rate on the excess
1.	Does not exceed the amount of personal deduction (40 TJS in 2013)	0%
2.	Exceeds 40 TJS and is below 140 TJS	8%
3.	Exceeds 140 TJS	13%

The other income not related to employment is taxed at a flat rate of 13 % without any personal deductions, unless this income was taxed at the time of earning at a different rate (like interests, dividends and etc.) under the other provisions of the Tax Code.

Individual income tax, in most cases, is withheld at the time of earning. If according to the relevant provision of tax law it is not required to withhold tax payments at the time of earning income then the income tax is levied through assessment.

7.3 Profit Tax

The payers of profit tax are domestic and foreign legal entities (companies). A domestic company is a company established under the laws of Tajikistan. Simple partnerships are not taxed as companies, instead partners are taxed individually.

Domestic companies are taxed on their worldwide income. Foreign companies carrying on a business through a permanent establishment are taxed on income derived through the permanent establishment from the sources within Tajikistan. The definition of “permanent establishment” in Tajikistan is similar to most CIS countries. The income derived from sources within Tajikistan by a foreign company without a permanent establishment in Tajikistan is usually taxed at the time of earning at a rate which ranges from 5% to 15% depending on the type of income. In this case no deductions are allowed and the gross income is subject to tax.

Taxable profit is defined as gross income less deductible expenses. Under the current rules, a taxpayer is generally permitted to deduct economically justified and documentarily confirmed business expenses. Deduction of certain types of expenses is subject to restrictions (*e.g.* representational, including business entertainment, per diems and etc.). Fixed business assets are valued at historic cost and for tax purposes straight-line depreciation method is used. Fixed assets are pooled into five groups and depreciation rates range from 7% to 20 %. Losses may be carried only forward for up to three years. Capital losses on alienation of assets used for non-business purposes can be offset against the future profit derived from the alienation of other assets.

The profit tax rate in Tajikistan is 15%, but not less than 1% of gross income, for manufacturers of goods and 25%, but not less than 1% of gross income, for other businesses. Starting from 2015 these rates would be reduced for 1% and starting from 2017 the rates would be 13% and 23% correspondingly. Capital gains of a foreign company not related to its permanent establishment in Tajikistan are subject to profit tax at the rate of 25%, but not less than 1% of gross income. In addition to this, foreign companies engaged in a business in Tajikistan through permanent establishments are subject to branch profit tax at the rate of 15% of after-tax profit.

The Tax Code also provides for profit tax exemption of newly established manufacturing companies depending on the volume of capital contributions. The manufacturing companies are profit tax exempt for initial 2 years, if the capital contributions are more than USD 200,000; 3 years, if the capital contributions are more than USD 500,000; 4 years, if the capital contributions are more than USD 2,000,000; and 5 years, if the capital contributions are more than USD 5,000,000.

Under the Tax Code a credit is granted for income tax paid abroad by individuals and companies. However, the amount of the credit cannot exceed the tax levied on such income in Tajikistan.

The profit tax is calculated on a self-assessment basis and is paid monthly in advance installments not later than 15th day of the following month. The monthly advance installment should not be lesser than 1% of the gross income of the reported month and 1/12 of the tax paid in preceding year multiplied by a factor of 1.1. The adjustments should be made upon calculation of the final tax liability and filing of annual profit tax declaration before April 1 of the following year.

7.4 Value Added Tax

All supplies of goods, works and services on the territory of Tajikistan are generally within the scope of VAT, if delivered by persons, engaged in business, whose gross income in the preceding year exceeds the amount of TJS 500,000 (USD 105,042). Such persons should register for local tax inspections as VAT taxpayers. In addition to this, the importation of goods is also subject to VAT.

The standard VAT rate is 18% and in determining the final tax liability the input VAT is deductible. The taxable amount is the sales price, excluding VAT, but including all other taxes and dues. In case of importation of goods the taxable amount is equal to the value of imported goods determined under customs law plus all other taxes and dues, excluding VAT. The export of goods is subject to zero rate VAT.

7.5 Excise Tax

The Tax Code has an exhaustive list of excisable goods and services. Excisable goods are:

- all types of spirits, non-alcoholic and alcoholic beverages;
- processed tobacco, manufactured tobacco substitutes and tobacco products;
- mineral oil, all kinds of crude oil and its distillation, bituminous substances, mineral waxes and liquid gas;
- new or used pneumatic rubber tires, tyre-tread and rubber rim strips;
- cars and other motor vehicles designed for transportation of people; and
- jewelry made of precious metals and gem stones.

Excisable services are:

- cellular phone services of all standards;
- data transmission services, including through the operators' network;
- telemetric services; and
- international call services through the operators' network.

The payers of the excise tax are individuals and companies engaged in production and delivery of excisable goods and services or import of excisable goods. Excise tax is levied either on physical volume of the excisable goods or on the cost of goods and services sold, excluding any applicable VAT and excise.

The excisable goods are subject to tax at various rates determined by the Government of the RT. For example, the excise tax rate for the separate types of electric coupling services is set at the rate of 3%.

7.6 Social Tax

The social tax is levied on salaries and other benefits related to employment; and other not related to employment compensations received by individuals for services provided. The companies and individual entrepreneurs employing or utilizing the services of individuals are responsible for paying a 25% social tax on paid salaries and compensations. In addition, employers must withhold a 1% social tax from the salaries and compensations paid to employees/individual service providers. Individuals, registered as individual entrepreneurs with tax authorities, in addition to acting as withholding agents are also responsible for paying their individual social taxes.

7.7 Natural Resource Taxes

Natural resource taxes are levied on the use of subsoil or of water for power generation in addition to profit tax. The Tax Code provides for the following natural resource taxes:

1. subscription bonus;
2. commercial discovery bonus;
3. extraction royalty; and
4. water royalty.

The first three taxes are also referred to as subsoil use taxes. The tax treatment of each subsoil user individually is set forth in a Subsoil Use Contract entered into between the subsoil user and authorized state agency. However, the specific terms of Subsoil Use Contracts should be in compliance with the relevant Tax Code provisions. As a general rule, the Subsoil Use Contract is executed within 3 months from the issuance of a subsoil use license.

Subscription bonus is a fixed one-time tax made by subsoil user for obtaining an exploration or mining license. The amount of the subscription bonus is determined in the Subsoil Use Contract. The subscription bonus shall be paid in full within 30 days from the effective date of Subsoil Use Contract.

Similar to subscription bonus the commercial discovery bonus is a fixed one-time tax. Commercial discovery bonus is paid only if a new economically viable discovery of minerals has been made and the subsoil user (discoverer) following the discovery has the right to extract the newly discovered minerals. The amount of the commercial discovery bonus is determined in the Subsoil Use Contract.

Contrary to other subsoil use taxes extraction royalty is a regular monthly tax paid for extraction of each type of minerals separately. The extraction royalty is levied on extracted minerals regardless of whether minerals are delivered to buyers or used for subsoil user's needs. The extraction royalty rates are different for each type of minerals. The rates for extraction of widespread minerals range from 4% to 10%, while for extraction of other minerals the extraction royalty is set at the rates of 0.5% to 6%. For calculation of extraction royalty generally the value

of extracted minerals is determined on the basis of sales contracts or, if there is no any sales contract, the cost of first product made out of extracted minerals. The value of separate types of minerals is derived differently pursuant to Tax Code. As a general rule extraction royalty is paid in cash, however the possibility of paying in kind is also envisaged.

Water royalty is imposed for the use of water for power generation, if the power generation capacity is more than 1 000 kW/h. Water royalty is levied on produced electricity, without deduction of the losses incurred in the further transfer of such electricity. The tax rate is set at 0.06 calculation index⁷ for each 1 000 kW/h of electricity produced during the tax period that is a calendar month.

7.8 Road Users' Tax

Individuals who pay taxes under general tax regime are subject to road user's tax. The calculation of this tax is based on taxpayer's actual expenditures or gross income, if the amount of such expenditures is less than 70% of the gross income. The taxpayer's actual expenditures include all the services and goods purchased during the tax period, except the expenditures having capital nature. Road users' tax rate is 0.5% for trade industry and 2% for other industries. The road users' tax rates will decrease in 2015 and beginning from 2017 this tax will be completely repealed.

7.9 Lint Cotton and Primary Aluminum Sales Tax

The supplies, import, export, resale and processing of lint cotton and primary aluminum are subject to sales tax. The tax is based on the prices of lint cotton and primary aluminum prevailing listed on London Metal Exchange and Liverpool Cotton Association on the day of the transaction. The sales tax rate is 10% for lint cotton and 3% for primary aluminum. The Tax Code also allows a credit for input VAT and sales tax.

7.10 Local Taxes

As mentioned above, there are two types of local taxes in Tajikistan: (1) vehicle tax; and (2) real estate tax.

Both individual and corporate vehicle owners (users) are subject to vehicle tax. Self-propelled machineries, vessels and locomotives on railway tracks the list of which is approved by the Government of the RT are taxable vehicles. The taxable base is the engine power measured in horsepower. The annual vehicle tax rate ranges from 1% to 14.5% of the calculation index⁸ per 1 hp depending on the type of vehicle. Some vehicles like tractors used in agriculture, public transportation vehicles and similar machines are vehicle tax exempt.

⁷ 0.06 X 40 TJS = 2.4 TJS (0.5 USD) for each 1 000 kW/h of produced electricity

⁸ 40 TJS (8.4 USD) in 2013

Land tax and immovable property tax are types of real estate tax. Taxpayers of the land tax are those who possess any of the land use rights prescribed by laws. The taxable base is the area of land parcel measured in hectares. The land tax rate depends on location and productivity of the land and is determined by the Government of the RT for each five years.

Owners of buildings, houses, apartments, cottages, garages and other facilities are responsible for payment of immovable property tax. The tax rate is determined as a percentage of the calculation index per square meter. The percentage varies from 5% to 15% depending on the purpose of the use of property. Furthermore, the Tax Code provides for a factor ranging from 0.09 to 1 for different regions and cities that should be taken into account once calculating the final amount of the immovable property tax.

7.11 Special Tax Regimes

Individual entrepreneurs, small businesses, producers of agricultural products and the gambling industry are taxed under special tax regimes. The special tax regimes qualified businesses are exempt from profit tax, road users' tax and generally VAT. Instead of paying all the named taxes as a general rule the qualified businesses pay a single tax calculated on a simplified basis.

For the purposes of taxation small businesses are taxpayers whose gross income in a calendar year does not exceed the amount of TJS 500,000 (USD 105,042). In case if this threshold is exceeded in any calendar year, the taxpayer must notify the tax authorities not later than January 10th of the following year and will be taxed under general tax regime starting from January 1 of the following year.

7.12 Preferential Tax Regimes

The Tax Code envisages that preferential tax regimes provide additional tax benefits in case of investing in priority sectors of economy. Construction of hydropower stations, newly established enterprises engaged in full cycle processing of lint cotton into final product, subsoil users operating under a Production Sharing Agreement (PSA) and businesses operating within FEZs are granted additional tax benefits.

During the construction of hydropower stations the customers and general contractors for constructions may be fully or partially exempt from the payment of the following taxes: VAT, road users' tax, profit tax, vehicle tax, real estate tax and social tax in relation to payments made to foreign citizens directly involved in construction works. Specific terms of exemption are determined by the Government of the RT on individual basis.

Import of goods for own needs by newly established enterprises engaged in full cycle processing of lint cotton into final product (from cotton yarn to cotton cloth) is VAT and customs duty exempt. Export of final products by such enterprises is exempt from VAT as well. Moreover,

these types of newly established enterprises are not subject to profit tax and real estate tax. All these tax benefits are granted for 12 years to newly established enterprises included in a list, which is approved by the Government. It is worth to mention that the Government of the RT may grant similar tax benefits to businesses involved in industrial processing of wool, leather, raw silk and other agricultural raw materials into final products for a period of 5 years.

Depending on whether the reimbursable expenses of a subsoil user operating under PSA are compensated in kind before sharing any products with the state, the Tax Code provides different tax regimes. If under PSA the subsoil user is granted the right to recover reimbursable expenses in kind before sharing any products with the state, such subsoil user is subject only to the following taxes: natural resource taxes, social tax, road users' tax, real estate tax and vehicle tax. On the other hand if under PSA the final product is shared between the subsoil user and state without any prior compensation in kind of reimbursable expenses, the subsoil user is responsible only for the payment of the following taxes: social tax, real estate tax and vehicle tax. In both cases of subsoil use under PSA, subsoil users are profit tax exempted. The above mentioned tax regimes may be reflected in PSAs and will be effective throughout the term of PSAs despite the future amendments of the tax laws.

Businesses operating within FEZs are exempt from paying any and all types of taxes except social tax. Such businesses are also required to act as withholding agents for the purpose of collecting individual income tax.