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BATTLE OF JURISDICTIONS
FOR RELOCATION



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RELOCATION OF IT-COMPANIES: JURISDICTIONS

INFORMATIONAL BROCHURE



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*This brochure provides a complementary short overview of the information about international jurisdictions and their suitability for purposes of relocation of IT companies, discussed at the panel "**Battle of Jurisdictions for Relocation**" during the **2nd UBA Conference on IT Law**, held in **Kyiv, Ukraine** on **April 07, 2017**.*



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FOREWORD BY SAYENKO KHARENKO

We are proud to present this compilation of complementary short overviews on international jurisdictions and their suitability for purposes of relocation of IT companies.

As governments increase their efforts against tax avoidance strategies and implement measures provided by Base Erosion and Profit Shifting Actions Plan, an issue of relocation of business is at its highest point of interest. International structuring remains relevant for many businesses across the globe. However, it becomes riskier to have active elements of business group in international jurisdictions without employees. It is especially relevant for IT business since it is not as dependent on physical resources and geographical location. Additionally, governments around the globe develop attractive incentives for the IT businesses: whether it is implementation of startup visas, development of high technology parks with special taxation regimes, or establishment of funds for targeted financing.

With abundance of information nowadays, it is important to understand how to approach the topic of relocation of IT business and what information should be considered at first. For this brochure, we asked six lawyers from different jurisdictions to share their practical insights on relocation and maintenance of a company there. As a result, we divided this brochure into 6 chapters, one for each jurisdiction, which in turn provide the readers with the highlights about 3 aspects of relocation:

- ⇒ Registration and maintenance of a company in relevant jurisdiction;
- ⇒ Employment for foreigners;
- ⇒ Taxes, contributions and related issues (investment instruments, transfer pricing, financing regulations etc.).

We display both economic and procedural aspects, as very often relocation can be attractive financially but become a subject to bureaucratic or regulatory obstacles. Additionally, we highlighted some benefits related solely to the IT business sector, in jurisdictions where those exist or are subject to development as of now.

Our goal was to provide a guideline for how to approach the issue of relocation for IT business. For those readers, who are interested in the topic and need more detailed information on any of the aspects related to relocation and further development of IT business, we want to encourage getting in touch with us or with the experts highlighted in this brochure.

We hope that this brochure will be a valuable guideline in helping you to define your relocation strategy and provide for further development of your company.

**Yours sincerely,
Serhiy Verlanov, Mykyta Polatayko, Andriy Tsyatsyak**



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BELARUS

Company registration and maintenance

What are the expenses related to registration of a company?

Between EUR 550 and EUR 850 including payments for legal services (using template documents), registration fees, minimal payment for rent for one month (to have letterbox address). Registration time - one day.

What are the requirements for chartered capital?

There is no minimal chartered capital amount for limited liability company (the most common type of legal entity).

Can a foreigner become a founder or a shareholder of a company in Belarus?

Both foreign individual and entity can become founders or shareholders of legal entity in Belarus.

Additionally, abstract from trade registry of the state where the company is registered is required for non-resident companies who want to become shareholders of legal entity in Belarus.

In order to register a company, presence in Belarus of either foreign individual or entity (director, shareholders or any other member of such entity) is not required.

What are the office maintenance expenses?

Office rent costs are in range of EUR 6 - EUR 12 per one square meter of office space. Yearly rent cost for a 30 square meters' office would amount to EUR 2,160 - EUR 4,320.

What are the costs for accounting services?

Services of accounting firm cost in a range of EUR 230 - EUR 600 per month for a small enterprise (up to 20 employees) which sums up to EUR 2,760 - EUR 7,200 per year.

What are the costs for services of corporate secretary?

Corporate secretary services are not common in Belarus.



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Employment

A foreign individual, not permanently residing in Belarus, can be appointed as a director of a company in Belarus. For this, the company must inform regional executive committee of labor and social security about an open vacancy. Further, the employer must apply to the citizenship and migration authorities of the relevant executive committee for issuing a special permit for the right to engage in work for every foreigner who is a job applicant. Citizenship and migration authorities of the regional executive committees (or Minsk City Executive Committee) issue such a special permit only after obtaining positive conclusion of the labor committee that the foreigner can work under an employment contract in Belarus (if the police do not have grounds for refusal).

Special permit for employment is not required for the following individuals:

- ⇒ Heads of representative offices of foreign entities;
- ⇒ EAEU member states nationals (Armenia, Kazakhstan, Kyrgyzstan, Russia);
- ⇒ Foreigners receiving higher education in Belarusian universities and working according to the obtained specialty;
- ⇒ Foreigners who have received higher education in Belarusian universities and who work according to the received specialty and assigned qualification within 1 year after graduation.

If the employer assumes that the number of employed foreigners in his company will be 10 or more, he is required to obtain special permission to employ foreign labor at the Citizenship and Migration Department of the Ministry of Internal Affairs. This number does not include:

- ⇒ Highly skilled workers (who have work experience for more than 5 years and salary in the amount of not less than BYN 3975 which equals to approximately EUR 1900);
- ⇒ Directors of companies, who at the same act as company's shareholders.

The company is obliged to register labor contracts and all additional agreements in the citizenship and migration authorities within a month after signature.

In general, the term of consideration of the application amounts to 15 days from the date of filing the application.

Fee charged for consideration of the application, generally, amounts to 5 basic units (currently equals to approximately EUR 50).

Investment instruments

In Belarus it is possible to purchase shares in a startup company under deferred payment conditions and with a delay in transfer of shares' ownership.



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Taxation, social contributions, related issues

Type of tax	Tax rate and other conditions
Corporate income tax (CIT)	18% (3% + VAT or 5% without VAT in case of Simplified tax regime)
Personal income tax (PIT)	13% - on general basis. 9% - for employees of resident companies of High Technology Parks.
Value added tax (VAT)	20% - general basis apart from exceptions. 25% - for mobile operators and Telecommunication company Beltelecom.
Withholding tax (WHT)	6% - 15% - unless other tax rate is established by the international treaties co-signed by Republic of Belarus. 5% - if the source of payment is a resident of High Technology Park, for dividends, interest (coupon) income from debt obligations, royalties, on the income of foreign organizations that do not carry activities in the Republic of Belarus through a permanent establishment, unless international treaties of the Republic of Belarus establish more preferential treatment.

Social security contributions amount to 35% of employees' salary, which includes 29% of pension insurance, withheld by employer and 6% of compulsory insurance premium, paid by the company. Foreigners employed in the Republic of Belarus are also subject to compulsory social security contributions.

Transfer pricing

Belarusian legislation provides for a list of types of transactions that the tax authorities may control prices in. The control criterion is the transaction price deviation of more than 20% of the market price for goods (works, services, intellectual property rights). All tax-payers must notify about transactions that fall under the control of transfer pricing made in the tax period by including it in the electronic invoice for VAT purposes and sending it using the Electronic Invoices Portal, which is the information resource of the Ministry of Taxes and Duties of Republic of Belarus.



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Thin capitalization

Subject to thin capitalization rules, deductibility of controlled debt may be, in certain circumstances, restricted for Belarusian corporate income tax purposes if:

- ⇒ the ratio of the amount of controlled debt and the amount of equity at the end of the tax period exceeds the value of 3 in case the company does not produce excise goods;
- ⇒ the ratio of the amount of controlled debt and the amount of equity at the end of the tax period exceeds the value of 1 in case the company produces excise goods.

For thin capitalization rules to apply in both of the mentioned cases the company has to have a controlled debt to a foreign founder (participant) - Belarusian tax nonresident (foreign company or individual) directly or indirectly owning more than a 20% share in the charter fund of the Belarusian company.

Moreover, thin capitalization rules apply in case when the Belarusian company's controlled debt-equity ratio exceeds 1:1, and it has a controlled debt 1) to a Belarusian tax resident (Belarusian company or resident individual) which is a related party of this Belarusian company (directly or indirectly owning more than a 20% share in the charter fund of the Belarusian company) 2) to other person for which this related party and/or the foreign founder (participant) acts as a surety or guarantor or otherwise undertakes to guarantee the repayment of the controlled debt.

Benefits for IT

Republic of Belarus provides opportunity to use tax regime of the High Technology Park (HTP).

Companies with residence in HTP pay 1% tax on revenue and are exempt from paying CIT and VAT.

Moreover, employees of HTP resident company pay lower PIT at a rate of 9%. Social security contributions for residents of HTP are calculated on the basis of an amount which is equal to average salary in Belarus.

Payments abroad made by HTP resident companies are subject to reduced withholding tax rate of 5% unless lower tax rate is provided by a double tax treaty.

For companies, that are residents of HTP, foreign currency, received as a payment for services, activities and proprietary rights, is not a subject of mandatory foreign currency sale. Moreover, such companies are exempted from customs duties on import of technical equipment, components or spare parts that are destined for exclusive usage on the territory of Republic of Belarus.

The High Technology Park tax regime was aimed primarily at outsourcing IT companies. Accordingly, at present, there are several barriers to the full implementation of activities of "product developing" IT companies.

However, president of Belarus Alexander Lukashenko promises further support for the development of IT in the country. The head of state said this on March 13, 2017, visiting companies in the field of high technology in Minsk. In particular, it was declared the need to support the "product" IT companies, driverless cars and other breakthrough technologies, in connection with which it was announced the need to improve legislation.



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CYPRUS

Company registration and maintenance

What are the expenses related to registration of a company?

Costs of registration of a company vary in range of EUR 2,000 – 2,500

What are the requirements for chartered capital?

- minimum chartered capital is EUR 1 (one euro)
- in practice, it is common to establish chartered capital of EUR 1,000
- maximum amount of chartered capital is not limited

Can a foreigner become a founder or a shareholder of a company in Cyprus?

Both foreign individual and company can become shareholders of a company in Cyprus.

If the inclusion of a foreign individual to the company's list of shareholders takes place at the moment of company's registration, the shareholder (director, if the shareholder is a legal entity) signs the charter of newly created company. If a foreigner becomes a shareholder of the existing company, filing changes to the registration chamber is possible within one day. Procedure of acquisition of a new shareholder certificate takes up to 3 working days (no signature of the shareholder is required on any applications for the registration chamber).

Appointment of nominee shareholder is possible and is a common practice in Cyprus.

What are the office maintenance expenses?

The annual maintenance costs range from EUR 1,200 to EUR 1,500 per year (including the provision of registration address, director, shareholder, secretary).

Companies have to pay an annual registrar fee of EUR 350. Office rent costs EUR 700 – EUR 800 per month.

What is the cost of annual audit?

Annual audit is mandatory for all companies. The cost of the audit starts at EUR 200 and depends on the amount of work done by the auditors, the complexity of the report and the time requirements.

What are the costs for accounting services?

The cost of financial reporting starts at EUR 200 and depends on company's financial activity.



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Employment

A non-resident person can be appointed as a director of the company in Cyprus.

A person can receive temporary residence permit in Cyprus on following conditions:

- ⇒ Application must be submitted by a Cyprus company with foreign investment;
- ⇒ A direct foreign investment to the Cyprus company must be at least EUR 171,000;
- ⇒ Existence of individual office in Cyprus.

In order for a person to receive a work permit in Cyprus they must submit following documents:

- ⇒ Employment contract with the company;
- ⇒ Rental agreement;
- ⇒ Certificate of absence of criminal record;
- ⇒ Medical insurance;
- ⇒ Confirmation of employer's liability insurance;
- ⇒ Applicant's resume and diploma of higher education.

Investment instruments

In Cyprus, convertible loans and stock options are available as investment instruments.

Taxation, social contributions, related issues

Type of tax	Tax rate and other conditions		
Corporate income tax (CIT)	12.5%		
Personal income tax (PIT)	Taxable income, EUR	Tax rate, %	Tax due, EUR
	0 – 19,500	0	0
	19,500 – 28,000	20	1,700
	28,000 – 36,300	25	3,775
	36,300 – 60,000	30	10,885
	60,001 – above	35	-
Value added tax (VAT)	19% - on general basis		
	5% and 9% - reduced rate for some types of products and services		
	There are some goods and services that are exempt from VAT, such as cultural, educational, medical, sports		
Withholding tax (WHT)	0%		



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Recent changes regarding intellectual property in Cyprus

Until recently, income from wide range of IP objects (copyrights, trademarks, patents, industrial designs, know-how, etc.), both developed and acquired by the companies, was taxed at the 2.5% tax rate. However, in 2016, these regulations were significantly changed.

The changes limit the concept of the "qualified" IP objects (that is, IP objects which created revenues that fall under the preferential tax regime) for the following types of IP:

- ⇒ Patents;
- ⇒ Software;
- ⇒ IP objects that are "unobvious, useful and new", and the income of the taxpayer from which does not exceed EUR 7,500,000 per year.

IP objects that are not any longer "qualified" for the benefits are:

- ⇒ Trademarks;
- ⇒ Company names;
- ⇒ Rights to images;
- ⇒ Other rights to the results of intellectual activity used to promote goods and services.

In connection with this, the changes provide transitional mechanisms to ensure that IP already benefiting from the current benefits will continue to receive the current benefits for five years (until June 30, 2021).

The changes do not affect the existing 2.5% effective tax rate applied in the IP regime, but they provide for a new approach to definition of interconnection and narrow the notion of a "qualified" IP object.

According to the "new approach to evaluation of the relationship," for the use of the preferential mode of IP following is required:

- ⇒ sufficient substance in Cyprus;
- ⇒ substantial connection between costs of IP objects, IP objects and revenues derived from them.

Social contributions

Type of contribution	Paid by employer	Paid by employee
Social insurance	7.8%	7.8%
Redundancy fund	1.2%	
Insurance training	0.5%	
Social cohesion fund	2%	



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Transfer pricing

In Cyprus, there are no transfer pricing regulations. However, a company must submit transfer pricing documentation at the request of an auditor when preparing the financial report.

Furthermore this issue is regulated by Article 33 of the Income Tax Act, which reflects the basic principles of transfer pricing in Europe and provides that transactions between related parties should be carried out at pure commercial terms (i.e. at arm's length).

Thin capitalization

There are no thin capitalization provisions in Cyprus legislation.

Benefits for IT

Cyprus startup visa

The Council of Ministers of Cyprus recently approved the Cyprus Startup Visa program. The program aims at attracting investments and promising specialists from other countries to Cyprus for the implementation of projects in the field of innovation and research.

Applicant has to meet following conditions for obtaining a start-up visa:

1. Access to investment capital of EUR 50,000;
2. Academic qualifications;
3. Very good command of Greek or English languages;
4. Appropriate certification;
5. Becoming a tax resident in Cyprus.

Additionally, the company must provide that:

1. Headquarters of the company registered in Cyprus;
2. Effective management of the company takes place in Cyprus.

Cyprus scientific-technological parks

The Government of the Republic of Cyprus announced the establishment of the Cyprus Science and Technology Park (STP) in the form of a Knowledge Park, whose tasks will include support of research, innovations and technology.

The incentive aims at inviting enterprises and organizations wishing to be located and conduct activities in the STP, as well as investors who are ready to participate in the founding process and subsequently in the management of the STP.

The government will explore the possibility of encouraging companies and organizations to use STPs, as well as investors participating in its development and activities by providing for example a certain beneficial tax regime, preferences in procedures. It is expected that investors, companies and organizations residing in STP will receive certain priority when passing governmental procedures, obtaining licenses, etc.



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LITHUANIA

Overview

- ⇒ Lithuania ranks 21st in the world for ease of starting business and 2nd for ease of property registration.
- ⇒ As of Jan 1, 2017, there are 53 double tax treaties signed between Lithuania and other countries providing tax benefits for foreign investments.
- ⇒ There are 6 free economic zones in Lithuania
- ⇒ Lithuania has the fastest public Wi-Fi in Europe and the greatest fiber-optic (FFTH) Internet network penetration in Europe.
- ⇒ During 2014-2020, the level of funding obtained by Lithuanian from the EU Structural Funds will exceed that of the other Baltic States.
- ⇒ Most recent immigration legislation simplifies and fastens process of getting temporary residence permit and aims at attracting non-EU entrepreneurs, including those working in IT, in to the country.
- ⇒ Lithuanian laws are fully EU compliant, providing safe and transparent legal framework.

Company registration and maintenance

	Limited liability company (UAB)	Small partnership (MB)
Cost of electronic registration	EUR 135	EUR 129
Cost of regular registration	EUR 193 – 352	EUR 170 – 315
Minimum chartered capital required	EUR 2,500*	No requirement
Can a foreigner become a founder or a shareholder of a company in Lithuania?	Foreign individual or legal entity	Only individual

* - must be transferred into accumulative bank account of the company. Foreign shareholders are subjects to inspection by bank.

Office maintenance costs amount to a **minimum of EUR 7,000 annually** (including secretary's salary).

Annual audit is mandatory for limited liability companies if they meet at least two of the following criteria:

Net revenue from sales exceeds EUR 3,500,000 for financial year;

Value of assets in the balance sheets exceeds EUR 1,800,000;

Average number of employees exceeds 50 for financial year.

Annual audit costs EUR 1,500 - 3,000 for small and up to EUR 10,000 for medium and large companies.



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Employment

In order to employ a non-EU citizen, Lithuanian employers are required:

1. To apply to the Lithuanian Labour Exchange and register a vacancy;
2. To obtain the work permit from the Lithuanian Labour Exchange before foreign national arrives to Lithuania.

In some cases the Labour Exchange has to be informed about the intention to register a vacancy 3 months before submitting the application. The vacancy has to be registered 1 month prior to submitting the application for the work permit.

The main requirements to obtain work permit are:

1. Recommendation from Centre for Quality Assessment in Higher Education about qualification of foreign person (if a profession is not regulated in Lithuania, but higher education is required).
2. Resolution of a competent institution about recognition of professional qualification (if the profession is regulated in Lithuania).
3. A foreigner has at least one year of professional work experience during the last three years.

Work permit cannot be issued for a person who is a shareholder of a company. Work permit cannot be issued for the director of the company, because he is appointed person. Shareholder and director of company can apply for temporary residence permits on the basis of lawful activities. A foreigner with work permit can get national visa (D), but not temporary residence permit. Temporary residence permit may be issued or renewed to a foreigner if:

1. the foreigner intends to take up employment in Lithuania;
2. the foreigner intends to take up highly qualified employment in Lithuania;
3. the foreigner engages and intends to engage in lawful activities in Lithuania;
4. the foreigner engages and intends to engage in lawful activities related to implementation of new technologies or other innovation significant for Lithuanian economic and social development (**startup visa, see more below**).

Investment instruments

In Lithuania, convertible loans and stock options are available as investment instruments.



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Taxation, contributions, related issues

Type of tax	Tax rate and other conditions
Corporate income tax (CIT)	15% / 5%*
Personal income tax (PIT)	15%
Value added tax (VAT)	21% - general rule 9% - applied to books, newspapers, other printed material, public transport services, hotel accommodation 5% - applied to pharmaceuticals, subject to restrictions, technical aid devices and their repair for disabled persons.
Withholding tax (WHT)	<p><u>Dividends</u> 15% - general rule 0% - if recipient is a company (not located in black-listed territories) that holds at least 10% of voting shares of paying company for a period of at least 12 months</p> <p><u>Interest (to nonresident companies)</u> 10% - general rule 0% - if paid to an entity registered in an EEA country or in tax treaty country</p> <p><u>Royalties and know-how</u> 10% - general rule 0% - if paid to an entity registered in EEA country or in a tax treaty country</p>

* - 5% CIT rate applied for small companies where number of employees does not exceed 10 and income does not exceed EUR 300,000 per financial year.

Social contributions

Type of contribution	Paid by employer	Paid by employee
Health insurance		6%
Pension and social security	30.98%	3%
Guarantee fund	0.2%	
Total	31.18%	9%



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Transfer pricing

Transfer pricing documentation requirements are mandatory for:

1. Lithuanian entities or foreign entities with permanent establishment in Lithuania whose revenues (total turnover) for the tax period, prior to transaction with related parties, exceeded EUR 2,896,200;
2. Financial firms, credit institutions and insurance companies regardless of their revenues.

Thin capitalization

Where the conditions, created or prescribed by mutual transactions or economic operations between associated persons, are other than those, created or prescribed by a mutual transaction or economic operation between non-associated persons, any profit (income) that would be attributed, if no such conditions existed, to one of such persons, but due to such conditions is not attributed to him, may be included in the income of that person and taxed accordingly.

Thin capitalization rules apply in respect to borrowings from related parties as well as borrowings from third parties guarantees by related parties. The debt to equity ratio is 4:1. The provisions do not apply if a Lithuanian company can prove that the same loan under the same conditions would have been granted by a non-related entity.

Benefits for IT

Startup visa

Since January 2017, in Lithuania it is possible for a foreigner who engages and intends to engage in lawful activities related to implementation of new technologies or other innovation significant for Lithuanian economic and social development to obtain a temporary residence permit. It is issued for a period of 1 year and can be extended for longer periods.

In order to obtain such a temporary residence permit the Lithuanian Investment Promotion Agency "Invest in Lithuania" issues a written confirmation that:

- ⇒ activities of a foreigner are activities related to implementation of new technologies or other innovation significant for Lithuanian economic and social development;
- ⇒ for this activity the foreigner has the necessary qualifications, financing and business plan;
- ⇒ the foreigner is expected to set up a company in Lithuania necessary for the latter's activities.

Free economic zones

There are 7 free economic zones in Lithuania, which offer significant benefits for their resident companies:

- ⇒ 0% corporate income tax rate during first 6 years of business activity;
- ⇒ 50% reduction on corporate income tax during next 10 years;
- ⇒ 0% tax on dividends for foreign investors;
- ⇒ 0% real estate tax.



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NEW YORK (USA)

Company registration and maintenance

What are the expenses related to company registration?

Basic filing fee for the registration of a corporation in New York is \$125 (EUR 117).

What are the requirements for chartered capital?

Not required per se but some consideration should be given for the transfer of shares.

Can a foreigner become a founder or a shareholder of a company?

Both a foreign individual and a foreign entity may become shareholders of a New York corporation. Although the procedure itself is straight forward, a bank may require additional information and verification of ultimate beneficiaries as well as compliance with US sanction lists. A person or legal entity may hold shares in trust for another person.

What is the cost of annual audit?

Corporations are required to file biannual reports with a fee of \$9.00 (EUR 8.00)

Annual audit is generally not required for corporations; however, they must file tax returns.

The cost of preparation of the annual tax return depends on the facts of a particular matter; however, may be as low as \$500 (approx. EUR 460) per annual tax return for a corporation.

What are the costs for services of corporate secretary?

A position of corporate secretary is one of the officers of the corporation and may be filled by one of the shareholders or other officers.



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Employment

In general, a foreigner can be a director or an officer of the corporation. However, a person cannot be “employed” by the company until a proper visa is obtained.

A resolution of shareholders or board of director meeting is generally required to appoint officers/directors of the corporation.

Employment of foreigners is not permitted until they obtain a proper visa. The US immigration laws are quite complex. Several types of visas are potentially available for a corporation to employ foreign nationals, including the following:

- ⇒ H1B visa for professionals in specialty occupations with at least a bachelor degree, generally subject to annual 65,000 visa cap.
- ⇒ L1 visa for a multinational or specialized knowledge employee transfer when an employee is transferred to work for the US affiliate/subsidiary of the foreign company. It is likely the easiest way to transfer an employee if the company can meet certain requirements.

Several options for obtaining permanent residency (“green card”) are available, including:

- ⇒ a multinational manager transfer (similar to L1A visa for a manager);
- ⇒ green cards for professional employees holding advanced degrees;
- ⇒ EB-5 investor green card which requires a \$1,000,000 investment (reduced to \$500,000 for investments in areas of high unemployment) and direct employment of 10 US employees.

Taxation, contributions, related issues

Type of tax	Tax rate and other conditions	
Corporate income tax (CIT)	Taxable Income	Tax Rate
	\$0—\$50,000	15%
	\$50,000—\$75,000	\$7,500 plus 25% of the amount over \$50,000
	\$75,000—\$1000,000	\$13,750 plus 34% of the amount over \$75,000
	\$100,000—\$335,000	\$22,250 plus 39% of the amount over \$100,000
	\$335,000-\$10,000,000	\$113,900 plus 34% of the amount over \$335,000
	\$10,000,000-\$15,000,000	\$3,400,000 plus 35% of the amount over \$10,000,000
	\$15,000,000-18,333,333	\$5,150,000 plus 38% over the amount of \$15,000,000
	\$18,333,333 or more	35%



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Personal income tax (PIT)	Taxable Income	Tax Rate
	\$0—\$9,275	10%
	\$9,276—\$37,650	\$927.50 plus 15% of the amount over \$9,275
	\$37,651—\$91,150	\$5,183.75 plus 25% of the amount over \$37,650
	\$91,151—\$190,150	\$18,558.75 plus 28% of the amount over \$91,150
	\$190,151—\$413,350	\$46,278.75 plus 33% of the amount over \$190,150
	\$413,351—\$415,050	\$119,934.75 plus 35% of the amount over \$413,350
	\$415,051 or more	\$120,529.75 plus 39.6% of the amount over \$415,050

In general, in New York a corporation is required to withhold employee's personal income taxes from their payroll (paid by employee).

Value added tax (VAT)
Withholding tax (WHT)

There is no value added tax in New York or at the federal level. New York has a sales tax which is 8.875% in New York City.

In general, a US sourced income paid to a foreign person is subject to 30% withholding tax. However, exceptions may apply as well as double tax treaties may establish different rates.

Social contributions

A New York employer is required to obtain various kinds of insurance and make various social contributions, including the following:

Type of contribution	Paid by employer	Paid by employee
New York unemployment tax	1.3%-9.1%	
New York disability insurance tax (may partially be withheld from the employee)	0.5%	
Social Security	6.2%	6.2%
Medicare	1.45%	1.45%



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Transfer pricing

Parties under common control must disclose related parties transactions, including loans, sale of goods or services, etc, when filing their annual tax return.

Thin capitalization

Thin capitalization rules may be applicable to disallow interest payments when they relate to “excessive” debt to a related party, if certain conditions are met, such as net interest expense exceeds 50% of adjusted taxable income. Such payments may be treated as dividends instead of interest for tax purposes.



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POLAND

Company registration and maintenance

What are the expenses related to registration of a company?

The cost of incorporation of a limited liability company is approx. EUR 300, if the company starts with the statutory minimum share capital of PLN 5,000 (approx. EUR 1,200).

The cost of registering the company in the registry court, tax office (also in order to obtain a VAT number) and statistical office: approx. EUR 200. The cost of translations, which depends on the size of the parent company's extract from the foreign commercial register: usually not more than EUR 300.

What are the requirements for chartered capital?

The minimum chartered capital is PLN 5,000 (approx. EUR 1,200)

Can a foreigner become a founder or a shareholder of a company in Poland?

A foreign individual and/or company can incorporate a company and purchase shares in an existing company in Poland.

There are some limitations in the case of purchasing shares in companies holding real estate in Poland which should be taken into consideration.

In general, incorporation of a company requires signing its articles of association at a Polish notary, signing several corporate documents, acquiring a registered address, opening a bank account, engaging bookkeeping services and filing a motion to the registry court to register the company. Registration for VAT payer status is done separately. Purchasing shares of a company involves signing a share transfer agreement and several corporate documents, and filing a motion to the registry court to register the new company shareholder and make other changes in the company entry.

It is possible for the company shareholder to conclude a custodial (trust) agreement with a third party. The title to shares is then transferred to the third party, which exercises the rights thereunder and is obligated to sell company shares back to the original shareholder in accordance with the provisions of the agreement. It is also possible for the shareholder to grant a power of attorney to a third party to exercise the voting rights under shares, but without transferring them to that party.

What are the office maintenance expenses?

The annual cost of a virtual office amounts to EUR 1,200 – 2,200

What are the costs for accounting services?

Costs for accounting services start from EUR 800 and depend on the complexity company's activity, its size etc.



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Employment

A foreigner can be appointed as a director of the company in Poland unless in cases described in the Polish Penal Code and Polish Commercial Companies Code. For such an appointment, a decision of relevant company governing body, usually a resolution of meeting of shareholders, is required.

There are many options for legalization of work and stay for foreigners in Poland. Each of them serves different purpose, provides different options and is governed by different procedure and requirements. The requirements for obtaining employment or residence permit in Poland depend on a number of following factors:

- ⇒ nationality of the candidate;
- ⇒ place and basis of stay when applying for permit;
- ⇒ planned period and place (city) of stay in Poland;
- ⇒ planned date of entry and start of employment in Poland;
- ⇒ type of employment in Poland – direct employment with a company registered in Poland or employment with a foreign company and assignment to Poland;
- ⇒ position held in Poland (management or non-management board member);
- ⇒ accompanying family members.

Taxation, social contributions, related issues

Type of tax	Tax rate and other conditions
Corporate income tax (CIT)	19% (flat rate), reduced rate (15%) for companies with revenue in a given tax year not exceeding EUR 1,200,000 (including VAT) and new companies (in the first tax year)
Personal income tax (PIT)	18% - on general basis; 32% - on income above PLN 85,528 (approx. EUR 20,160); 19% - applies to entrepreneurs (self-employed); other rates may apply for specific income (e.g. 19% on interest and dividends).
Value added tax (VAT)	23% - general basis. Reduced rates for specific goods and services.



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Withholding tax (WHT)

- Revenue from certain sources is subject to withholding tax:
- ⇒ 20% on certain services (e.g. consulting, accounting, legal services).
 - ⇒ 20% on interest and royalties.
 - ⇒ 19% on dividends.

The above rule does not apply if a double tax treaty (DTT) provides otherwise and is applicable in a given case (under most treaties there is no withholding tax on services and withholding tax rates for interest, dividends and royalties are decreased to 5-15%).

Poland has implemented the EU Interest-Royalties Directive and EU Parent-Subsidiary Directive. Thus, payment of qualified interest, royalties and dividends to EU companies is not subject to withholding tax (certain requirements must be met).

Under the Poland-US DTT, withholding tax rates for dividends are 5% or 15%, 0% for interest, 10% for royalties. Under the Poland-Ukraine DTT, withholding tax rates for dividends are: 5% or 15%, 10% for interest, 10% for royalties.

Social contributions

Type of contribution	Paid by employer	Paid by employee	Total
Pension contribution	9.76%	9.76%	19.52% (annual cap of PLN 127,890)
Disability contribution	6.5%	1.5%	8% (annual cap of PLN 127,890)
Accident insurance contribution*	0.4%-3.6%		
Sick leave contribution		2.45%	
Labor Fund contribution	2.45%		
Guaranteed Employee Salary Fund	0.1%		
Healthcare contribution		9%	

* - depends on the number of employees and scope of business



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Transfer pricing

Under Polish transfer pricing rules, if a company conducts transactions with related parties (i.e. parties directly or indirectly holding at least 25% of its share capital), or transactions with an entity with its registered seat or management board in a country that employs harmful tax competition practices, it must prepare appropriate tax documentation. Transfer pricing rules may also apply to particular events such as the conclusion of articles of association of a company without legal personality and an agreement on a joint undertaking. The threshold of income or costs in a previous tax year determines the type of documentation required and its scope and level of detail.

Local file

A local file is required if income/costs in the previous tax year exceeded EUR 2,000,000, but were less than EUR 10,000,000.

A local file must be prepared by the end of the third month following the end of a tax year. Financial data must be prepared within 10 days from the date of financial statement approval.

Benchmark study

A benchmark study is required if income / costs in a previous tax year exceeded EUR 10,000,000. It serves to show that a transaction between parties was on market terms. The benchmark study must be prepared by the end of the third month following the end of a tax year.

Master file

A master file is required if income / costs in a previous tax year exceeded EUR 20,000,000. The master file should include, among others:

- ⇒ details of the entity preparing documentation;
- ⇒ description of the organizational structure;
- ⇒ essential intangible assets;
- ⇒ financial condition of the capital group;
- ⇒ description of pricing agreements.

The master file must be prepared by the end of the third month following the end of a tax year.

Country-by-country reporting

The obligation to prepare country-by-country reporting arises if the value of consolidated income exceeds EUR 750,000,000. It includes a report at the level of the capital group. Country-by-country reporting indicates:

- ⇒ the level of income;
- ⇒ amounts of paid taxes;
- ⇒ location of business operations;
- ⇒ details of subsidiaries and foreign establishments owned by a capital group.



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Country-by-country reporting must be prepared within 12 months from the end of the tax year for which international documentation is prepared.

A statement confirming preparation of proper transfer pricing documentation must be submitted by the date of submission of an annual tax return or within 7 days of a request from tax authorities.

Thin capitalization

Thin capitalization restrictions apply to loans granted by direct / indirect shareholders individually or jointly holding at least 25% of shares of the debtor or by a sister company if the same shareholder directly or indirectly holds 25% of shares the sister company and debtor (so-called qualified lenders). The restriction applies if the amount of loans granted by a qualified lender exceeds the amount of debtor equity.

If thin capitalization rules apply, a debtor cannot treat interest on loans as tax deductible in proportion in which the total amount of all liabilities towards qualified lenders exceeds the amount of its equity. The total amount of all liabilities towards qualified lenders shall be calculated for the last day of the month preceding the month when interest is paid.

Equity for thin capitalisation purposes includes: share capital, supplementary and reserve capital, profits from previous years and profits for the period. For purposes of calculating equity, certain categories shall be excluded: revaluation reserves, equity in part originating from received subordinated loans, share capital to the extent it has not been paid in or to the extent it has been covered by loan receivables granted by its shareholders, and intangibles not subject to amortization.

It is possible to apply a so-called alternative method instead of the "standard" method described above. Pursuant to this alternative method, interest on loans is tax deductible in an amount not exceeding the product of two factors: the National Bank of Poland reference rate on the last day of the year preceding the tax year (currently 1.5%) increased by 1.25 percentage points and the tax value of assets within the meaning of the Polish Accounting Act, including the face value of granted loans, except for intangible assets. The tax value of assets shall be determined on the last day of the tax year.

Interest that is tax deductible in a particular tax year cannot exceed 50% of a company's net profit, determined pursuant to the Polish Accounting Act. Interest that exceeds this limit can be tax deductible in the following tax years (not more than five years).

This method applies to all interest on loans, i.e. not only to interest on loans granted by related entities. In this case, it would also affect tax deductibility of interest on a bank loan.

Application of the alternative method is possible after notification to a relevant tax office by the end of the first month of a given tax year. Once selected, the method must be used for at least three consecutive tax years.



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Benefits for IT

Tax related benefits

Legislation in Poland does not provide specific tax provisions for IT business. However, in certain cases, it might be possible to apply a 8.5% or 17% income tax rate (lump-sum taxation) for IT services (applies only to self-employed individuals). Certain tax benefits might also be considered, e.g. R&D incentive or in-kind contribution to a company, active in certain type of IT business.

Other benefits

There are funds in Poland aimed at supporting IT companies in National and Regional Operational Funds, which are co-financed from EU Funds.

In general, the IT industry is well developed in Poland. It is mainly due to the spillover effect of the very good higher technical education and low average wages in comparison with Western EU countries and USA. These conditions incentivized big multinational IT companies either to establish subsidiaries or to hire subcontractors in Poland.



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SLOVAK REPUBLIC

Overview

- ⇒ Slovak Republic is a member of the EU, the Schengen area, the WTO, the Euro-zone;
- ⇒ in the Doing Business 2017 rating of the World Bank, the Slovak Republic is ranked 33rd out of 189 countries;
- ⇒ Slovakia has the highest level of labor productivity in Central and Eastern Europe, according to Eurostat;
- ⇒ the state provides an opportunity for individuals to get residency permit in a relatively short time and, compared to other countries, for a fairly low cost;
- ⇒ the state provides a possibility of studying in universities on a free basis in the Slovak language and low cost when studying in foreign languages;
- ⇒ geographical location of the capital of Slovakia provides ample opportunities for life and business development, the possibility of traveling for absolutely little money. Bratislava - the capital of Slovakia is located 10 km from Austria, Hungary, 80 km from the Czech Republic. The capital of Austria is 60 km from Bratislava.

Company registration and maintenance

What are the costs related to the registration of a company?

The registration fee, depending on the organizational form and activities, is in range of EUR 33 – 100.

What are the requirements for chartered capital?

Chartered capital of S.R.O. (limited liability company, recommended as an optimal legal form) is EUR 5,000.

It is not mandatory to submit the chartered capital to the bank account of the company prior to its registration - it can be in the possession of the founder. If there are two or more founders, 30% of the chartered capital should be submitted at the time of registration, the remaining part within 5 years after registration.

The minimal value of chartered capital for A.S. (Joint Stock Company) is EUR 25,000.

In addition, it is possible to register associations for conducting activities that do not require authorized capital. It is possible to register entrepreneurial activity in the form of an individual entrepreneur.

Nominee shareholder is not directly provided by Slovak legislation, however can be legally arranged by means of contractual framework.



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Can a foreigner become a founder or a shareholder of a company in the Slovak Republic?

A foreign individual or a company may become the owner of a Slovak company.

What are the office maintenance expenses?

Legislation of the Slovak Republic provides for the possibility of having a virtual office. The annual cost for such services will amount to EUR 300.

What is the cost of annual audit?

For most enterprises, annual audit is not mandatory by law and performed only in cases prescribed by law when a company fulfilled two of the following conditions for the previous reporting period:

- A) a net annual turnover of EUR 2,000,000;
- B) the value of company's property exceeds EUR 1,000,000;
- C) the number of employees exceeds 30 people.

Besides, audit is obligatory for the enterprises conducting separate regulated kinds of activity, such as banks, financial companies etc.

The cost of the audit is EUR 2000 and more.

What are the costs of accounting services?

The cost of tax accounting and reporting services ranges from EUR 350 to EUR 1200 per year. For companies that did not operate in the previous year ("blank reports") the cost will amount to EUR 100 annually. The cost depends on the number of business transactions, the number of employees and differs if the company is registered as a payer of VAT.

Employment

A foreign individual may be appointed as a director of the company in the Slovak Republic

A non-EU citizen who is registered in the Commercial Register of the Slovak Republic as a company's director is eligible for residence permit in the Slovak Republic.

The persons defined by the owner as managers of the company (including the owner, who may also identify themselves as such a person) have the right to obtain a residence permit in the Slovak Republic (along with family members).

In order for a Slovak company to employ a citizen of non-EU country it must obtain an agreement of State Employment Service after which a residence permit will be granted to the employee.



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Following prerequisites are necessary when applying for residence permit in the Slovak Republic:

- ⇒ For company's management:
- ⇒ Clean criminal record;
- ⇒ Financial security;
- ⇒ Presence of a certain amount of capital on the company's account;
- ⇒ Insurance.
- ⇒ For other types of employees:
- ⇒ Clean criminal record.

Taxation, contributions, related issues

Type of tax	Tax rate and other conditions
Corporate income tax (CIT)	21%
Personal income tax (PIT)	19%
Value added tax (VAT)	20%
Withholding tax (WHT)	35% - on payments to taxpayers from non-contracting state (states that did not conclude either a double tax treaty or tax information exchange agreement with the Slovak Republic) Other tax rates might be provided by the tax treaties (more than 140 signed between the Slovak Republic and contracting states).

Social contributions

Type of contribution	Paid by employer	Paid by employee
Sick leave contribution	1.4%	1.4%
Pension contribution	14.0%	4.0%
Disability contribution	3.0%	3.0%
Guaranteed insurance	0.25%	
Unemployment insurance	1.0%	1.0%
Reserve fund	4.75%	
Accident insurance	0.8%	



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Transfer pricing

All Slovak taxpayers must keep sufficient transfer pricing documentation to justify prices charged by or to their foreign-related parties. In this regards the Slovak Ministry of Finance has issued a guideline setting out detailed requirements for transfer pricing documentation. The guideline requires maintaining transfer pricing documentation in a form generally in line with the EU standards.

Thin capitalization

The limit for the maximum amount of tax deductible interest and related fees on credits and loans between related parties is established at 25% of EBITDA.

Benefits for IT

IT business is among the priority sectors of development for the Slovak Republic. As investment incentives for investors in the IT sector, which create 40 or more jobs, there are tax holidays for up to 3 years (in some cases up to 5 years) for both the income tax and labor taxes, partial state financing for development of high technology productions for 40%-60% of investment capital. Tax incentives can be chosen by the investor flexibly and include partial or complete tax exemption.

There are also special benefits in industrial parks (more than 30) in different regions of Slovakia for the rent and acquisition of real estate as well as regional programs to support business and create new jobs.



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Comparison of jurisdictions

	Belarus	Cyprus	Lithuania	New York	Poland	Slovakia
Corporate income tax	18%	12.5%	15% (5%)	15-39%	19% (15%)	21%
Personal income tax	13% (9%)	0-35%	15%	10-39.6%	18% (19%, 32%)	19%
Value added tax	20% (25%)	19% (5%, 9%)	21% (9%/5%/0%)	0% 8.875% - sales tax in NY City	23%	20%
Withholding tax*	6-15% (5%)	0%		30%		35%
On dividends			15% (0%)		19%	
On interest			10% (0%)		20%	
On royalties			10% (0%)		20%	
Social contributions						
Paid by employer	35%	11.5%	31.18%	9.45-17.25%	19.21-22.41%	25.2%
Paid by employee		7.8%	9%	7.65%	22.71%	9.4%
Office maintenance total (including annual fees, cost of office maintenance, audit and accounting services) which includes:	€ 4,900.00 – € 11,500.00	€ 2,650.00 and more	€ 7,000.00 and more	€ 460.00 and more	€ 2,000.00 – € 3,000.00	€ 2,650.00 – € 3,500.00
Annual fees		€ 350.00 – registrar fee				
Annual audit preparation		€ 200.00 and more				€ 2000.00 (when mandatory)
Accounting services	€ 2,760.00 – € 7,200	€ 200.00 and more		€ 460.00 and more	€ 800.00 and more	€ 350.00 – € 1200.00
Office rent (virtual office services)	€ 2,160.00 – € 4,320.00	€ 700.00 – € 800.00			€ 1,200.00 – € 2,200.00 (virtual office)	€ 300.00 (virtual office)
Other annual expenses		€ 1,200.00 – € 1,500.00				
Company registration fees (one time, excluding chartered capital)	€ 550.00 – € 850.00	€ 2,000.00 – € 2,500.00	€ 150.00 – € 350.00	€ 117.00	€ 1,700.00	€ 33.00 – € 100.00

* - unless other tax rate provided by double tax treaty



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