

Belarus

Baker & McKenzie

Currency Regulation

Resolution No. 72 by the Management Board of the Republic of Belarus National Bank dated April 30, 2004 *On Approval of Rules for Execution of Foreign Exchange Transactions, and on Amendments to Rules for Banks' Opening of Accounts for Clients in the Republic of Belarus.*

The new rules lay down a uniform procedure for the execution by legal entities, including banks and non-banking lending institutions, self-employed entrepreneurs, and other individuals of foreign exchange transactions such as:

- ! current foreign exchange transactions and transactions involving capital movements;
- ! foreign exchange transactions between residents and non-residents;
- ! foreign exchange transactions involving individuals; and
- ! transactions executed using individuals' bank accounts denominated in foreign currency; etc.

The Resolution, which came into force on July 1, 2004, also prescribes such operating modes for non-residents' type-I (investment) accounts with Belarussian banks as are to be followed before its taking of effect. The amendments made to the *Rules for Banks' Opening of Accounts for Clients in the Republic of Belarus*, as approved by Resolution No. 24.12 of the National Bank's Management Board on September 28, 2000, include changes to the definitions of "individuals" and "non-residents" and restated wordings of certain clauses, among them those governing the opening of current, deposit, and card accounts for individuals in Belarussian legal tender and foreign currency.

Taxation

Resolution by the Belarus Council of Ministers No. 551 dated May 12, 2004 *On Profit and Income Taxation*

The Resolution lists those categories of income drawn by foreign legal entities which are subject to taxation as "other income". Unlike the previous such list, which was approved by Cabinet of Ministers Resolution No. 492 dated July 26, 1996, the "other income" category (subject to 15% tax under Article 10 of the Belarussian Law *On Income and Profit Taxation*, dated December 22, 1990) now includes such income of foreign legal entities which do not do any business on Belarussian territory through permanent establishments as is derived, inter alia, from:

- ! transfers of a portion of assets by a unitary enterprise in connection with its restructuring; and
- ! proceeds from the provision of services involved in the hiring and/or recruitment of employees and other enlistment of individuals to do professional work.

The Resolution also replaces such an activity as "communications services" by "services involved in the removal, carriage, and delivery of letters, wrappers, and parcels". The income taxation of such foreign legal entities as do not do any business in Belarus through permanent establishments and as derive proceeds from Belarussian sources through transfers of shares, bonds, or other securities is subject to Belarussian Presidential Decree No. 43, *On Taxation of Income Gained From Individual Activities*, dated December 23, 1999. Under that edict, income derived by such foreign legal entities from the sale or redemption of securities is taxed at a rate of 40%. The Resolution, in effect from June 1, 2004, also approves regulations on procedures and periods for income and profit taxation. □

Ukraine

Baker & McKenzie

Court System

Law of Ukraine No. 1701-IV dated May 11, 2004 On Courts of Arbitration

The Law, which is designed to facilitate the resolution of business-related disputes without referring them to the state court system, replaced the Soviet-time legislation which has been governing arbitration in Ukraine to date. Under the Law, the parties may refer to a court of arbitration any civil or commercial law dispute other than that specifically excluded from the jurisdiction of arbitration courts. The Law stipulates that courts of arbitration are not competent to hear disputes concerning, *inter alia*,

- (i) annulment of legislative acts;
- (ii) state procurement agreements;
- (iii) state secrets;
- (iv) family relationships, except for the disputes arising out of marriage contracts;
- (v) bankruptcy proceedings;
- (vi) disputes to which a state authority, local self-government body, state institution, state organization or a state (“*kazenne*”) enterprise is a party; and
- (vii) disputes to which a non-resident of Ukraine is a party.

For a dispute to be referred to a court of arbitration, the parties must either enter into a separate arbitration agreement or include an appropriate arbitration clause into their main contract. In addition, the Law regulates the formation of *ad hoc* and institutional courts of arbitration, the dispute resolution procedure, setting aside of arbitral awards, and allocation of arbitration costs. The Law does not govern international commercial arbitration.

Taxation

Order of the State Tax Administration of Ukraine No. 261 dated May 6, 2004 On Approval of the Form of Certificate on Payment by the Employer of all Taxes and Levies Stipulated by the Legislation

The Order was adopted in compliance with the effective Regulation of the Cabinet of Ministers of Ukraine dated November 1, 1999 No. 2028 *On Work Permit Processing for Foreigners and Persons without Citizenship*. The Order establishes the standard form of the certification on payment of taxes and levies by the employer, which submission is required in order to obtain a work permit for a foreigner. From now on, such reference will be issued by tax authorities according to the form approved by the Order. □