



Doing Business in Belarus

2011 edition

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- Currency Regulation and Foreign Trade
- Commercial Disputes
- Administrative Disputes
- Mediation
- Antimonopoly Law
- Tax Consulting
- Support of corporate procedures
- M&A, Due Diligence
- Investment Project Support
- Employment Law

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1. Business Environment

1.1. Business Entities

There are no specific requirements for foreigners wishing to establish a business in Belarus. Investors, whether Belarusian or foreign, benefit from equal legal treatment and have the same right to conduct business operations in Belarus by incorporating separate legal entities. The procedure requires the fulfillment of certain legal formalities (registration in The Single State Register of Legal entities and individual entrepreneurs (Единый государственный регистр юридических лиц и индивидуальных предпринимателей)).

Companies are required to have their own name, statutory fund (the minimal amount of which is established for several forms of entities by law), management, registered offices and bank accounts.

Companies established in Belarus are subject to Belarusian law, but agreements concluded by Belarusian companies can be governed by the law chosen by the parties.

The Belarusian legislation allows and defines the following legal forms of business entity:

- **Individual entrepreneur** (Индивидуальный предприниматель, abbreviation is **ИП**);
- **Peasant (farm) economy** (Крестьянское (фермерское) хозяйство, abbreviation is **КФХ**);
- **Production cooperative** (Производственный кооператив, abbreviation **ПК**);
- **Private unitary enterprise** (Частное унитарное предприятие, abbreviation is **УП**);
- **General Partnership** (Полное товарищество, abbreviation **ПТ**);
- **Special Partnership** (Коммандитное товарищество, abbreviation **КТ**);
- **Additional-liability company** (Общество с дополнительной ответственностью, abbreviation is **ОДО**);
- **Limited-liability company** (Общество с ограниченной ответственностью, abbreviation is **ООО**);
- **Open joint-stock company** (Открытое акционерное общество, abbreviation is **ОАО**);
- **Closed joint-stock company** (Закрытое акционерное общество, abbreviation is **ЗАО**).

Other forms of doing business are representative offices and branches of foreign companies.

A legal entity in Belarus in any above mentioned forms can be created:

- With the status of a commercial organization with foreign investments;
- Without the status of a commercial organization with foreign investments.

Attention should be paid to the fact that such distinction concerns the status only, as a set of the law rules determining features of creation and activity of the legal entity and not the organizational legal form.

Most businesses in Belarus are organizations, organized mainly in forms of private unitary enterprise, limited-liability company or closed joint-stock company, as above-mentioned forms are the most convenient to perform business activities.

1.1.1. Private unitary enterprise

Private unitary enterprise is a commercial organization not endowed with the right of ownership to property consolidated to it by the owner. The founder is the owner of property of private unitary enterprise. Individual or legal entity can be a founder of private unitary enterprise.

The founding document of private unitary enterprise is the Charter. The main body of private unitary enterprise is director, which is appointed by founder. Founder of unitary enterprise can be a director at the same time.

Powers of director of private unitary enterprise can be transferred under agreement to other commercial organization (the management organization) or to individual entrepreneur (managing director) under the decision of the founder.

Belarusian legislation does not provide minimal amount of statutory fund for private unitary enterprise. The size of statutory fund is determined by the founder himself (herself).

A unitary enterprise shall be liable for its obligations with all its property and shall not be liable for obligations of its founder. Founder of private enterprise has subsidiary liability for obligations of enterprise if the economic insolvency (bankruptcy) of enterprise has been caused by him (her).

1.1.2. Limited-liability company

A limited-liability company is a company with a number of shareholders not more than 50, whose statutory fund is divided into shares of certain sizes that are stated in the founding documents.

Belarusian legislation does not provide minimal amount of the statutory fund for the Limited-liability company; the size of statutory fund is determined by the founders themselves.

The founding document of the Limited-liability company is the Charter approved by the founders.

Organizational structure of the Limited-liability company includes:

- Shareholders General Meeting.

Shareholders General Meeting is the supreme authority of the Limited-liability company that decides the most important questions of company activity.

- Board of Directors or Supervisory Board.

- Executive authority – Directorate or Director.

Powers of the executive authority can be transferred under agreement to other commercial organization (the management organization) or to individual entrepreneur (managing director) under the decision of Shareholders General Meeting of the company.

- Auditor or internal Audit Commission – the control authority of the company.

1.1.3. Closed joint-stock company

The number of shareholders in the closed joint stock company cannot exceed 50.

Minimal allowed size of statutory fund for the Closed joint-stock company is 100 base units. The size of the base unit is determined by the laws of the Republic of Belarus, and on February 1, 2010 it was 35 000 Belarusian rubles, roughly equal to 9 Euros.

Statutory fund is divided into a number of stocks having the same nominal value.

The only founding document of the Closed joint-stock company is the Charter.

The organization structure of Closed joint-stock company includes the same elements as the Limited-liability company.

Shareholders are not liable for its obligations and bear the risk of losses associated with its activities of society within the limits of the value of their stocks.

A shareholder may alienate its own shares only with the consent of other shareholders and/or to a limited number of individuals. Closed joint-stock company is not entitled to carry out an open subscription for stocks issued by it or otherwise offer for the purchase to unlimited number of persons.

1.1.4. Representative offices and branches of business entities

Business entities have the right to establish representative offices and branches.

A representative office of a foreign company (представительство) is its detached division located on the territory of Belarus, carrying out protection and representation of interests of the organization. The representation of the foreign company is not a legal entity, and it has the right to be engaged in business on the territory of the Republic of Belarus only on behalf and by order of the company represented by it.

A branch of a foreign company (филиал) is its detached division located on the territory of Belarus that can exercise all or part of its functions, including the functions of representation.

The property of the representative offices or branches of the legal person is accounted separately on the balance of the legal person, which has created these representative offices or branches.

Belarusian legislation does not allow foreign business entities to establish branches that is why foreign organizations have the right to establish detached divisions only in the form of representative offices.

1.1.5. Business reorganization and liquidation

Liquidation of a company may be carried out voluntarily by the decision of the owner of the company (founders, shareholders) or in other cases as prescribed by law (by economic court or by state registering authority).

Shareholders create the liquidation commission or appoint the liquidator responsible for the implementation of all the formalities associated with the liquidation process. The owner (founders, shareholders) or body of a company empowered by the Charter takes a decision of liquidation of a company, appoints the liquidation commission (appoints the liquidator) and establishes procedure and term of liquidation.

Business reorganization in Belarus is regulated by Belarusian legislation and can be realized in the form of a consolidation, merger, division, separation and transformation.

1.2. Ways of Doing Business by Foreign Organizations and Individuals in Belarus

Foreign individuals and legal entities can choose one of three following ways of doing business in Belarus:

1. Establishment of commercial organization (either with or without the status of organization with foreign investments);
2. Doing business through permanent representative office on the territory of the Republic of Belarus.
3. Doing business through the agent.

1.2.1. Entity with the status of the commercial organization with foreign investments

Foreign individuals and legal entities are entitled to establish in Belarus legal entities of any legal forms (except for Peasant (farm) economy as only Belarusian citizens and foreign individuals permanently residing in Belarus have the right to participate in it), either with or without the status of organization with foreign investments

Commercial organization is recognized as commercial foreign organization, if its statutory fund contains 100 % of foreign investments. If statutory fund of commercial organization

comprises both share of foreign investors and share of legal entities or individuals of Belarus, such organization is called commercial joint organization.

The main criterion of differentiation of entities founded by the foreign companies, in having and not having the status of the organization with foreign investments is the minimal size of foreign investments in the statutory fund of the created commercial organization. To acquire the status of a commercial organization with foreign investments the amount of foreign investments should not be less than 20 000 U.S. Dollars. 50 % of payments to statutory fund of such an organization should be made in the first year after the registration. The remaining 50 % should be contributed before the second year after the registration expires.

Currently for the commercial organizations with foreign investments the following preferences are stipulated:

1. the possibility to form statutory fund within two years from the moment of incorporation;

2. liquidation of the commercial organizations with foreign investments cannot be initiated by authorized state bodies administratively, and can be made only in the judicial order.

Additional benefits are stipulated only for commercial organizations with foreign investments which are registered and carrying out activity in settlements with a population of up to 50 000 people. The list of such settlements is defined by the Government.

1.2.2. Doing business through permanent representative office in Belarus

Doing business through permanent representative office in Belarus, according to the Tax Code of the Republic of Belarus, means doing business by virtue of:

1. solitary subdivision of foreign organization, with accreditation in the Ministry of Foreign Affairs of the Republic of Belarus;

2. agent (organization or individual, operating on behalf and/or in favor of foreign organization).

1.2.3. Establishment of permanent representative office in Belarus

Representative offices of foreign legal entities and other organizations are established and operate in Belarus in accordance with the permission, given by the Ministry of Foreign Affairs of the Republic of Belarus.

Such representative office is not recognized as legal entity by Belarusian law.

Representative offices of foreign organizations may be established for the purpose of operation on behalf of the parent organization the name of which is mentioned in the permit to open a representative office, including:

1. For representative offices of commercial organizations, for:

- effective promotion of international agreements of the Republic of Belarus on trade, economy, finance, science, technologies and transport cooperation, seeking opportunities for further development and improvement of such cooperation and expanded exchange of economic, commercial and technological information;

- survey of commodity markets of Belarus;

- investigation of opportunities for investment in Belarus;

- establishment of foreign and joint ventures;

- promotion of trade and economic ties between countries;

- representation and protection of interests of a commercial organization;

- selling of tickets and bookings of seats by air, railway, automotive and sea transport companies;

- other purposes, including those of public utility, not prohibited by the legislation of Belarus for such representative offices.

2. For representative offices of non-commercial organizations:

- social support and protection including improving the welfare of low income people, social rehabilitation of the unemployed, disabled and other persons who due to their physical or intellectual condition or other circumstances are unable to exercise their rights and legal interests by themselves;
- training of the population to overcome the consequences of the natural disasters, ecological, industrial and other catastrophes, and to prevent accidents;
- aid to the victims of natural disasters, ecological, industrial and other catastrophes, social, ethnic, religious conflicts, victims of repressions, refugees and forced migrants;
- assisting the strengthening of peace, friendship and consent among nations, prevention of social, ethnic and religious conflicts;
- assisting the strengthening of prestige and value of family in society;
- assistance in protection of motherhood, childhood, and fatherhood;
- assistance in activities in the sphere of education, science, culture, art, enlightenment, spiritual development of a person;
- assistance in activities in the sphere of prophylactics and protection of public health, as well as promotion of a healthy way of life, improvement of the moral and psychological state of citizens;
- assistance in activities in the sphere of physical culture and mass sport;
- protection of environment and animals;
- protection and maintenance of buildings and other objects and territories having a historical, cultural, cult or nature importance and burial places;
- other purposes of public utility.

3. For representative offices of educational organizations:

- carrying out advertising and informational work;
- study of the experience of educational organizations in the Republic of Belarus;
- assistance in entering into agreements on cooperation between educational organizations;
- assistance in sharing experience and information in the area of education and science.

1.2.4. Doing business through the agent

Another way of doing business by foreign organization in Belarus is operating through the agent – Belarusian organization or individual entrepreneur under the agency contract.

Agent is a legal entity or individual, operating on behalf and/or in favor of foreign organization and/or authorized to conclude contracts or negotiate on essential terms of contracts.

According to the Tax Code of the Republic of Belarus, doing business through the agent is considered as operating through permanent representative office for the purposes of taxation. That is why foreign organization, operating through the agent, is obliged to pay tax on profit, gained in Belarus. Taxes of foreign organization are to be paid by the agent at place of its tax registration.

Doing business through the agent is an alternative to establishment of representative office with accreditation in the Ministry of Foreign Affairs.

If the agent operates in the frameworks of its ordinary course of business (independent agent or agent with independent status), it is not recognized as permanent representative offices for the purposes of taxation. The agent acts in the frameworks of ordinary course of business if it operates independently without instructions and control, made by foreign organization and if business risk for the results of its activity lies on the agent and not on the foreign organization which it represents. In such a case foreign organization does not pay the

tax on profit but pays tax on income of foreign organizations that does not carry out activity by virtue of permanent representative office.

According to Belarusian legislation it is required to obtain special permissions (licenses) in order to perform certain types of activities. Foreign organizations can obtain license to perform certain types of activities only if they have a permanent representative office with accreditation in the Ministry of Foreign Affairs. So, it is impossible to perform licensed activities by the agent because of this rule.

Provisions, stipulating exclusivity of relations under agency contract with participation of Belarusian person, are unlawful according to Belarusian legislation. The contract conditions, providing refusal of contracts with other suppliers or purchasers do not correspond to Belarusian legislation and may be invalidated under Belarusian law.

1.3. Labour Relations and Working Conditions

1.3.1. Information on the employment market

According to official statistics on 2010, the employed population was over 4 600 000 people and unemployment is 0.7 % of the economically active population that is 0.2 % lower than in 2009.

1.3.2. Legal regulation of employment

In Belarus employment is primarily regulated by the Labour Code of the Republic of Belarus. Moreover, there are many other acts of legislation that settle more specific issues of labour relations.

According to the Labour Code, an employment agreement has to be in the written form. The conditions that must be included in the provisions of the contract are also named in the Labour Code.

The highest state authority that develops public policy of labour and employment is the Ministry of Labour and Social Protection of the Republic of Belarus.

1.3.3. Working hours and rest hours

Standard working time cannot be more than 40 hours per week. For certain categories of employees reduced working time is provided. Working week is with 5 or 6 six working days with common weekend on Sunday. The normal working period is eight hours daily with a one-hour lunch break. There are specific norms for night work, work in weekends and holidays, employment of juveniles etc.

Any overtime work has to be remunerated additionally.

Employers are obliged to pay holiday pay. The minimum period of annual holiday is 24 days.

In addition, there are public holidays that are non-working:

- 1 January – New Year
- 7 January – Orthodox Christmas
- 8 March – International Women's Day
- according to Orthodox calendar – Radunitsa
- 1 May – Day of Solidarity of workers
- 9 May – Day of Victory
- 3 July – Independence Day
- 7 November – Day of October Revolution
- 25 December – Catholic Christmas

1.3.4. Payment for labour

Payments to employees are calculated based on the Unified Wage Scale of the Republic of Belarus, and also the first grade of tariff rates that are set out by commercial organization independently. The minimal amount of wages is determined by state and is compulsory (460 000 Belarusian rubles on January 1, 2011), there is no maximal amount determined. Wage payments are included in the cost of production and sales of goods (works, services) and are also counted in the price formation and taxation.

1.4. Foreign Employees

1.4.1. Entry into the territory of the Republic of Belarus

As a general rule, the entry of foreigners into the territory of Belarus can be realized only after obtaining visas of the Republic of Belarus.

Currently there is no requirement to obtain visas for citizens of Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Russian Federation, Moldova, Uzbekistan, Tajikistan, Ukraine and Cuba.

There are following types of visas in Belarus:

1. **B (transit visa)** – Transit visa is issued for single, double and multiple transit passage through the territory of the Republic of Belarus till the end of the declared time that cannot be more than one year and is valid within two days from the date of entry of foreigner into the territory of the Republic of Belarus.

2. **C (short-term visa)** – Short-term visa is issued for single, double and multiple entry into the territory of the Republic of Belarus till the end of the declared time that cannot be more than 90 days for certain purposes including labour activity.

3. **D (long-term visa)** – Long-term visa is issued for the one year with the right of stay on the territory of the Republic of Belarus for up to 90 days for certain purposes.

Short-term visa C (with the right to work) is issued to persons willing to enter country for the purpose of work.

Visas described above are issued by diplomatic missions and consular offices of the Republic of Belarus.

Citizens of states where there are no diplomatic missions and consular offices of the Republic of Belarus apply for visa to the General Consular Department of the Ministry of foreign affairs of the Republic of Belarus and bodies of border guard of the Republic of Belarus.

1.4.2. Stay on the territory of the Republic of Belarus

All the foreigners staying in Belarus must **register** in the domiciliary body of internal affairs **within 5 days** except for weekends, holidays and days that are declared non-working by the President of the Republic of Belarus.

International agreements of the Republic of Belarus can provide longer terms of stay in the Republic of Belarus without registration in the domiciliary body for certain categories of foreigners.

For example, the citizens of Lithuania, Latvia, Russian Federation and Ukraine can stay on the territory of the Republic of Belarus without registration for 30 days from the day of entry. In case of stay on the territory of the Republic for more than 30 days they are bound to register in the domiciliary body in general order.

The foreigners can temporarily stay and permanently or temporarily reside on the territory of the Republic of Belarus.

All the foreigners on the territory of Belarus that do not have the permission for the temporal or permanent residence are subject to the rules of the **regime of temporary stay**. The

term of temporary stay of a foreigner on the territory of the Republic of Belarus depends on the visa issued to him (her) and cannot **exceed 90 days in the year**.

International agreements of the Republic of Belarus may provide longer terms of temporary stay in the Republic of Belarus without obtaining permissions for temporary or permanent residence.

If a foreigner wishes to stay in Belarus for more than 90 days in year (or for more than term determined in international agreement), he (she) will have to get permission for temporary or permanent residence.

The permission for temporary residence is issued to foreigners that entered Belarus for certain purposes, including labour, business and other activities. Decision on granting of such permission is made by the body of internal affairs at domiciliary place of a foreigner.

Multiple entry-exit visas: foreigners who have obtained permissions for temporary residence can get entry-exit visa, including multiple one. Such a visa is issued by the office on citizenship and migration of the body of internal affairs for the term of one year but not longer than the term of the permission for temporary residence.

The permission for permanent residence gives foreigners the right for permanent residence in the Republic of Belarus. It is issued by the Ministry of Internal Affairs and by other bodies of internal affairs only for the certain categories of foreigners that are determined by the legislation of the Republic of Belarus.

1.4.3. Permission for labour activity

Foreigners have the right for labour activity on the territory of the Republic of Belarus subject to obtaining the special permission for labour activity.

But there are some exceptions. Particularly, there is no need to obtain the special permission for labour activity for foreigners, which:

1. Have got permissions for permanent residence in the Republic of Belarus;
2. Are employed in other order, provided in international agreement of the Republic of Belarus (for example, citizens of Russian Federation that are excluded from the regulation on attraction and usage of foreign employees);
3. Are founders of commercial organizations with foreign investments that have been registered as legal entities in Belarus for work in those organizations;
4. Work in representative offices of foreign firms in Belarus.

Special permission for labour activity is issued by the office on citizenship and migration of the body of internal affairs for the term of **one year**. The term of permission may be prolonged for one year.

1.4.4. Business activity

Foreigners temporary staying and residing in the Republic of Belarus do not have the right to carry out business activity in the Republic of Belarus without establishment of legal entity.

1.5. Licensing

In order to carry out certain types of activities obtaining special permission (license) is required. On January 1, 2011 licensing regulation had been amended substantially: from the list of licensed types of activities sixteen types have been excluded (of which such important as design and construction of buildings and constructions of I and II levels of responsibility and carrying out of engineering surveys for these purposes, retail trade (except for retail trade of alcohol drinks and/or tobacco production that still requires obtaining a license) and others). One new type had been added: activity in the field of usage of atomic energy and sources of

ionizing radiation. Moreover, several types of activities were amended with regard to types of works (services) that compose it.

At the moment, licensed types of activities are as follows:

1. Advocacy activity;
2. Banking activity;
3. Veterinary activity;
4. Activity in the field of automobile transport;
5. Activity in the field of usage of atomic energy and sources of ionizing radiation;
6. Activity in the field of industrial safety;
7. Activity in the field of telecommunication;
8. Gambling activity;
9. Activity on the procurement (purchase) of junk and refuses of ferrous and non-ferrous metals;
10. Activity on providing fire security;
11. Activity on rendering of psychological aid;
12. Activity on design and production of strict security forms and special materials of its protection from forgery;
13. Activity on technical security of information particularly with cryptographic methods including usage of electronic digital signature;
14. Activity connected with influence on environment;
15. Activity connected with precious metals and precious stones;
16. Activity connected with cryptographic security of information and means of surreptitious obtaining of information;
17. Activity connected with transaction of narcotic substances, psychotropic drugs and its precursors;
18. Activity connected with health improvement of children abroad;
19. Activity connected with carrying out of control of radioactive contamination;
20. Activity connected with employment of citizens abroad, gathering and distribution (including worldwide computer net Internet) of data on individuals with purpose of their acquaintance;
21. Activity connected with production of military purpose;
22. Activity connected with manufacture of alcohol, non-food alcohol-containing production, non-food ethanol and tobacco production;
23. Activity connected with production of aluminum, lead, zinc, stannic, copper and cast of finished and semi-finished products from aluminum and non-ferrum heavy metals;
24. Activity connected with duty weapons and civilian weapons and its ammunition, collecting and exhibition of weapons and ammunition;
25. Publishing activity;
26. Medical activity;
27. Educational activity;
28. Legal services rendering;
29. Wholesale and retail trade of oil products;
30. Wholesale trade and storage of alcohol, non-food alcohol-containing production, non-food ethanol and tobacco production;
31. Security guard activity;
32. Polygraphic activity;
33. Professional and exchange activities with securities;
34. Retail trade of alcohol drinks and/or tobacco production;
35. Insurance activity;

36. Pharmaceutical activity;

37. Private notary activity.

Licenses are issued to legal entities and individual entrepreneurs of Belarus, foreign legal entities and organizations created according to legislation of foreign states subject to presence of representative office in Belarus established in order provided for by legislation, and also to individuals (for carrying out of advocacy activity, private notary activity and collecting and exhibition of weapons and ammunition).

To obtain a license one should submit to state licensing authority an application with assistant documents and pay state due that is as a general rule 280 000 Belarusian rubles (about 67 Euros).

Application is reviewed by licensing body within 15 working days from the day of receipt of documents, this term can be prolonged for a period of evaluation and/or examination of compliance of capabilities of license candidate with license requirements and conditions no longer than 10 days.

License is granted for a term no less than 5 and no more than 10 years. License is valid on the whole territory of Belarus or its part defined in license, if the legislation provides that license on certain type of activity is valid on the territory of Belarus defined in it (e.g., activity in the field of telecommunication). Type of activity on which license is issued can be carried out only by holder of license without transfer of right of carrying it out to other legal person or individual. Separate subdivisions including branches carry out licensed type of activity on the base of license issued to legal entity.

Business activity carried out without license when obtaining license is compulsory or with a violation of rules and conditions of carrying out of types of activities defined by license is a ground for bringing to administrative liability and connected with receiving profit on a large scale to criminal liability.

2. Investment

Relations arising from investment activity on the territory of Belarus are regulated by the Investment Code of the Republic of Belarus, regulatory legal acts of the President of the Republic of Belarus, civil statute and other laws of the Republic of Belarus, including international treaties in which the Republic of Belarus participates, and investment agreements signed by the Republic of Belarus.

Under the Investment Code of the Republic of Belarus, an investment is any property, including monetary resources, securities, equipment and intellectual property that belongs to the investor, and property rights, allocated for investment operations in order to gain profits and/or attain some other specific result.

2.1. Forms and sources of investment

There are two forms of investment according to the Investment Code of the Republic of Belarus:

1. the creation of a legal entity (you can read about it in the part “Business entities”);

2. acquisition of property or property rights, namely:

- 2.1. a share in the statutory fund of a legal entity, including by virtue of an increase of the statutory fund of the legal entity;

- 2.2. real estate;

- 2.3. securities;

- 2.4. rights to use the intellectual property;

- 2.5. concession;

- 2.6. equipment;

- 2.7. other fixed assets.

The sources of investment can be:

- own funds of investor, including amortization funds, net profit after taxation and other mandatory payments, including funds received from sale of shares in the statutory fund of an entity;

- borrowed and attracted funds, including loans of banks and non-bank credit and financial organizations, loans of founders (shareholders) and other legal entities and individuals, bonded loans.

2.1.1. Guarantees of investors rights and protection of investments

The Belarusian Constitution guarantees the right to private ownership.

The Republic of Belarus guarantees:

- investors legally acquired ownership and other property rights, and undertakes obligation to protect those rights;

- equal rights to all investors engaged in investment activity regardless of the form of ownership, as well as equal and discrimination-free protection of the rights and lawful interests of investors;

- stability of investors rights, as set out in the Investment Code, to engage in and cease investment activity.

Investors have the right, at their sole discretion, to decide upon and engage, in compliance with the legislation of the Republic of Belarus, in all actions arising from ownership, utilization (use) and disposal of objects and results of investment activity.

Investors may appeal to the court for challenging actions (omission) of state authorities or their officers, administrative and territorial governmental bodies or their officers, and acts of state authorities of the Republic of Belarus or administrative and territorial governmental bodies of the Republic of Belarus, if such actions / omissions or acts violate rights of an investor and / or cause losses and other damage.

Damage, including losses incurred as a result of actions or failures to act of state authorities or their officers, administrative and territorial government bodies or their officers, and acts of state authorities of the Republic of Belarus or administrative and territorial government bodies of the Republic of Belarus, shall be reimbursed from the respective budget as determined by a court ruling.

Guarantees to use results and other individual provisions of performing investment activities

Investors may at their sole discretion dispose of income (revenue) generated as a result of investment activities, including reinvesting it in Belarus in accordance with the legislation of Belarus.

Reinvestment means investment of income (revenue) generated by the Investor as a result of investment activities in investments located in Belarus. Foreign investors are guaranteed the right to repatriate any profits or earnings received in Belarus as a result of investment activity to locations outside Belarus following the payment of all taxes and other mandatory charges as established by the legislation of the Republic of Belarus, as well as any proceeds from the full or partial sale of invested assets upon the termination of investment activity.

The state guarantees protection of investments in accordance with the legislative acts of the Republic of Belarus.

Investments may not be nationalized or requisitioned without consideration, nor may any measures equivalent to nationalization and requisition in terms of their consequences be applied to such investments.

Nationalization and requisitioning shall only be possible subject to the timely and full compensation of the cost of nationalized or requisitioned investment assets and other damages resulted from nationalization or requisition.

The procedure and conditions for nationalization and requisition and payment of compensation with regard to nationalized or requisitioned investment assets and other damages caused by nationalization or requisition, shall be established by the Investment Code and laws of the Republic of Belarus.

Compensation for the value of nationalized or requisitioned investment assets shall be equal to the market value of such assets determined under the procedure approved by the President of the Republic of Belarus or by the Government of the Republic of Belarus on his instructions. In addition, such compensation shall include interest accrued at the official rate of Belarusian ruble to the respective foreign currency for the period from the date of actual nationalization or requisition or a public announcement to the same effect until the date of actual payment of compensation. The said interest rate should not be lower than the respective interest rates effective at the London Interbank Market (LIBOR).

The value of nationalized or requisitioned investment assets is reimbursed in the official monetary unit of the Republic of Belarus to domestic investors and in the currency of original investment to foreign investors.

Investor may challenge the amount of compensation for nationalized or requisitioned investment assets in court.

2.1.2. State support of investment activities

The state supports investment activities with the view to attract investments to the economy of the Republic of Belarus.

The state support of investment activities is offered in the form of the following:

- sovereign guarantees of the Republic of Belarus;
- centralized investment resources.

The state may introduce other types of support of investment activities and additional guarantees for investors.

The type, scope and duration of government support provided to organizations implementing new and advanced technologies shall be determined on a case-by-case basis by a decision of the President of the Republic of Belarus.

The guarantees of the Government of the Republic of Belarus shall be provided to lenders with respect to foreign loans or loans from banks of the Republic of Belarus being extended for implementation of investment projects.

Decisions on government support of investment projects implemented using foreign loans or loans of the banks of the Republic of Belarus against the guarantees of the Government of the Republic of Belarus; use of funds of centralized investment resources; government participation in establishing companies with foreign investment; shall be made basing on the government due diligence of investment projects to be performed by the Ministry of Economy.

The main criteria of investment project evaluation by means of government due diligence are as follows:

- Relevance of the investment project and its fitness for the industry development strategy;
- Financial position of investing organization;
- Technical, technological and financial feasibility and expediency of the investment project with consideration to the expected conditions for the investment activity;
- Feasibility of investment costs and the expediency of government participation in the investment project;
- Scientific and technological level of technologies involved and/or created;
- Competitiveness of products (work or services) to be sold, the prospects for the market, and the effectiveness of the investor's marketing strategy;
- Comparative analysis of the effectiveness and sustainability of the investment project.

2.1.3. State support by conclusion of investment agreement

The general rule of concluding of investment agreement is the intention of the investor to realize investment project on the territory of Belarus.

The parties to the investment agreement are the Republic of Belarus duly represented by the Government of the Republic of Belarus or authorized state body (state organization, subordinated to the Government of Belarus), regional (Minsk City) executive committee, on the one part, and national and/or foreign investors, on the other part.

Investment agreement is concluded on the decision of:

- Republican state body, other state organization subordinated by the Government of the Republic of Belarus, regional (Minsk City) executive committee, in case of realization of investment project within frameworks of correspondent branch or administrative and territorial unit and within competence of state body and executive committee. Conclusion of investment agreement in such order allows to benefit all favours and preferences provided for by the Decree of the President of the Republic of Belarus № 10 of August 6, 2009 "On Creation

of Additional Conditions of Investment Activity in the Republic of Belarus” (above mentioned favours and preferences are listed in Paragraph 2.1.5. of this review).

– The Government of the Republic of Belarus, in case when investment agreement does not provide for granting to investor favours and preferences except for provided for by legislation, including issues of privatization, on the date of its signing. Conclusion of investment agreement in this order allows stipulating favours and preferences provided for by legislation that gives the possibility of its usage even in case of amendments to legislation in this part, and also allows securing the stability of the investment regime.

– The Government of the Republic of Belarus by agreement with the President of the Republic of Belarus in case of granting to investor favours and preferences not provided for by legislation, including issues of privatization. Conclusion of investment agreement in such order requires business plan of the investment project and state complex expertise of investment project, but its application allows providing for in the investment agreement of any favours and preferences, including ones that are not provided for by legislation.

Mandatory provisions of such agreements include the following:

- object, scope and terms of investments, term of validity of investment agreement;
- rights and obligations of the investment agreement signatories;
- liability of investment agreement parties for failure to meet terms and conditions of the investment agreement terms, including compensation of damage to investor, arising from illegal actions (inactions) of state authorities or authorities of executive committees, as well as the right of the Republic of Belarus to withdraw from an agreement in case of nonobservance or inappropriate observance of obligations by investor;
- procedure and body of dispute;
- the procedure for and body empowered to settle disputes (including international arbitration for foreign investors) arising from the investment agreement. If investor is foreign legal entity or natural person of foreign state court, arbitration court, established on the territory of foreign state can be indicated as body, responsible for dispute resolution, if this court is defined as competent body by international agreements of the Republic of Belarus.

2.1.4. Guarantees and benefits for the investor

1. Guarantee of damage compensation, caused by illegal actions (inactions) of state bodies and authorities of executive committees;

2. Investor has the right to:

- build the objects, provided in the investment agreement, together with elaboration, expertise and approving of required design documentation for each stage of construction and to project simultaneously successive stages of such construction;
- to obtain without tender a land plot of size required for construction, provided by the investment project with preparation of all necessary documents, concerning land plot allotment simultaneously with construction works performing;
- conservation of amount of rent for land plot, determined to the date of rent contract, during, the whole period of the investment project realization.

3. Investor is exempt from:

- transferring of payment for the right to conclude a contract on the lease of land plot to state budget;
- compensation of losses of agriculture and/or forestry production, caused by expropriation of land plots for realization of investment project, as well as from compensation payments, connected with transfer and clearance of green plantings on land plots of localities;

- payments of import duties and VAT in case of import of facilities and relative repair parts for the objects, connected with realization of investment project, the customs territory of the Republic of Belarus;
- payment of state due for permission for labour activity in Belarus for foreigners, attracted by investor in the frameworks of realization of the investment project. Above-mentioned citizens are exempt from state due for permission for temporary staying in the Republic of Belarus.

2.1.5. State support in form of concessions

Investment activity with regard to the subsoil, bodies of water, forests, lands, and assets that are wholly owned by the Government, as well as activities over which the Government enjoys exclusive rights may be carried out on the basis of concessions.

A concession means an agreement concluded by the Republic of Belarus with an investor (concessionaire) envisaging the transfer of the right to engage in a particular activity within the territory of Belarus which is normally exclusively operated by the Government for a consideration and for a specified period of time, or envisaging the transfer of the right to use property owned by the Republic of Belarus.

Concessionaires may include any individuals and legal entities, except for legal entities in which the Republic of Belarus, its administrative and territorial units, or government organizations hold over 25 % of the statutory fund.

Concession agreements shall be awarded through tender or auction. Concession agreements shall be concluded without tender or auction only in the following cases: single bid is received; according to the decision of the President of the Republic of Belarus, when conclusion of concession agreement through direct negotiations with specific investor is required for reasons of national security or defense of the Republic of Belarus.

Mandatory provisions of concession agreements include:

- Term of validity of concession agreement;
- Types of activities carried out under the agreement, or description of assets being the object of concession;
- Rights of the parties to make decisions in respect to execution of the contract;
- Obligations of the concession body to the concessionary to issue permits and licenses necessary to carry out activities stipulated by the agreement;
- Title to the produced products and earned profits and revenues according to the Investment Code requirements;
- The territory of the Republic of Belarus or its part in which the concessionaire has the right, including its exclusive right, to carry out certain types of activities (if the object of concession is the right to carry out certain types of activities), as well as the program and schedule of works carried out under the agreement;
- The obligation of concessionaire to comply with the labour legislation of the Republic of Belarus and work safety regulations;
- The obligation of concessionaire to comply with the environment protection legislation of the Republic of Belarus and requirements related to the efficient use of nature resources;
- The procedure of control over the concessionaire activities;
- Liability of the parties under the agreement;
- The procedure for and body entitled to settle disputes (including international arbitration for foreign investor) arising out of concession agreement.

It is also established that terms and conditions of concession agreements shall remain in force throughout the validity term of such agreements. These terms and conditions may be

amended only by mutual consent of the parties, unless otherwise stipulated by the concession agreement.

2.1.6. Investment agent

Status of investment agents was created in Belarusian legislation in 2009.

Investment agent is a person, authorized to represent interests of the Republic of Belarus on attracting of investments to the Republic of Belarus. This status is aimed to develop the work on attracting of investments into Belarusian economy.

Investment agent can be business entity or individual entrepreneur of the Republic of Belarus and foreign persons, including foreign citizens, which are not registered as individual entrepreneurs.

Powers of investment agent are implemented for the purposes of development of administrative and territorial subdivision and branches of Belarusian economy, as well as of investment projects realization.

Business entities and natural persons, willing to obtain the status of investment agent, have to apply to state body or regional executive committee (Executive Committee of City of Minsk) and attach the following documents:

- application;
- copy of certificate of state registration;
- information about applicant;
- project of contract on granting of investment agent powers.

In case of successful decision of state body or regional executive committee (Executive Committee of City of Minsk), applicant is awarded a contract on representing of interests of the Republic of Belarus.

In the frameworks of representing of interests of Belarus investment agent can perform such activities as negotiating with prospective investors, elaboration of mechanism of investment project realization, drafting of documents. Investment agent has the right to provide counseling and legal services to prospective investors.

3. Finance and Banking System

3.1. Payments and Financial Statements

As a general rule payments between legal entities and individual entrepreneurs in Belarus are carried out on a cashless basis.

Nevertheless, some transactions between legal entities and their separate parts and individual entrepreneurs are permitted in cash.

Cash transactions are carried out for the obligations arising from civil-law relations by depositing money directly to banks and charging this payment in the current (settlement) bank account. The total amount of cash settlements can not be more than 2 580 Euros in a day.

Cash payments to the budget and state budget funds are made without size limits.

Some legal entities and individual entrepreneurs are not allowed to make cash transactions. They are:

- Legal entities and individual entrepreneurs engaged in alcoholic, inedible alcohol-containing products, inedible ethyl alcohol, tobacco raw material, tobacco wholesale trade.
- Legal entities in state of liquidation, as well as individual entrepreneurs with regard to which there is a decision on termination of their activity, legal entities and individual entrepreneurs with regard to which bankruptcy proceedings has been started.

The sources for the cash payments are:

- cash received from the current (settlement) bank accounts, card accounts;
- cash received into the cash registers of legal entities and individual entrepreneurs in the form of repayment of previously issued for payments cash;
- revenue;
- personal money of the employees of legal entities and individual entrepreneurs that are used in the interests of legal entities.

3.1.2. The procedure of cash transactions

Cash of legal entities and individual entrepreneurs is subject to mandatory transferring and keeping in appropriate accounts in the banks.

Legal entities, their subdivisions, individual entrepreneurs pass cash through their authorized persons:

- to banks;
- to employees of collection service;
- to the organizations of the Ministry of Communications and Informatization of Belarus.

The procedure and deadlines for passing the cash, the procedure of use of cash received from the receipts, the limit of cash in the cash register is established by servicing bank in reconciliation with the head of a legal entity, subdivisions, an individual entrepreneur every year, usually during the first quarter of the year. At the same time the limit of cash in the cash register, the procedure and deadlines for passing the receipts, permission for spending the cash from the receipts may be revised during the year upon reasonable request by a bank independently in the result of reviewing the results of monitoring of the timeliness and fullness of revenue delivery in case of the volume of cash turnover change.

The limit of cash in the cash register is the maximum allowable amount of cash that may be in the cash register of legal entity, its subdivisions at the end of the day. The limit of cash in the cash register is not determined for legal entities with around-the-clock work, religious

organizations, individual entrepreneurs, and specialized cooperatives, social organizations, which activities are aimed at addressing only the statutory goals and objectives.

The cash received from the sale of goods (works, services) after the passing the receipts to the money collector or passing the receipts independently can be passed the next day in case of documented time of sale of goods (works, services).

Legal entities, individual entrepreneurs, for which the limit of cash in the cash register is established have the right to keep in their cash registers cash which is more than established limit only for salaries, scholarships, pensions, allowances, dividends for a period of not more than 3 working days (for agricultural organizations, bodies of local control and self-government, located in rural areas – not more than 5 working days), when revenue is used in coordination with the servicing bank to these goals. In this case legal entities, individual entrepreneurs are not allowed to accumulate in its cash registers cash for future expenses (including payment of salaries, scholarships, pensions and allowances) before the deadline of their issuance.

It should be noted that for the violation of the procedure of cash transactions there is an administrative liability in the form of fines ranging from 86 Euros to 430 Euros in Belarus.

3.1.2. Financial statements

Annual financial accounting reports of business entities are the primary source of information about the results of their economical activity and their financial position. It allows to find out about the income and expenditures incurred by organizations, contribute to the prevention of negative results of the economic activities of the organization and reveal reserves for its financial stability.

These reports are of interest not only to these business entities and their parent organizations, but also to external users: controlling state bodies, banks, credit organizations, counterparties and etc., because they provide information about the presence and movement of assets and liabilities, as well as about the use of materials, labor and financial resources in accordance with approved standards.

Finally, the financial data from these reports allows forecasting the level of economic development of the Republic of Belarus.

That is why according to Belarusian legislation organizations continuously are obliged to exercise the accounting from the moment of their registration to the moment of their reorganization or liquidation, and to present financial accounting reports.

The Ministry of Finance of the Republic of Belarus is the governmental body that determines what accounting information should be reported, how the report should be compiled and in what way it should be presented to the stakeholders.

An organization make an account for the period of month, quarter and year. In this case, monthly and quarterly financial accounting reports are the intermediate reports.

Nowadays, annual financial accounting reports of Belarusian legal entities include the following documents:

1. Balance Sheet

Is formed on the basis of accounting on the analytical accounts at the end of the period.

2. Income Statement

It contains such indicators as income and expenses of the types of activities; operating income and expenses, non-operating income and expenses, and net profit.

3. Statement of Changes in Capital

It contains information on balances at the beginning and end of the year of the organization's funds and reserves, set up in accordance with the law and the founding documents, of their change during the year, as well as the amounts of profit and how it was used.

4. Statement of Cash Flow

It is based on information of the cash flow (revenues, sending money), taking into account the fund balances at the beginning and end of the year in terms of the current investment and financing activities.

5. Appendix to the Balance Sheet

It is formed on the basis of information on the composition of certain assets and liabilities of the organization, citing the sources of financing costs for the acquisition of assets, with indication of the structure of accounts receivable and accounts payable, of timeliness of repayment (including payment of interest) loans, transactions with financial assets of the organization.

6. Statement of the Targeted Use of Funds Received

It is formed on the basis of accounting data from the non-profit organizations that are not engaged in profit making business activities. The Statement provides the information on sources of funds to the organization and direction of their spending during the year and the balances at the end of the year.

In addition to the six forms above there is an explanatory note and audit report, confirming the accuracy of accounting organization, if it must be audited in accordance with the laws of the Republic of Belarus.

Some organizations have the right not to exercise bookkeeping and accounting and keep records in a special book (ledger) for recording income and expenses. These organizations include organizations and individual entrepreneurs, which apply the simplified taxation system, except:

- organizations and individual entrepreneurs, paying value added tax;
- republican and municipal unitary enterprises which possess their property on the right of economic management;
- economic companies with respect to which the state lawfully may determine the decisions made by these economic companies.

Financial statements must be written in Russian or Belarusian languages. The indicators of accounting should be written in Belarusian rubles.

The annual accounting reports must be submitted within 90 days after the end of the year.

Mandatory publication of annual accounting reports is provided by the laws of Belarus for the following subjects:

- Open joint-stock companies;
- banks;
- insurance companies.

Other organizations can publish their annual accounts at request.

For the violation of the procedure of making financial accounting reports there is an administrative liability in the form of fines ranging from 34 to 172 Euros.

It should be noted that at the moment in Belarus regulations which will provide the application of a broad-based international financial reporting standards are developed.

3.2. Pricing

As a general rule in Belarus there are free prices (tariffs) used in respect of goods (works, services).

The exception to this rule is the regulation of prices (tariffs) in respect of:

- goods (works, services) of economic entities which dominate on commodity markets of the Republic of Belarus and are included into the state register;
- certain goods (works, services), a specific list of which is established by Presidential Edict of February 25, 2011 № 72 “About some measures of regulating prices (tariffs) in the Republic

of Belarus” (public facilities for citizens, paid medical services, petrol, gas, spirits, alcohol, tobacco, carriage and transportation services, paid educational services, socially important goods, precious stones and metals and many others).

Towards the regulated goods (works, services) republican state administration bodies, regional and Minsk city executive and administrative bodies within the powers granted to them by law, shall direct (administrative) regulation of prices (tariffs) by setting:

- fixed prices (tariffs);
- limited prices (tariffs);
- limits of trade allowances (discounts) to the prices;
- limited cost-effectiveness standards used to determine the amount of profit to be included in the regulated price (tariff);
- procedures for determining and applying the prices (tariffs);
- declaration of prices (tariffs).

The novelty of the legislation was the fact that after the entering into legal force the Edict № 72 from March 1, 2011 for the categories of goods (works, services) which are not listed in the Edict № 72 there was abolished the obligation of legal entities to comply with the limit index changes of prices, to register prices and justify the application of prices by economic calculations (including cost estimate with the explanation of cost items).

3.3. Banking system

Banking system of Belarus is regulated under the Banking Code of the Republic of Belarus and consists of:

- the National Bank of the Republic of Belarus;

It is the central bank of the Republic of Belarus, which regulates the credit relations and currency, determines the procedure of payments and has the exclusive right of money emission.

- other banks (in all 31 banks at a point in March 1, 2011, except for the National Bank).

Most Belarusian banks have foreign investors as shareholders.

3.3.1. Banking Principles

The main principles of banking activities include the following:

1. Licensing of banks and non-banking credit and financial institutions engaged in banking activities (hereinafter – Banking License).

2. Independence of banks and non-banking credit and financial institutions in their activities and non-interference of government authorities, except for extent provided by laws of the Republic of Belarus.

3. Division of liabilities among banks, non-banking credit and financial institutions and the state.

4. Compliance with safety functioning standards introduced by the National Bank of the Republic of Belarus (hereinafter – the National Bank) to ensure stability and soundness of the banking system in the Republic of Belarus.

5. The right of individuals and legal entities to choose banks and non-banking credit and financial institutions at their discretion.

6. Guarantees of confidentiality of clients transactions, accounts and deposits.

7. Guarantee of recovery of funds placed by bank depositors.

Banking License is issued by the National Bank.

Banking License is issued to a bank together with the certificate of state registration.

3.3.2. Statutory fund of bank

A statutory fund of bank shall be formed by contributions (assets) of its founders (participants). The statutory fund of bank comprises the minimum amount of the bank assets to safeguard the interests of its creditors.

The minimum amount of the statutory fund of bank is determined by the National Bank upon the approval of the President of the Republic of Belarus. Commencing on February 1, 2011, minimum amount of the statutory fund of bank is to be established in Belarusian rubles in the amount equivalent to 5 000 000 Euros.

On establishing a bank the minimum amount of its statutory fund shall be formed solely by means of cash contributions from its founders and the increase of statutory fund shall be formed solely by means of own funds of the bank shareholders (owner of assets), of other persons, and/or of the bank, that comprise legitimately acquired financial resources or other assets owed by the named persons by virtue of ownership or other proprietary rights.

Banks shall comply with safety functioning standards, in particular, with the limit of property contributions (non-monetary contributions) to the statutory fund of the bank, minimum amount of regulatory capital for the bank, etc.

The maximum amount of property (non-monetary) contributions to the statutory fund of the bank is 20% of its statutory fund.

The statutory fund of bank shall be fully paid up prior to the bank state registration.

Monetary contributions to a statutory fund of bank shall be made to a temporary account opened by the bank founders or by the bank in case of its statutory fund increase at the National Bank or other bank as agreed with the National Bank. The procedure for the transfer of funds to the temporary account with the National Bank or other bank as agreed with the National Bank and for recovery of these funds in case of denial of state registration of the bank or state registration of additions and/or amendments to organizational documents of the bank shall be established by the National Bank.

3.3.3. Terms and conditions for obtaining a Banking License

Banking License is issued to a bank on the base of the same documents that are filed for a bank state registration and together with the certificate of state registration of the bank.

The bank shall carry out certain operations only upon expiry of the two years period after the date of its state registration and subject to its stable financial position during the last two years and statutory fund in the amount equivalent not less than:

25 000 000 Euros as on the first day of the month of submitting the documents for registration of amendments and/or changes to the list of operations that may be performed by bank and that are listed in the license issued to it – to carry out banking operations on raising money from individuals who are not individual entrepreneurs for contributions (deposits), on opening and maintaining bank accounts of individuals;

5 000 000 Euros as on the first day of the month of submitting the documents for registration of amendments and/or changes to the list of operations that may be performed by bank and that are listed in the license issued to it – to carry out banking operations on opening and conducting accounts in precious metals, on purchasing and selling precious metals and/or jewels, on placing precious metals and/or jewels in contributions (deposits).

3.3.4. Additional requirements as to organizations and activity of banks with foreign investments and subsidiaries of foreign banks in the Republic of Belarus

The limit (quota) for foreign capital participation in the banking system of the Republic of Belarus is set at not more than 50 percent. The said quota shall be derived as the ratio of total

non-resident capital in statutory funds of banks with foreign investment and subsidiaries of foreign banks, and the total statutory fund of banks registered in the Republic of Belarus.

The National Bank shall stop registration of banks with foreign investment and subsidiaries of foreign banks once foreign capital participation in the banking system of the Republic of Belarus reaches the established limit (quota).

Banks with foreign investment shall be obliged to submit advance applications to the National Bank for authorization of increases in statutory fund of the bank using non-resident resources or disposal of shares to non-residents.

Applications shall be considered by the National Bank within 30 days of the date of submission. In the absence of a notice by the National Bank of the adopted decision within this period of time, the authorization shall be deemed duly obtained.

Transactions involving disposal of shares to non-residents that are concluded without the authorization of the National Bank shall be deemed void.

The National Bank shall be entitled to prohibit any increase in the statutory fund of the bank using non-resident resources and/or any disposal of shares to non-residents where such actions would result in the limit (quota) for foreign capital participation in the banking system of the Republic of Belarus being exceeded.

The National Bank shall be entitled to introduce restrictions on banking operations for banks with foreign investment and subsidiaries of foreign banks where the respective foreign states operate similar restrictions on the activities of banks with investment by Belarusian citizens and/or legal entities.

3.3.5. Subsidiary or representative office of a foreign bank

Foreign banks are entitled to establish in Belarus subsidiaries (subsidiary) and to open representative offices.

Representative office of a foreign bank is not regarded as a legal entity and carries out its activity basing on the Regulation approved by the parent bank by which it was established.

A representative office of a foreign bank shall not be entitled to carry out banking operations and other activities, except for protection and representation of interest of the parent bank by which it was established, including consulting and/or information services.

Denial of application for opening a representative office of a foreign bank may be passed due to the following:

- The information provided is incorrect;
- The Regulation on the representative office does not comply with the legislation of the Republic of Belarus.

Representative offices of foreign banks in the Republic of Belarus shall be established for a maximum term of three years. The operating term of a representative office may be extended by the decision of Deputy Chairman of the Board of Director at the request of the respective foreign bank provided that the foreign bank applies to the National Bank not later than one month before the expiry of the permit to establish a representative office.

If such request is not filed within the specified term, the representative office record is excluded from the register of foreign bank representative offices.

The decision on authorization of the opening of a representative office of a foreign bank or denial of such authorization shall be made by the Board of the National Bank within two months of the date of submission of the documents required for the opening of a representative office of a foreign bank in the Republic of Belarus.

4. Currency Control

Residents and non-residents are permitted to hold accounts in banks and non-banking credit and financial institutions of the Republic of Belarus in Belarusian rubles and any foreign currency, the official rate of Belarusian ruble to which is established by the National Bank of the Republic of Belarus.

The Currency Control Law separates transactions, involving foreign currency and securities in foreign currency, into two types:

1. Current currency operations (which are treated with fewer restrictions);
2. Currency operations connected with movements of capital (resident as a general rule requires a permission of the National Bank of the Republic of Belarus).

Current currency operations are made between Belarusian residents and foreigners without restrictions, except currency operations on gift agreement (particularly donation), which require a permission of the National Bank of the Republic of Belarus).

The legislation provides a closed list of current operations:

1. Transfers of foreign currency to and from Belarus, for making settlements (without deferment of payment) for the export and import of goods (works, services and results of intellectual activities), except the export and import of money, stocks and real estate;
2. Transfer of foreign currency for making settlements for leasing (financial leasing);
3. Transfers to and from Belarus, of interest payments, dividends and other income, arising from investments;
4. Non-trading transfers to and from Belarus such as:
 - transfer and receipt of cash for the payment of wages and salaries, stipends, pensions, alimony payments, state benefits, allowances and compensation, as well as disbursements for damages incurred by employees, as a result of accident or occupational condition, resulting from work related activities;
 - transfer of cash to pay an employee business trip outside the Republic of Belarus;
 - transfer and receipt of cash connected to the acceptance of an inheritance;
 - transfer and receipt of cash relating to the burial of a deceased person;
 - the disbursement of monetary compensation to victims of political repression, members of their families and heirs;
 - transfer of cash for maintaining diplomatic missions and consular institutions of the Republic of Belarus abroad;
 - receipt of cash for notarial and investigative actions, payments related to court and arbitration costs, reimbursements of arbitration and administrative bodies expenses and also the amounts of state duty paid in connection with the said actions and court trials;
 - transfer and receipt of cash under the judgment decisions and rulings of the court and other law-enforcement bodies;
 - transfer of membership fees to funds, religious or international organizations, as well as paying other charges in connection with participation in international organizations;
 - transfer and receipt of Belarusian rubles, foreign currency, transfer and receipt of other currency values on contracts of donation, including contributions, in accordance with the laws of the Republic of Belarus;
 - receipt of currency values for storage by residents from non-residents;
 - transfers related to payment of taxes and other compulsory payments to the budget, which are established by the legislation of the Republic of Belarus or foreign states, as well as its return;
 - transfers related to the return of erroneously and/or excess of transferred cash;

– other currency transactions enumerated in a list established by the President of the Republic of Belarus or on behalf of the Council of Ministers as well as international treaties of the Republic of Belarus. There is no such a list today.

Currency operations connected with movements of capital are operations not considered as Current currency operations. These are:

- acquisition of stocks, spread out among founders, as well as acquisition of a share in statutory fund or property of non-resident;
- acquisition of securities emitted by non residents from non-residents, except for acquisition of stocks, spread out among founders;
- acquisition of property situated outside Belarus and considered as real estate under Belarusian law;
- allocation of money in non-resident banks or money transfer to non-residents (except for banks non-residents) under the terms and conditions of trust management;
- the extradition and receipt of financial credits and/or loans;
- settlements on obligations of resident (except for bank), which is guarantor, surety before non-resident according to the guarantee or surety contract, concluded by them;
- settlements on obligations of resident (except for bank) toward non-residents (except for bank) according to debt transfer agreement or assignment of claim agreement.

Currency operations by residents associated with movements of capital require permissions of the National Bank of the Republic of Belarus, if other rules are not stipulated by Law or by the President of the Republic of Belarus. To carry out these foreign exchange transactions by non-residents permits of the National Bank are not required.

4.1. Implementation of Foreign-Trade Operations

Export and import transactions are traditionally subject to special control by the public authorities. According to the Decree of the President of the Republic of Belarus of March 27, 2008 № 178, foreign-trade transactions with amount of 3 000 Euros or more are subject to registration in the bank. Registration will take place on the date of submission of the document that forms the foreign-trade contract. In addition, companies, engaged in foreign trade operations, are entitled with the right not to register the transaction with the pre-payment in full (for export) or pre-arrival of goods in full (for import).

Under Belarusian legislation advance payments for import by Belarusian residents in favor of non-residents require a permission of the National Bank of the Republic of Belarus, except for the following advance payments:

1. Advance payments that are made by residents of Belarus from accounts opened in banks of Belarus in foreign currencies at the expense of importers in foreign currency that is acquired after November 15, 2008 as:

- contributions to statutory fund;
- foreign donations;
- dividends and other investment income;
- interest on the loan agreements concluded with non-residents;
- interest for the allocation of foreign currency bank accounts;
- interest on debt obligations of banks Belarus.

2. Advance payments that are made by residents of the Republic of Belarus from the accounts opened in foreign currency in banks of the Republic of Belarus, at the expense of foreign currency received under loan agreements (credit agreements) concluded with non-residents.

3. Advance payments that are made by residents of Belarus from the accounts opened in foreign currency in banks of Belarus, at the expense of revenue available in foreign currency. In

particular, revenue is cash in foreign currency received from legal entities and individuals under agreements including:

- with resident legal entities and non-resident individuals engaged in entrepreneurial activity on a reimbursable basis: the transfer of goods, proprietary information, exclusive rights of intellectual property, property rent, works and services;
- from the banks of Belarus, the non-resident banks, other foreign credit institutions: financing (factoring) on monetary obligations arising from the transactions mentioned above, or registration (purchase) of securities, performing the function of settlement documents for such transactions;
- with individuals: the realization of goods (works, services) for foreign currency in Belarus and abroad;
- with resident legal entities (commissioners): reimbursable transfer of goods for export sales by consignor.

4. Advance payments that are made by residents of Belarus from accounts opened in banks of Belarus to non-residents registered in the Russian Federation on foreign trade agreements providing for the import of Russian goods, works and services.

5. Advance payments that are made by residents of Belarus from accounts opened in banks of Belarus to non-residents in foreign trade operations carried out under foreign trade contract providing for the import of goods, works and services:

- to residents with special permits (licenses) for carrying passengers and freight – on costs associated with transportation of cargo and passengers, as well as payment of taxes and charges, passing through the territory of foreign states;
- to forwarding organizations – for the costs associated with imports of services undertaken by railway, air and sea transport.

The innovation of 2011 is that till March 1, 2012, settlement of payments on foreign-trade contracts by importer with non-resident, when total sum of monetary obligations of importer exceeds 50 000 Euros in equivalent (with regard to the sum of obligations under all additional agreements (specifications) to it) and providing for import of goods in accordance with the list, approved by the Decision of the Council of Ministers of the Republic of Belarus and National Bank of the Republic of Belarus № 240/5 of February 25, 2011 “On Settlements on Import of Certain Goods”, is carried out only:

1. at the expense of revenue in foreign currency available to importer;
2. at the expense of foreign currency available to importer, received as:
 - contributions to statutory fund;
 - foreign sponsor support;
 - dividends and other profits from investments;
 - interests from loan agreements with non-residents;
 - interests from foreign currency on bank accounts;
 - interests from bank obligations;
3. at the expense of foreign currency received under loan agreements (credit agreements) with non-residents on term of not less than 1 year;
4. at the expense of foreign currency received under credit agreements with banks of Belarus on term not less than 1 year;
5. in other cases subject to receipt of permission of the National Bank of the Republic of Belarus.

Herewith, it is not allowed to buy foreign currency on internal currency market for repayment of debt on loan agreements (credit agreements) mentioned above within 1 year from the date of their conclusion.

5. The Tax System

5.1. General Information

The Tax Code of the Republic of Belarus, which is made up from the Primary part and Special Part, is the main document that defines the structure of the tax system in the country.

The Primary Part formulates the notions of tax obligation, taxpayers, and an object of taxation. It also contains regulations regarding tax accounting and control, and describes the procedure of appealing decisions made by tax authorities. The Tax Code was adopted on January 1, 2004.

The Special Part of the Tax Code, entering into legal force on January 1, 2010, regulates particular taxes and duties, defines taxpayers, objects of taxation, rates, procedure of tax calculation and payments of respective taxes and duties.

According to the Tax Code of the Republic of Belarus, tax payments are subdivided into republican taxes, duties (tariffs) and local taxes and duties.

Republican taxes include the following:

- value added tax;
- profit tax;
- excises;
- tax on income of foreign organizations, which do not operate through permanent representative office in Belarus;
- income tax on individuals;
- property taxes;
- land tax;
- ecological tax;
- tax on extraction (subtraction) of natural resources;
- duty for passage of automobile vehicles of foreign states on public roads of the Republic of Belarus;
- off-shore duty;
- stamp duty;
- consular fees;
- state due;
- patenting duties;
- custom tariffs and duties.

Local taxes and duties include the following:

- dog owners tax;
- resort levy;
- levy for packer shippers.

There are also other types of payments:

- dues to the Social Welfare Fund for social needs;
- dues paid by employers for obligatory insurance of employees against professional illnesses and accidents at production facilities.

5.2. Taxation of Business Entities

Together with general taxation system there are specific regimes of taxation, which provide a number of benefits, reduced tax rates, a complete or partial deferral of some taxes or even full exemption.

5.2.1. The general system of taxation: primary payments

1. Excises are used for the following types of goods:

1. ethyl rectified industrial alcohol;
2. alcoholic beverages;
3. non-food alcohol-containing production;
4. beer, beer cocktail;
5. low alcoholic beverage with overall volume part of alcohol from 1.2 to 7 %, wines with overall volume part of alcohol from 1.2 to 7 %;
6. tobacco;
7. gasoline;
8. diesel and bio-diesel fuel;
9. boat fuel;
10. liquefied hydrocarbon gas and natural compressed fuel gas, used as automotive fuel;
11. diesel motor oil and/or carburetor (injector) engine oil;
12. station wagons and vehicles, including converted to trucks.

Excise rates for goods can be set in absolute amounts on a physical unit of measurement of the goods (fixed (specific) rate) or in percentage points from the cost of goods (added value rates).

2. The value added tax is included into the price of products and services.

Major VAT rates:

- 0 %;
- 0.5 %;
- 9.09 %;
- 10 %;
- 16.67 %;
- 20 %.

0 % on the sale of:

- goods placed under the customs procedure for export and exported (without obligation to re-importation into the territory of Belarus) to the states members of the Customs Union;
- activities (services) connected with accompanying, loading, transfer and other similar activities directly connected with the selling of exported goods;
- exported transport services including transit transportation, and also exported work (services) to produce goods from take-back feedstock;
- repair works (modernization, re-equipment) of aircraft and their engines, units of trains, performed for foreign organizations or individuals.

0.5 %:

- on import into territory of Belarus from the states members of the Custom Union of rough and cut diamonds of all sorts and other precious stones for production needs.

9.09 %:

- on sales of goods (works, services) at administered retail prices taking into consideration the VAT.

10 %:

- on sale of goods of Belarusian origin from crop production (with the exception of flowers and decorative plants), livestock breeding (with the exception of fur farming), pisciculture and bee farming;
- on foodstuffs and goods for children that are included in the list approved by the President of the Republic of Belarus;

16.67 %:

– on sale of goods (works, services) at administered retail prices taking into consideration the tax

20 % on all other goods and services excluding above listed and those exempt from taxation.

The sum of VAT, subject to payment to state budget, is defined as difference between general sum of tax, calculated at the end of reporting period and the sums of tax reductions.

As a general rule, VAT deductions are made on an accrual basis in limits of sums of VAT, calculated after realization of the goods (works, services), proprietary interests.

The following sums of VAT are recognized as tax reductions:

1. Sums, presented for payment by sellers, registered as taxpayers in the Republic of Belarus, to a taxpayer while purchasing the goods (works, services), proprietary interests in Belarus.

2. Sums, paid by taxpayer for import of the goods to the territory of Belarus.

3. Sums, paid to state budget for the goods (works, services), purchased on the territory of the Republic of Belarus from foreign organizations, which are not registered as taxpayers in the Republic of Belarus.

Tax period of VAT is 1 year.

Reporting period of VAT is a calendar month or a calendar quarter by choice of taxpayer.

Taxpayers submit tax declaration (calculation) to the tax bodies not later than 20th date of month, following expired reporting period.

Payment of VAT is made not later than 22nd date of month, following expired reporting period.

3. Profit tax. The object for profit tax is accrual profit as well as dividends and similar incomes, gained by Belarusian organizations.

Accrual profit of Belarusian organizations is the sum of profit from realization of the goods (works, services), proprietary interests and non-realization incomes, mitigated to the sum of non-realization expenses.

Main tax rate of profit tax **24 %**.

The rate of tax on dividends is **12 %**.

Tax period of profit tax is calendar year.

Taxpayers submit profit tax declaration (calculation) on the results of tax period to the tax bodies no later than 20th March of year, following the expired tax period.

As a general rule, taxpayers shall calculate the amount of profit tax payable by the current payments, by one of the following methods:

1. Based on the results of the taxpayer activities for the tax period directly preceding the current tax period. Profit tax payable on current payments for each period is 1/4 of the amount of profit tax for the tax period directly preceding the current tax period.

2. Based on the amount of profit tax, estimated on the results of the current tax period, which shall be not less than 80 % of the actual amount of profit tax for the current tax period. Profit tax payable on current payments for each period shall be 1/4 of the estimated amount of profit tax.

Taxpayers make the following payments:

– amount of profit tax payable by current payments – not later than 22nd March, 22nd June, 22nd September and 22nd December of the current tax period, and starting with the tax period in 2012 – not later than 22nd April, 22nd July and 22nd October of the current tax period, 22nd January of the year following the tax period.

– amount of profit tax on the results of expired tax period reduced by the amount of profit tax payable on the results of expired reporting periods, and since the tax period in 2011 – the amount of profit tax on the results of expired tax period reduced by the amount of profit tax payable by current payments on time – not later than 22nd March of the year following the expired tax period.

4. Profit tax of foreign organizations which do not operate in Belarus by virtue of the permanent representative office

The object of taxation is the following income received by taxpayer from sources in Belarus:

1. conveyance fee, freight in connection with the carrying out of international carriage, as well as for the provision of freight forwarding services;
2. interests (coupon) income from any kinds of debts no matter of way of registration, including:
 - income on credits and loans;
 - income from securities, which terms of issue is intended to gain profits in the form of interests (discount);
 - income from the use of temporary available funds in bank accounts in Belarus;
3. royalty;
4. dividends and similar income;
5. income from the sale of goods in the territory of the Republic of Belarus under the contracts, commission and other similar civil-law contracts;
6. income from holding and organization of concert and entertainment events, including concerts, attractions, zoos, circus programs in Belarus;
7. income in the form of penalties (fines) and other types of sanctions for breach of contract;
8. income from the performance of innovative work, including research and developmental work, development of design and technological documentation for prototypes (experimental batch) of goods, manufacturing and testing of prototypes (experimental batch) of goods, design and project work (preparation of feasibility studies, engineering design and other similar work);
9. income from the guarantee and/or surety;
10. income from the provision of disk space and/or a communication channel for placing information on the server and services for its maintenance;
11. income from the alienation of:
 - real estate situated in Belarus;
 - enterprise (or part thereof) as a property complex located in the territory of Belarus, owner of which is a foreign organization;
 - securities in the territory of Belarus (except for stocks) and/or its retirement;
 - shares in the statutory fund (stocks) of organizations in Belarus, or its parts;
12. income from services:
 - consulting, accounting, auditing, marketing, legal, engineering;
 - trust management of real estate situated in the territory of Belarus;
 - courier;
 - mediation;
 - management;
 - recruitment and/or selection of personnel, including individuals, to carry out their professional activities;
 - training;
 - possession of property;

- insurance;
- advertising (except for income paid to foreign organizations associated with the participation of Belarusian organizations and Belarusian entrepreneurs in trade fairs in foreign countries);
- installation, commissioning, testing, maintenance, measurement, testing lines, machinery, equipment, devices, appliances, buildings and intangible assets in the territory of Belarus (except for income derived from training, consultation and/or services in installation, commissioning, testing, measuring and testing lines, machinery, equipment, appliances, fixtures and facilities, which are indispensable for the foreign trade contract for their purchase of the property (on temporary use));
- maintenance and protection of goods;

13. income from real estate situated in the territory of Belarus, handed into trust management;

14. income from providing access to the information complex, its services (modes) and database except income from providing access to the information complex, its services (modes) and database of the automated interbank settlement system, international payment systems, international telecommunications and information transfer systems/or making payments.

The tax base of profit tax is defined as total income, for certain types of income are allowed to deduct the documented costs.

The rates of profit tax are from 6 % to 15 %.

Tax period of profit tax is a calendar month, which accounts for the date of the obligation to pay profit tax.

The tax declaration (calculation) of profit tax is submitted by legal entity of Belarus, foreign organization or individual entrepreneur, accrued and/or pay income of a foreign organization which does not operate in Belarus through the permanent representative office, to tax bodies at the place of registration of these legal entities, foreign organizations, or individual businessmen not later than 20th of the month following the tax period.

Profit tax is to be paid not later than 22nd of the month following the tax period.

5. Real estate tax. The object of taxation for organizations are buildings or other real estate.

Taxable amount of real estate tax is defined by organization on the basis of building and other real estate, existing to the 1st January of calendar year based on residuary value and value of buildings and other real estate of above norm unaccomplished construction.

As a general rule, annual tax rate of real estate tax for organizations is 1 %. Local authorities may establish raising factors to the rate of tax.

Tax period of real estate tax is one calendar year.

Real estate tax is to be paid by organizations not later than 22nd of the first month of each quarter in the amount of one fourth of real estate tax annual amount.

6. Ecological tax is levied on entities that exploit natural resources and entities which pollute the environment. The law stipulates a number of rates for the ecological tax. Depending on the particular subject of taxation there are fixed rates for emissions of pollutants into the air and wastewater discharges, storage and disposal of industrial wastes, import of ozone-destroying substances to the territory of Belarus, including those contained in the products.

Tax period of ecological tax, except the ecological tax for import of ozone-destroying substances to the territory of Belarus, is one calendar quarter.

Tax payers submit each quarter tax declaration (calculation) to tax bodies not later than 20th of month, following expired tax period.

Ecological tax is to be paid each quarter not later than 22nd of month, following expired tax period.

7. Land tax is levied on land plots, situated on the territory of Belarus:

- belonging to individuals under the right of ownership, lifetime inheritable possession or temporary use;

- belonging to organizations under the right of ownership, permanent or temporary use.

Taxable amount of land tax is generally defined in the amount of cadastre value of land plot.

Tax rate of land tax depends on the function of land plot.

Tax period of land tax is calendar year.

Tax payers – organizations submit tax declarations (calculations) of land tax to the tax bodies each year not later than 20th of February of current year. Tax declarations (calculations) regarding newly granted land plots are to be submitted not later than 20th of month, following the month, in which the decision of competent state body was approved, serving as a ground for creation or handing over of a right to a land plot.

Land tax is to be paid during tax period each quarter by equal parts not later than 22nd of 2nd month of each quarter. Land tax for lands, for which the authorized state body made a decision which is the basis for the creation or passage of a right to the land in November, is to be paid not later than 22nd of December. Land tax for rural lands is to be paid not later than 15th April, 15th July, 15th September, 15th November in the amount of one quarter in the sum of one quarter of annual sum.

Land tax on rented land plots is levied in the amount, defined by legislation, by the procedure similar to the calculation of land tax.

8. Payments From the Remuneration of Labor Fund

Obligatory insurance payments to the Social Welfare Fund and Pension Fund

The amounts of obligatory insurance payments against retirement, disability, loss of breadwinner (pension insurance) for employer is 28 %.

The amount of obligatory fees of insurance in case of temporary incapacity for work, pregnancy and childbirth, care for children under 3 years, granting of one day-off in month to mother (father, guardian), bringing up the child with disabilities in the age of under 18 years, death of insured person or a member of his (her) family (social insurance) for employers, natural persons independently paying obligatory insurance payments (except for citizens working outside of Belarus), Belgosstrakh (for persons who obtain surcharge to monthly average wage or insurance temporary disablement allowance) is 6 %.

Payments of obligatory insurance fees to the Social Welfare Fund and Pension Fund are made by payers at single payment.

The objects of charge by insurance fees to Social Welfare Fund are all monetary and/or natural payments, calculated in favour of working citizens under all grounds, irrespectively on sources of financing (hereinafter – payments), including remuneration under civil-law contracts except for those provided for by a list of payments, which are not subject to insurance fees to the Fund, approved by the Counsel of Ministers of the Republic of Belarus. Payments cannot exceed the amount of four average wages in the Republic of Belarus for month, previous the month in which obligatory insurance fees are to be paid.

9. Income tax of individuals. The object of taxation of income tax of individuals is income earned by taxpayers from the sources in Belarus as well as abroad.

Organizations, hiring employees on the basis of labour contract or civil-law contract, fulfill obligations of tax agents and withhold the tax from incomes of citizens and transfer it to state budget. The most spread source of income of natural persons is remuneration for labour paid by organizations, including money and other allowances. Belarusian legislation provides various deductions reducing taxable income of individuals.

General rate of income tax is 12 %.

Tax agents are obliged to withhold calculated sum of income tax of individuals directly from income of payer at the moment of remuneration.

Tax agent has to withhold calculated sum of income tax from individuals. Such a withholding is produced from any monetary assets paid to taxpayer by tax agent. Withholding is to be made at the moment of payment to a taxpayer or to third parties on behalf of him (her).

10. Insurance fees of obligatory insurance against professional illnesses and accidents at production facilities are calculated on the basis of premiums to be paid out under labour and civil-law contracts. The rates are calculated in percentages depending on the risks of insured accidents. The latter depend on the types of business activities of employer.

5.3. Special Tax Regimes

Belarusian legislation provides the following special tax regimes for business entities:

- Simplified tax system;
- Taxation in free economic zones (СЭЗ);
- Business activity in Park of High Technology (ПВТ);
- Business activity in small towns;
- Business activity in rural communities;
- Single tax for producers of agricultural products;
- Tax for gambling business;
- Tax on income from lottery activity;
- Tax on income from electronic interactive games.

5.3.1. Simplified tax system

The scope of the system is activity of small enterprises with the level of income no higher than the size, stated by the legislation. Organizations, willing to apply simplified tax system are required to satisfy the following criteria: simultaneous observance of average number of workers and a total gain within first nine months of the year previous the year from which the system is applied: number of workers shall be not more than 100 persons (for legal entities), total gain makes no more than 3 090 150 000 Belarusian rubles (for individual entrepreneurs).

Simplified tax system cannot be applied with regard to certain types of activity (alcohol production, tobacco production, gambling business, lottery activities, tourism, professional activity on stock exchange, insurance activities and others).

Under simplified tax system a vast number of taxes are replaced by one or two taxes with simplified procedure of calculation.

Currently business entities can use one of four following variants of simplified tax system:

- tax at a rate of 8 % – for legal entities and individual entrepreneurs, which do not pay VAT;
- tax at a rate of 6 % – for legal entities and individual entrepreneurs, which do pay VAT;
- tax at a rate of 3 % – for legal entities and individual entrepreneurs with regard to earnings from realization of the goods and services outside the territory of Belarus.

Tax at a rate of 15 % – for legal entities and individual entrepreneurs, using gross income as a base of taxation.

Business entities, paying tax in accordance with simplified tax system are exempt from conducting accounting recording and reporting and make recording in the book (ledger) of incomes and expenses of legal entities and individual entrepreneurs, using simplified tax system.

5.3.2. Taxation in free economic zones

Currently in Belarus there are six free economic zones: «Minsk», «Brest», «Gomel-Raton», «Mogilev», «Grodno-Invest», «Vitebsk».

Taxation in free economic zones is specified by granting a list of privileges and benefits (exemption from payments of import custom duties, some other payments, and reduced tax rates).

Tax privileges of residents:

- rate of profit tax is reduced on 50 % (but it is not less than 12 %);
- profit of free economic zone residents, gained from realization of the goods (works, services) of their own production, is exempt from taxes during 5 years starting from declaration of profit;
- exemption from real estate tax for buildings, located on the territory of free economic zones, irrespectively of their designated function;
- payment of VAT at the rate of 10% from realization of the goods of own production, which are manufactured on the territory of Belarus and are recognized as import-substituting production.

Custom privileges:

- custom regime of free custom zone (without fulfillment of obligation on payment of import custom duties, taxes, except levy for custom clearance);
- exemption from import custom duties, VAT and excises, levied by custom bodies, on processing of the goods inserted under the regime of free custom zone and free circulation.

Some of above listed privileges are only applied with regard to realization of the goods:

- outside Belarus;
- import-substituting goods, produced by free economic zone residents on the territory of free economic zone;
- by free economic zones residents of the goods, which where produced by other free economic zones residents on the territory of free economic zone.

In order to become a resident of free economic zone, it is necessary to satisfy the following requirements:

- place of business – the territory of free economic zone;
- conclusion of contract with free economic zone administration, concerning the terms of activities within free economic zone;
- range of investments not less than 1 000 000 Euros.

5.3.3 Taxation of High Technologies Park residents

High Technologies Park was created in order to develop high-tech production in Belarus. The main direction of activity of High Technologies Park residents is elaboration of software and informational systems.

The regime is applied by organization and individual entrepreneurs, which are registered as High Technologies Park residents and which carry out certain types of activity, connected with software, data processing with, fundamental and applicable researches, experimental works in the sphere of natural and technical sciences.

Tax privileges of High Technologies Park residents:

1. Exemption from:

- Profit tax;
- VAT on turnovers from realization of the goods (works, services, proprietary interests to the objects of intellectual property);
- Land tax from land plots in limits of High Technologies Park for the period of construction of buildings, designated to business activity of High Technologies Park residents, but no longer than for three years;
- Real estate tax on fixed assets and objects of unaccomplished construction of High Technologies Park residents, situated on the territory of High Technologies Park;
- Off-shore duty in case of payment (transfer) of dividends to founders (shareholders).

2. Obligatory insurance fees are not compounded on income of employees of High Technology Park residents, which exceeds the amount of one monthly average wage in the Republic of Belarus.

3. Income of individuals, earned during calendar year under labour contracts, as well as income of individual entrepreneurs – High Technologies Park residents, are taxable at a rate of 9 %.

4. reduced tax of 5 % for foreign organizations, which do not operate through permanent representative office in Belarus, gained by High Technologies Park residents on dividends, debt obligations, royalties, license agreements.

Customs privileges:

- exemption from custom duties and VAT in case of import of the goods to the custom territory of Belarus for the purposes of business activity.

5.3.4. Taxation in small settlements

Legal entities established and carrying out activity on the territory of Belarus in small towns (under 50 thousand of people) since April 1st, 2008 are subject to special tax regime that is aimed to inspire development of small towns economy.

Special regime does not apply to banks, non-bank financial organizations, insurance companies and professional participants of stock exchange, residents of Free Economic Zones and High Technologies Park and others).

Specifics of taxation:

1. Within 5 years since establishment companies are exempt from:

- profit tax with regard to the goods of its own production;
- other taxes and duties, except VAT, excises, stamp, off-shore levy, state due, custom duties, land tax, ecological tax, taxes that it calculate, withhold and transfer as tax agents.

Additional advantages:

- exemption from import customs duties and VAT on technologic facilities, components and spare parts imported into custom territory of Belarus (except VAT on the goods imported from the Russian Federation) in order to contribute the rest part to or increase of statutory fund of legal entities subject to this special regime.

5.3.5. Single tax for producers of agricultural products

Single tax for producers of agricultural products at a rate of 2 % of gross earnings from realization of agricultural products.

Payment of single tax replaces payments of all taxes, duties, and other obligatory payments to state budget and non-budgetary funds except excises, VAT, tax on dividends and similar income, state dues, license and registration fees, obligatory insurance payments to Social

Welfare Fund of the Ministry of Labour and Social Security, duties to budget target employment fund, as well as import customs duties.

5.3.6. Tax on gambling business

Legal entities and individual entrepreneurs are exempt from VAT and profit tax (legal entities), income tax of individuals (individual entrepreneurs) in the sum of income received from gambling business. As for activities which do not relate to gambling, organizations and individual entrepreneurs pay taxes according to the common rules.

The objects of tax on gambling business are: gambling tables; slot machines; bookmaker office counters; totalizator counters.

The rate of tax on gambling business is defined in Euro on each object of taxation in month. Tax rates vary depending on location of casino, slot machines, bookmaker office counters; totalizator counters. The limits of rates are: from 80 to 3 500 Euros.

5.3.7. Tax on income from lottery activity

Tax payers are legal, which organize lotteries. Only state, state bodies, local executive committees, state legal entities can be organizers of lotteries on the territory of the Republic of Belarus.

Payers are exempt from VAT and profit tax in the sum of incomes earned from organization of lotteries. Other incomes are taxable according to the common rules.

The rate of tax is 8 % of income from lottery activity in month.

5.3.8. Tax on income from organization of electronic interactive games

Tax on income from organization of electronic interactive games is paid by legal entity which organize electronic interactive games and replaces VAT and profit tax.

The rate of tax is 8% of income from lottery activity in month.

5.3.9. Other privileged tax regimes

Other privileged tax regimes are established in order to inspire development of business activity in certain priority branches of national economy as well as economy of small towns and rural communities.

In particular, the following privileged tax regimes are provided in Belarus:

- single tax for individual entrepreneurs and other individuals;
- levy for craft activity;
- levy for services of agroecotourism.
- exemption of member of scientific-technological association «Infopark» from all taxes with the exception of two that are: dues to the Social Welfare Fund and profit tax at a reduced rate.

5.4. Taxation of Individuals

Individuals who are not involved into entrepreneurial activities pay the following taxes in Belarus:

- income tax on individuals;
- land tax;
- real estate tax.

The primary tax is income tax. It is paid on incomes from labour activity, works (services) provided under civil law contracts; royalties; and on other incomes.

The calculation of the income tax is carried out according to a flat rate.

The rate of 15 % applies to income of individual entrepreneurs and private notaries.

The rate of 9 % is used for the following incomes:

- income received by individuals (with the exception of workers who service and guard buildings and territories) working for residents of High Technologies Park under labour contracts;
 - individual entrepreneurs that are residents of High Technologies Park;
 - individuals working under labour contracts within the frameworks of a business project in the field of innovative technologies initiated by non-residents of High Technologies Park.
- In all other cases the tax is calculated at the rate of 12 %.

5.5. Agreements on Avoidance of Double Taxation

In order to avoid double taxation the Republic of Belarus signed a vast number of bilateral agreements with other states. Currently there are 59 such agreements with different countries (including Austria, Azerbaijan, Armenia, Bahrain, Belgium, Bulgaria, the United Kingdom, Hungary, Venezuela, Vietnam, Denmark, Egypt, Israel, India, Iran, Spain, Italy, Kazakhstan, Qatar, Cyprus, China, Korean Popular-Democratic Republic, Korea, Kirgizstan, Kuwait, Latvia, Lebanon, Lithuania, Macedonia, Malaysia, Moldova, Mongolia, Netherlands, UAE, Oman, Pakistan, Poland, the Russian Federation, Romania, Slovakia, Syria, USA, Tajikistan, Thailand, Turkmenistan, Turkey, Uzbekistan, Ukraine, Finland, France, Germany, Croatia, Switzerland, Sweden, Check Republic, Estonia, Yugoslavia, SAR, Japan).

5.5.1. Rates of tax on profits in the form of dividends in agreements on avoidance of double taxation

No	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid only in state that is location of dividend beneficiary.	Great Britain*		
2	Rate of tax levied in state that is location of payer of dividends is differentiated depending on many factors and can be more or less than 12% rate, provided for by Belarusian legislation.	Austria* Belgium* Hungary* Venezuela* Italy* Korea* Macedonia* Finland* Croatia* Switzerland* Yugoslavia* SAR*	Up to 5%	With a not less than 25 % share in the statutory fund.
			Up to 15%	In all other cases.
		Armenia*	Up to 10%	With a not less than 30 % share in the statutory fund.
			Up to 15%	In all other cases.
		India* Iran* Pakistan* Slovakia* Turkey*	Up to 10%	With a not less than 25 % share in the statutory fund.
			Up to 15%	In all other cases.
		Cyprus*	Up to 5%	With a not less than 200 000 Euros share in the statutory fund.
			Up to 10%	With a not less than 25 % share in the statutory fund.
			Up to 15%	In all other cases.
		Netherlands*	Up to 5%	With a not less than 25 % share in the statutory fund.
			Up to 15%	In all other cases.
			Only in state that is location of dividend beneficiary.	With a share of not less than 50% with a cost of not less than 250 000 Euros .

		UAE*	Up to 5%	With a not less than 100 000 Euros share in the statutory fund.
			Up to 10%	In all other cases.
		Poland*	Up to 10%	With a not less than 30 % share in the statutory fund.
			Up to 15%	In all other cases.
		Germany*	Up to 5%	With a share of not less than 20% with a cost of not less than 81 806.70 Euros .
			Up to 15%	In all other cases.
		Sweden*	Only in state that is location of dividend beneficiary.	With 100% share in the statutory fund, but only with regard to profit, from which dividends are paid, that is received from industrial or manufacturing activity, or rural, forest and fish industry or tourism (including restaurants and hotels). However, such exemption is not applied, when profit, from which dividends are paid, is exempted from tax in another state.
			Up to 5%	With a not less than 30 % share in the statutory fund.
			Up to 10%	In all other cases.
		Libya* agreement has not entered in force yet	Up to 5%	With a not less than 25 % share in the statutory fund.
			Up to 15%	In all other cases.
3	Rate of tax levied in state that is the location of dividends payer, shall not exceed 5% .	Bahrain* Qatar* Kuwait* Oman* Saudi Arabia*	Up to 5%	
4	Rate of tax levied in state that is the location of dividends payer, shall not exceed 7.5% .	Lebanon*	Up to 7.5%	
5	Rate of tax levied in state that is the location of dividends payer, shall not exceed 10% .	Bulgaria* Israel* China* DPRK* Latvia* Lithuania* Mongolia* Romania* Thailand* Czech Republic* Estonia*	Up to 10%	
6	Rate of tax levied in state that is the location of dividends payer, shall not exceed 15% , that is more than tax rate of 12%, provided for by Belarusian legislation.	Azerbaijan* Vietnam* Denmark Egypt* Kazakhstan* Kirgizstan* Malaysia Moldova* Russia Syria* Tajikistan* Turkmenistan* Uzbekistan* Ukraine* Japan*	Up to 15%	
7	Rate of tax levied in state that is the location of dividends payer, shall not exceed 18% .	Spain	Up to 18%	
8	Tax is paid only in state that is the location of dividends payer .	France	Up to 15%	

9	Rate of tax levied in state that is location of payer of dividends is differentiated depending on many factors and cannot be more than 12% provided for by Belarusian legislation.	Ireland*	Up to 5%	With a not less than 25 % share in the statutory fund.
			Up to 10%	In all other cases.

«*» means that in order to apply for rules on place of payment and tax rate provided for by corresponding agreement, dividends beneficiary should be true owner of dividends.

5.5.2. Rates of tax on profits in the form of interests in agreements on avoidance of double taxation

№	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid only in state of permanent location of interests beneficiary.	Great Britain Denmark Spain	Is defined in accordance with the legislation of state of permanent location of interests beneficiary.	
2	Rate of tax levied in state that is location of payer of interests is differentiated depending on many factors and cannot be more than 10% provided for by Belarusian legislation.	Switzerland*	Up to 5%	With any types of loans provided by bank.
			Up to 8%	In all other cases.
		SAR*	Up to 5%	If interests beneficiary is bank or any financial institution that is resident of SAR.
			Up to 10%	In all other cases.
3	Rate of tax levied in state that is the location of interests payer , shall not exceed 5%.	Austria* Bahrain* Hungary* Venezuela* Iran* Qatar* Cyprus* Kuwait* Lebanon* Netherlands* UAE* Oman* Finland* Germany* Sweden* Czech Republic* Ireland* Saudi Arabia* Libya* agreement has not entered in force yet	Up to 5%	
4	Rate of tax levied in state that is the location of interests payer , shall not exceed 8%.	Yugoslavia* Italy*	Up to 8%	
5	Rate of tax levied in state that is the location of interests payer , shall not exceed 10%.	Azerbaijan* Armenia* Belgium* Bulgaria* Vietnam* Egypt* Israel* India* Kazakhstan* China* DPRK* Korea* Kyrgyzstan*	Up to 10%	

		Latvia* Lithuania* Macedonia* Moldova* Mongolia* Pakistan* Poland* Russia* Romania* Slovakia* Syria* Tajikistan* Thailand* Turkmenistan* Turkey* Uzbekistan* Ukraine* Croatia* Estonia* Japan*		
6	Rate of tax levied in state that is the location of interests payer, shall not exceed 15%.	Malaysia*	Up to 15%	
7	Tax is paid only in state that is the location of interests payer.	France	Up to 10%	Except for interests on bank credits and loans and interests on commercial loans, that are taxed in state that is the location of interests beneficiary with tax rates provided for in this state.

«*» means that in order to apply for rules on place of payment and tax rate provided for by corresponding agreement, interests beneficiary should be true owner of interests.

5.5.3. Rates of tax on profits in the form of royalty in agreements on avoidance of double taxation

№	Types of international agreements on avoidance of double taxation	States	Tax rates	Conditions of tax rates application
1	Tax is paid only in state that is the location of royalty beneficiary.	Great Britain* Denmark (P) Poland* France (PEC) USA (PEC)		
2	Rate of tax levied in state that is location of payer of royalty is differentiated depending on many factors and cannot be more than 15% rate, provided for by Belarusian legislation.	Venezuela*	Up to 5%	When using or granting right on usage of any copyright on product of science, any software, trademark or for usage or granting right on usage of all types of equipment and vehicles.
			Up to 10%	In all other cases.
		Israel*	Up to 5%	When granting or using any copyright on product of literature, science and art (except for video films) or when using or granting right on usage of industrial, commercial or scientific equipment or vehicles.
			Up to 10%	In all other cases.
		Malaysia*	Up to 10%	When using or granting right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or copyright on science product, or for usage or granting right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.

			Up to 15%	When using or granting right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on product of literature or art.
		Netherlands*	Up to 3%	When using or granting right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or copyright on science product, or for information on industrial, trade or science experience.
			Up to 5%	When using or granting right of usage of any industrial, trade or science equipment, including road vehicles.
			Up to 10%	When using or granting right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on product of literature, science or art.
		UAE*	Up to 5%	When using or granting right of usage of any copyright on products of science, any patent, trademark, blueprint or model, plan, secret formulae or process, or for usage or granting right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.
			Up to 10%	When using or granting right of usage of cinematographic films or tapes for radio broadcasting and television, any copyright on product of literature or art.
		Slovakia*	Up to 5%	When granting right of usage of any copyright on products of literature, science and art, including video films or films or tapes and other means of image or sound transition.
			Up to 10%	When using or granting right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or for information on industrial, trade or science experience or vehicles.
		Germany*	Up to 3%	When using or granting right of usage of copyright on product of science, patent, trademark, design or model, plan, secret formulae or process, or for information on industrial, trade or science experience.
			Up to 5%	When using or granting right of usage of copyright on products of literature or art, including video films and films or tapes for radio broadcasting and television, or for usage of any types of equipment and vehicles.
		Switzerland*	Up to 3%	When using or granting right of usage of any patent, secret formulae or process, or for information on industrial, trade or science experience.
			Up to 5%	When using or granting right of usage of any industrial, trade or science equipment, including vehicles.
			Up to 10%	In all other cases.
		Sweden*	Up to 3%	When using or granting right of usage of any patent, secret formulae or process, or for information on industrial, trade or science experience.
			Up to 5%	When using or granting right of usage of any industrial, trade or science equipment.
			Up to 10%	In all other cases.
		SAR*	Up to 5%	When using or granting right of usage of any industrial, trade or science equipment, including vehicles.
			Up to 10%	In all other cases.

			Only in state of location of royalty beneficiary.	When using or granting right of usage of any copyright on product of literature, art or science, including cinematographic films and films or tapes for radio broadcasting or television.
		Japan*	Up to 10%	When using or granting right of usage of any patent, trademark, blueprint or model, plan, secret formulae or process, or for granting right of usage of industrial, trade or science equipment, or for information on industrial, trade or science experience.
3	Rate of tax levied in state that is location of payer of royalty cannot be more than 5%.	Austria* Bahrain* Belgium*(S) Hungary* Iran* Qatar* Cyprus* Korea* Lebanon* Ireland* Libya* agreement has not entered in force yet	Up to 5%	Exception: profits from usage or granting right of usage of copyrights on literature, dramaturgic and musical products (except for profits from video films and any means of play of image or sound, used for radio broadcasting or television), are levied by tax only in state of location of royalty beneficiary.
		Spain*		
4	Rate of tax levied in state that is location of payer of royalty cannot be more than 6%.	Italy*	Up to 6%	
5	Rate of tax levied in state that is location of payer of royalty cannot be more than 10%.	Azerbaijan*(CP) Armenia* Bulgaria* DPRK* Kuwait* Latvia* Lithuania* Macedonia* Mongolia* Oman*(S) Russia* Turkey* Croatia*(S) Czech Republic* Estonia* Yugoslavia* Saudi Arabia*	Up to 10%	
6	Rate of tax levied in state that is location of payer of royalty cannot be more than 15%.	Vietnam* Egypt* India* Kazakhstan* China* Kirgizstan*(CP) Moldova* Pakistan* Romania* Tajikistan* Thailand* Turkmenistan*(CP) Uzbekistan*(CP) Ukraine*	Up to 15%	

7	Rate of tax levied in state that is location of payer of royalty cannot be more than 18%.	Syria*	Up to 18%	

«*» means that in order to apply for rules on place of payment and tax rate provided for by corresponding agreement, royalty beneficiary should be true owner of royalty.

Used abbreviations:

«P» – program

«PEC» – program for electronic computer

«S» – software

«CP» – computer program

6. Insurance Market

6.1. Forms of Insurance

Activities of any insurance organizations, insurance brokers established outside the Belarus within the territory of the Belarus without state registration at the Ministry of Finance of the Republic of Belarus (hereinafter referred to as “the Ministry of Finance”) and obtaining a special permit (license) for carrying out of insurance activities are illegal and prohibited except for commercial organizations established after April 1, 2008, except for those established in the result of reorganization, which reside and carry out their activity in areas with population lower than 50 thousand people.

There is voluntary and mandatory insurance.

Voluntary insurance shall be carried out through entering into an insurance contract by and between the insured and the insurer in compliance with the legislation.

The terms on which such voluntary insurance contract is concluded shall be specified in the Rules of the respective type of insurance which are to be approved by such insurer or by the insurers association and agreed with the Ministry of Finance. The validity period of any voluntary life insurance or additional pension insurance contracts may not be less than three years.

Mandatory insurance is effected by any state-owned insurance organizations and/or by any other insurance organizations, provided more than 50 % of shares (common or other voting shares) in the statutory fund is owned by the Republic of Belarus and/or its territorial administrative units, unless otherwise is provided for by the acts of the President of the Republic of Belarus.

The Government shall guarantee insurance payments under any type of insurance with regard to life insurance, any kinds of mandatory insurance, provided insurance contracts have been entered into with the State insurance organizations.

6.1.1. Objects of insurance

The insurance objects are property interests that do not contradict to the legislation and are connected with:

- infliction of any damage to health or life of the insured or any other individual mentioned in the insurance contract (personal insurance other than life insurance);
- reaching by individuals of a certain age, or occurrence of any other insured circumstance provided for in the insurance contract (personal insurance with regard to the life insurance);
- loss (destruction) of any property owned, used or disposed of by the insured or any other beneficiary mentioned in the insurance contract; or infliction of any damage to their property rights, including losses incurred from entrepreneurship as a result of non-fulfillment or improper fulfillment by the contractors of business entity of their respective obligations, or as a result of changing conditions of such entrepreneurship beyond reasonable control of the entrepreneur (property insurance);
- liability for the obligations arising in case of any damage to life, health, or property of any other persons inflicted by the insured or by any other persons on whom such responsibility may be imposed; or liability under the insurance contract (liability insurance).

Objects of mandatory insurance in Belarus are:

- buildings that belong to individuals;
- liability of vehicle owners;

- carrier liability to passengers;
- health and lives of foreign nationals and stateless persons temporarily staying or temporarily residing in Belarus;
- liability of commercial organizations engaged in real estate activities;
- property interests of the insured connected with the loss of crops, livestock and poultry;
- liability of time (crisis) managers in a process of case of economic insolvency (bankruptcy);
- lives and health from industrial accidents and occupational diseases.

6.1.2. Insurers

The notion insurers means any commercial organization established for carrying out of insurance activities that have obtained special permits (licenses) for carrying out insurance activities (hereinafter the insurers or insurance organizations).

Legal entities of Belarus, as well as foreign legal entities that carry out their activities on the territory of Belarus, citizens of Belarus and persons without citizenship who permanently reside in the Belarus, shall insure their property interests in Belarus only with the commercial organizations that have been established for the purpose of carrying out insurance activities and have obtained special permits (licenses) for carrying out insurance activities in Belarus, except for cases mentioned below:

1. The Republic of Belarus and its territorial administrative units, state bodies, state legal persons, and legal persons, decisions of which may be determined by the state due to holding of the controlling block of shares or in another way according to the legislation, shall insure their property interests, except for life insurance, in Belarus and only in the insurance organizations – state legal persons or legal persons, more than 50 % of the statutory fund (ordinary or other voting shares) of which belong to the State and/or its territorial administrative units, provided otherwise established by the President of the Republic of Belarus.

2. In case of carrying out of state procurements of goods, provided that the supplier of such goods is a non-resident of Belarus, the goods shall be insured by legal persons and individual entrepreneurs, who carry out procurement of goods, or by suppliers of goods, if they supply the goods on CIF and CIP conditions (according to the effective version of INCOTERMS), with the state insurance organizations and/or insurance organizations, more than 50 % of the statutory fund (ordinary or other voting shares) of which belong to the State and/or its territorial administrative units. If the above-mentioned insurance organizations refuse to render insurance, the legal person and the individual entrepreneur, who carry out state procurement of goods or supplier of such goods may get insurance in other insurance organizations.

3. Foreign citizens who are temporarily staying in Belarus, and persons without citizenship who temporarily stay or temporarily reside on the territory of Belarus have the right to insure their property interests in Belarus with Belarusian commercial organizations that have been established for the purpose of carrying out insurance activities and have obtained special permits (licenses) for carrying out insurance activities in Belarus, provided that their obligation to be insured with mentioned organizations is not stipulated by this Edict.

6.1.3. State registration

Insurance organizations and insurance brokers are registered in the Ministry of Finance.

The statutory fund of the insurance organization should be paid in full by its founders prior to the date of its state registration.

Insurance organization that is subsidiary (affiliate) to the foreign investor has the right to exercise in the Republic of Belarus insurance activities, if the foreign investor is an insurance organization for not less than 10 years engaged in insurance activities in accordance to the law of the appropriate state.

Quota of the share of foreign insurers in the statutory fund of the insurance organizations of the Republic of Belarus is set up by the Council of Ministers by agreement with the President and it is 30 %.

If such quota is exceeded, Ministry of Finance stops registration of insurance organizations with foreign investments and/or issuing to such organizations licenses for insurance activities.

Professional requirements to the nominee to the post of CEO, deputy CEO and chief accountant of the insurance organization, insurance brokers, and also the managing personnel of subdivisions of the insurance organization, insurance brokers are determined by the Ministry of Finance.

6.1.4. Statutory fund

The minimal amount of statutory fund is determined in the amount equivalent to:

- For insurer does not providing life insurance – 1 000 000 Euros;
- For insurer providing life insurance – 2 000 000 Euros;
- For insurer providing only reinsurance – 5 000 000 Euros.

Minimal amount of statutory fund should be contributed in foreign currency and/or Belarusian rubles at the National Bank exchange rate determined for the corresponding currency to Euro as of the date of the relevant decision of founders, shareholders and asset owners. The share of the statutory fund exceeding its minimal amount may be contributed by the insurer founders in non-monetary form as stipulated by relevant legislation and organizational documents of the organization.

Contribution by foreign investors of their shares (stock) in the statutory fund of insurers and insurance brokers should be done in monetary funds only. After state registration insurer shall at all times have funds available in banks of the Republic of Belarus in the amount of the minimum required statutory fund. Contributed assets shall belong to the founders (shareholders) by virtue of ownership (be in their commercial operation or executive management), required and usable for the insurer operations.

Shareholder's contributions to the statutory fund (shares in the statutory fund), except for contribution (share) of the Republic of Belarus and/or its administrative and territorial units to the charter fund of an insurance organization, established in a form of a joint stock company, limited liability company and additional liability company should not exceed 35 % of the statutory fund.

6.1.5. Activities of insurers

Insurers may only be engaged in insurance and investment activities and activities on assessment of insurance risk and amount of loss, assessment and examination of movable and real property with regard to insurance and issue of reports on its condition, activities on providing services of technical, medical and financial nature to another insurer and insured (insured, suffered or other person claiming for insurance compensation) with the purpose of fulfilling agreements entered into with them on insurance, on providing services to other insurance company in identifying the reason, nature of the loss in case of occurrence of insured event.

Insurers providing life insurance cannot be engaged in any other type of insurance.

Insurance companies of Belarus are obliged to:

- insure the risk of fulfillment of 10 % of its obligations under voluntary insurance agreements other than life insurance, exceeding the legally established standard of liability with subsequent annual increases of insurance liabilities at 10 % only in an insurance organization created by the Council of Ministers of the Republic of Belarus in the form of a public entity to carry out insurance activity solely on reinsurance (hereinafter – Reinsurance Organization), in the manner prescribed by law, on the basis of concluded reinsurance contracts;

- notify reinsurance organization about concluded with other insurance organizations reinsurance contracts in the manner prescribed by the Ministry of Finance.

Insurance companies that are subsidiaries or dependent economic entities with respect to foreign investors, can not exercise in the Republic of Belarus life insurance, compulsory insurance, including mandatory state insurance, property insurance related to the implementation of supply, provision of services or the performance of contract work for governmental needs, as well as insurance of property interests of the Republic of Belarus and its administrative-territorial item.

Intermediary insurance activity is insurance activity by insurance agents and insurance brokers.

Insurance companies may not act as insurance agents or brokers.

Any individual, except for individual entrepreneurs, and organizations other than the insurance ones may act as insurance agents.

An insurance agent is an individual that does not have the status of an individual entrepreneur and carries out activities on the basis of a labour contract or any other civil contract, insurance intermediation in the field of insurance concerned with life insurance – in the name of several insurance organizations, and in the field of insurance concerned with any other types of insurance – in the name of only one insurance organization. An individual performing intermediary insurance activity should have at least general secondary education.

An insurance agent is an organization that carries out insurance intermediation in the name of any insurance organization on the basis of a civil contract. Should such an organization be a state-owned legal person, or a state bank, or a bank authorized to service the State programs, or a Republican State-owned organization, it shall be entitled to carry out insurance intermediation as for all types of voluntary and mandatory insurance. Any other organizations shall only be entitled to carry out insurance intermediation in the field of voluntary insurance.

An insurance agent acts within the powers given by the insurer and performs intermediate insurance activity on his behalf. The rights and obligations arising from acts committed by an insurance agent are acquired by insurer.

Insurance agents are required to pass the insurance premiums they received to the insurer or to transfer them to his bank account.

The only object of the insurance broker activity is the insurance intermediation.

An insurance broker is not entitled to carry out:

- activity by order of insurance companies established outside the Republic of Belarus;
- other activity, except insurance intermediation;
- intermediation activity with regard to types of mandatory insurance, reinsurance of the types of mandatory insurance;
- intermediation activity with regard to type of voluntary insurance, not specified in its special permit (license) for carrying on insurance business.

Intermediate activity related to execution of insurance agreements on behalf of foreign insurers in the Republic of Belarus on behalf of insurance organizations established outside the Republic is prohibited.

6.1.6. Restrictions imposed on insurance activities

The activities performed on mandatory insurance are subject to the following restrictions:

- Mandatory insurance shall be effected by any State insurance organizations and/or by any other insurance organizations, provided more than **50 %** of share (common or other voting shares) in statutory fund thereof is owned by the Republic of Belarus and/or its territorial administrative units, save otherwise is provided for by the acts of the President of the Republic of Belarus;

- “Belgosstrakh” Republican Unitary Insurance Company shall be the only insurer for such types of mandatory insurance as mandatory insurance of any buildings owned by individuals, mandatory insurance of liability of any commercial organizations involved in relating activity, for any damage inflicted in the course of carrying out these activities, mandatory insurance of agricultural products, mandatory insurance from accidents at work and occupational diseases.

6.1.7. Features of ensuring the financial stability of insurers

Insurance organization form reserves from the received insurance premiums to ensure fulfillment of its engagements:

- in the types of insurance connected to life insurance (mathematical reserves),
- in the types of insurance other than life insurance (technical provisions);
- in the mandatory insurance from industrial accidents and occupational diseases, mandatory insurance with state support of crop, livestock and poultry (a special insurance pool).

Insurance organization invests and allocates funds of insurance reserves in the manner determined by the Council of Ministers with the concurrence of the President of the Republic of Belarus.

Insurance reserve funds are not subject to withdrawal from the insurance company, have intended purpose, are used only for insurance payments and are not included into the value of the property of the organization, corresponding with the share of the shareholder in the statutory fund. Property, acquired through such means is a subject to separate accounting.

Means of these reserves should be invested and placed on the terms of repayment, profitability, liquidity and diversification.

Solvency of insurance companies to ensure the fulfillment of its obligations under the insurance, including coinsurance and reinsurance, is assessed according to criteria of solvency determined by the Ministry of Finance.

The insurer, who has accepted the obligations that exceed its ability to pay, is obliged to conclude a contract of reinsurance of the insurance risk which was accepted according to the contract of insurance.

7. Monopolistic Activity and Illicit Competition

7.1. Monopolistic Activity: General Information

The Law of the Republic of Belarus “On counteraction to monopolistic activity and development of competition” (hereinafter referred to as “the Law”) defines monopolistic activity as actions (inactions) of business entities, state bodies, aimed to non-admission, limitation or elimination of competition, as well as actions (inactions) causing damage to consumer rights, freedoms and legal interests.

There are 3 types of monopolies allowed in Belarus: state monopoly, natural monopoly and special monopoly.

State monopoly is the system of social relations according to which state bodies or organizations have exceptional right to carry out certain types of activities (including business activities),

The following types of activities are natural monopolies in Belarus:

- transportation of petrol and oil products through main pipelines;
- transportation of gas through main and distribution pipelines;
- transfer and distribution of electric and thermal energy;
- centralized water supply and water disposal;
- electrical communication and postal services;
- railroad services,
- services of transport terminals and airports;
- exploitation and services of airlines, management of air traffic.

Special monopoly is the system of social relations in the goods market with no or limited competition.

Realization of antimonopoly policy in the Republic of Belarus is conducted by antimonopoly body – the Department of price policy of the Ministry of Economics.

Antimonopoly control in Belarus includes the following types of activity: control over transactions with stock, shares in statutory funds of business entities, reorganization and liquidation of business entities; approval for registration of holding companies, unions, associations and other alliances of business entities.

7.1.1. Antimonopoly control for creation and reorganization of holding companies

As a general rule, creation, reorganization of holding companies, associations, unions and other alliances of business entities are to be effected upon approval of the antimonopoly body.

Creation and reorganization of holding companies are regulated by the Edict of the President of the Republic of Belarus № 660 «On some issues related to creation and activity of holding companies». In accordance with the Edict in order to register a holding company a management company of such holding (owner or authorized representative) must obtain the approval of the antimonopoly body before creation of holding. Thus, it is impossible to create a holding in the Republic of Belarus without the approval issued by antimonopoly body.

After having considered the application of management company the antimonopoly body has the right to either:

- approve the creation (reorganization) of holding company, or
- make a reasonable decision declining the approval, if the creation (reorganization) of holding company may lead to appearance or strengthening of dominating position on goods market and/or limitation of competition, as well as if during the application process the

antimonopoly body discovers the fact that the information submitted is inaccurate and/or incomplete.

The approval or reasonable refusal is to be made within 30-days period of the application and is deemed to be valid during 12 months after issuing.

7.1.2. Antimonopoly control for transactions with stock (shares)

According to Clause 12 of the Law the following transactions with stocks (shares) require the approval of the antimonopoly body:

- a business entity covering more than 30 % of certain goods purchases the shares in the statutory fund of another business entity dealing with the same goods;
- a business entity covering more than 30 % of certain goods enters into transactions with stock of another business entity dealing with the same goods;
- any legal entity or individual, foreign state, international organization purchases more than 25 % of stock (shares) in statutory fund of a business entity, as well as makes a transaction giving to such persons the decision-making power with regard to any business entity having the dominant position on goods market;
- legal entity or individual, the groups of thereof, as well as foreign state, international organization or the bodies thereof acquire control over the business activity of a business entity or carry out functions of its management body (so-called “acquisition of control”).

Regarding the last case from the list above, the provision of the Law seems to be vague as it stipulates no explicit criteria to define which transactions should be considered as acquiring control over activity of the company.

These criteria are listed in the Edict of the President of the Republic of Belarus № 499 “On some measures on improvement of antimonopoly regulation and developing of competition” dated October 13, 2009. According to the Edict the antimonopoly body is entitled to approve acquisition of more than 20% of stocks or shares in the statutory fund of a legal entity (under share purchase agreement, trust agreement, joint venture agreement, agency), if balance sheet value of assets of such legal entity exceeds 100 000 base units as of last reporting date or range of revenues generated from marketing products (works, services) exceeds 200 000 base units following the results of fiscal year.

That is the only case when approval is mandatory. In any other cases there is no need to apply for it.

Normally, it takes 30 days to obtain the decision. As in the case with holding company the decision may be either positive or negative. Negative one is issued if a transaction may result to appearance or strengthening of dominant position of a business entity on goods market and/or limitation of competition.

7.1.3. Non-compliance with the obligation to obtain the approval

Civil law consequences

In accordance with Clause 12 (6) of the Law a transaction made in breach of the Law which has resulted to appearance or strengthening of dominant position of a business entity on goods market and/or limitation of competition, may be invalidated by an action of the antimonopoly body or any interested party in a judicial proceeding.

Non-compliance with this obligation itself will not cause invalidation. Essential condition is the fact that a transaction has resulted appearance or strengthening of dominant position of a business entity on goods market and/or limitation of competition. However this must be proved in court.

Administrative liability

Administrative liability is prescribed for an officer of legal entity. According to Clause 11.24. of the Code of the Republic of Belarus on administrative offences the amount of fine for such offense is from 20 (165 Euros) up to 50 base units (412 Euros).

Criminal liability

Non-compliance with the requirement of the Law falls within the scope of criminal liability in the case if within 1 year of administrative punishment an officer of legal entity has committed the same offense. Under Clause 244 of the Criminal Code of the Republic of Belarus the punishment for such a crime is up to 2 years of imprisonment.

7.2. Illicit Competition

According to the Belarusian legislation illicit competition is any action, aimed to limitation or elimination of competition by violation of right to free competition of other business entities, as well as violation of consumer rights and interests.

The forms of illicit competition can be such actions as illegal using of company name, trade mark and service trademark, illegal copying of goods exterior of other business entity, distribution of inaccurate or mutilate information about activity and goods of competitor in Mass Media and others.

Illicit competition in the Belarus is prohibited. Belarusian legislation provides civil, administrative and criminal sanctions for activity competition.

8. Customs Regulation

8.1. General Information about the Customs Union

The Customs Union (CU) is the international organization based on the “Eurasian economic community” by three member states: the Republic of Belarus, the Russian Federation, the Republic of Kazakhstan for the purpose of trade and economic integration aimed to creation of common customs territory and using unified regulations of trade with third countries.

The CU is based on the Treaty on the Creation of Common Customs Territory and Formation of the Customs union dated October 6, 2006.

Basic principles of the CU:

1. free transition within the territory of the CU:
 - the goods originated from the territory of the member states of the CU;
 - released for domestic consumption within any member state of the CU.
2. The regulation of customs law relations on the level of supranational legislation.
3. The priority of the union legislation before the national legislation.
4. The elaboration of uniform rules and procedures of the customs processing of the goods, imported in the territory of the CU, measures of tariff and non-tariff regulation.

Superior body of the CU is the Interstate Council, based on two levels – the level of Head of State and the level of Head of Government. The uniform standing regulated body of the CU is the Commission of the Customs union (CCU).

Judicial functions of the Customs union are carried out by the Court of the “Eurasian Economic Community”.

The normative base of the CU consists of:

- the international agreements signed by the member-states of the CU.
- the resolutions of the Interstate Council and the CCU adopted pursuant relevant agreements.

The issues which are not regulated by international agreements of the CU fall within the scope of legislation of the Republic of Belarus.

8.2. Tariff Regulation in the Customs Union

Tariff regulation upon import is set out by the Agreement on uniform customs tariff regulation dated January 1, 2008 that provides formation of Uniform Customs Tariff (UCT) to be applied by member states of the Customs Union.

UCT is a list of rates of customs duties to be used with respect to the goods imported from third countries, systemized in accordance with the Uniform Goods Nomenclature of Foreign-economic activity of the Customs Union.

As a general rule, the rates of duties from UCT are uniform and shall not be subject to change depending on persons importing the goods and other circumstances. The procedure of application of the rates of customs duties is determined by each member state depending on the state of origin of imported goods and conditions of importation thereof unless otherwise is set out in the uniform customs tariff.

The sums of import customs duties paid out are apportioned pursuant to the following normative:

- Belarus – 4.70 %;
- Kazakhstan – 7.33 %;
- Russian Federation – 87.97 %.

Export customs duties nowadays are established by national legislation of the state members of the CU. It is planned to arrange in future the regulation of export customs duties on supranational level of the CU.

8.3. Tariff Preferences Applied by the Member States of Customs Union

The rates of customs duties under UCT are uniform and may not be changed depending on persons transferring the goods through customs border, types of transactions or other circumstances, except as provided in the Agreement on Uniform Customs and Tariff Regulation.

The member states of CU can apply tariff preferences only if this is prescribed by the international agreements of CU or decisions of Head of State or CCU. Granting preferences in ex parte manner is not allowed.

Specific grounds for granting tariff preferences are set out in the Agreement on Uniform Customs and Tariff Regulation as well as in the decisions of Head of State and CCU.

Basic principles of tariff preferences:

1. to be applied regardless of the state of origin of the goods;
2. cannot be individual.

Exceptions:

1. preferences provided in the International agreements of CU members in force, executed before January 1, 2010 until unification or termination of relevant agreements.

The Republic of Belarus has entered into the following international agreement signed before January 1, 2010:

- the Agreement on Creation of Free Trade Zone of April 15, 1994 (member states of CIC, Georgia);
- the Agreement between the Government of the Republic of Belarus and the Government of the Republic of Serbia on Free Trade between the Republic of Belarus and the Republic of Georgia dated March 31, 2009.

2. individual preferences: each member state of CU is entitled to provide individual preferences only by approval of CCU.

8.4. Uniform Measures of Non-Tariff Regulation in the Frameworks of Customs Union

The following measures of non-tariff regulations are allowed within the customs territory of CU:

- export ban;
- quantitative restrictions of export and/or import (quota);
- exclusive right to export and/or import;
- foreign-trade licensing;
- supervision for export and/or import.

8.4.1. Quantitative restrictions of export and/or import (quotas)

Export and import quotes may apply upon providing of quantitative restrictions by CCU pursuant the procedure as follows:

- CCU approves a list of essential goods for export.
 - CCU apportions quotes among member-states of CU and determines a method of apportion of quota shares among the subjects of foreign economic activity of CU. If applicable, CCU apportions the volume of import quota among third countries.
 - Quotas exist during certain term.
- Quotas do not apply to:

- exported goods, originated from third countries;
- imported goods, originated from CU;
- trade in the frameworks of international treaties on free trade zones.

8.4.2. Exclusive right to export and/or import

In accordance with the decision of CCU the list of the goods to be exported or imported on the basis of exclusive right as well as organisations that are given exclusive right to export (import) certain types of goods is subject to publication.

At the moment, in the Belarus private companies are entitled to use exclusive right only with respect to import of alcoholics, freshwater fish, fish products after processing and seafood.

8.4.2. Foreign-trade licensing

Licences are required in order to export and import the goods stated in the Uniform list of the goods subject to ban and restrictions upon trade with third countries.

Types of licenses:

- One-time licence

The term of validity is not longer that 1 year after commencement

- General licence

The term of validity is not longer that 1 year after commencement

- Exclusive licence

The term of validity is determined by the decision of CCU in each specific case.

At the moment, in the Belarus private companies are entitled to use exclusive right only with respect to import of alcoholics, freshwater fish, fish products after processing and seafood.

8.5. Indirect Taxation

Indirect taxation in the CU is regulated under the Treaty on the Principles of Levying of Indirect Taxes upon Import and Export of the Goods, Supply of Works, Services in CU dated January 25, 2008 (hereinafter – the Treaty on indirect taxation) as well as covenants thereof.

Bilateral agreements between the member-states of the CU on indirect taxation apply only inasmuch as their provisions are compatible with the Treaty on indirect taxation).

8.5.1. Indirect taxation upon export of the goods

Upon export of the goods zero rate of VAT and/or exemption from payment of excises are applied on condition if there is evidence of export.

The term for verification of relevance of zero rate is 180 calendar days.

8.5.2. The principles of indirect taxation upon import of the goods

Upon import of the goods in the territory of a member state of the CU from the territory of another member state of the CU indirect taxes are levied by the tax authorities of importer. If in accordance with the laws of a member state of importer no taxes are charged upon import of the goods than no taxes to be payable.

The rates of taxes are determined in accordance with the legislation of importing country.

8.5.3. Indirect taxation upon carrying out of works, providing services

The taxes are to be levied within the member state of CU that is considered as place of carrying out of works, providing services.

Upon carrying out of works, providing services the tax base, tax rates, procedure of tax levying as well as exemption are stated according to the laws of the member state of CU, the territory of which is considered as place of supply.

8.6. Supervision for Security and Quality of the Goods in the Frameworks of Customs Union

Supervision for security and quality of the goods within the territory of CU means certification of the products, registration of security of the products, veterinary control, quarantine control and phytosanitary control.

8.6.1. Certification

In the frameworks of CU all member states mutually recognise the results of certification. But in order for member states to recognize certification of the goods there are the requirements to be met:

- the same requirements of technical regulatory acts in respect to specific goods within three member states of CU;
- testing of the products by certified laboratory in one of 3 member states of CU;
- certification in certified body if one of 3 member states of CU;
- single CU certificate.

There is no mandatory rule saying where to make certification. For example, Belarusian producer may pass through certification in the Russian Federation or Kazakhstan and then use the certificate within the Republic of Belarus.

Single CU certificate is valid within the whole customs territory of the CU and is recognised without re-issuance or compliance with any additional procedures. Single CU certificate is issued not only with regard to the goods produced in the CU but also with regard to the goods to be imported from third countries.

Unfortunately today single CU certification does not cover all types of the goods. Currently the CU is in process of unification of technical regulatory acts – Technical Rules aimed to establish the common uniform requirements for all member states of the CU.

8.6.2. Registration of security of the goods

Import and circulation of particular goods within the CU are made only on the basis of the document confirming state registration of security in respect of the goods. That covers such products as foodstuff, child products, chemical and biologic raw materials.

In accordance with the Agreement on sanitary measures in the CU of December 11, 2009 all member-states mutually recognize the documents of state registration, confirming security of the goods if:

- the goods are stated in the Uniform List of the products subject to registration within the CU;
- the documents certify compliance of the goods with the Uniform Requirements of the CU;
- the document are issued in certified laboratory or certified body of any member state of the CU;
- CU single document is issued in respect to such goods.

8.6.3. Veterinary control

In the CU there is the Uniform List of controllable goods of animal origin as well as uniform requirements for all three countries of CU.

Importation of controllable goods must be followed by relevant permit of body of the CU (issued for one year term and volume stated in the permit) and veterinary certificate issued by a competent body of the exporter.

Circulation of controllable goods within the CU is made on the basis of single certificate, issued within the CU.

8.6.4. Quarantine and phytosanitary control

With regard to vegetable products such as fruits, vegetables, flowers and other products, transport boxes, package, soil, organisms in the CU there also the Uniform List of controllable products and single requirements to relevant goods. Imported goods shall comply with phytosanitary requirements of that member state of the CU where the point of destination of controllable products is located.

8.7. Customs Measures Protecting the Intellectual Property Objects

In the frameworks of the CU there is single customs register of IP objects of three member states of the CU (Single Register) aimed at common protection of IP objects within the CU. Single Register does not replace national registers, which are considered valid each in respect of relevant country.

As of today national registers of each member-state:

- Belarus: 48 objects (as of November 18, 2010);
- Russian Federation: 1340 objects;
- Kazakhstan: 849 objects.

In order to include IP objects in Single Register it is necessary to submit the application followed with a list of required documents. One application is to be submitted in respect to one IP object.

The application may be submitted by proprietor, several proprietors (including if different proprietors in different countries have the title over the same IP – in case if there is their common consent), representative, having permanent representative office in the territory of the CU under the power of attorney valid within the whole territory of the CU (a proprietor can serve as the representative).

Consequences of listing IP object in Single Register:

If during customs processing customs authorities discover a breach they are obliged to:

- suspend release into free circulation for up to 10 days (may be prolonged one more time for extra 10 days);
- notify within 1 day the declaring and proprietor of such suspension as well as of the reasons and terms thereof;
- then whether arrest (confiscate) or cancel the resolution on suspension.

If there is no breach found the proprietor will indemnify the damage to a declarant.

9. Intellectual Property

At the moment in Belarus protection is granted to the following objects of intellectual property:

9.1. Objects of Copyright and Related Rights

The mentioned objects include any works of science, literature and art, expressed in the objective form (copyrights), as well as performances, phonograms and broadcasting organizations transfer (objects of related rights). The copyrights have the largest amount of legal protection.

The period of legal protection of copyright and related rights begins with the creation of the object and does not require any formalization. Moral rights of the author (copyright, the right to name, the right to protection of reputation, the right of disclosure) are protected indefinitely. Property rights of the author are protected during his lifetime and within 50 years after his death.

The property rights of the author may be transferred to third parties by the assignment of rights, as well as on the basis of an exclusive or nonexclusive license.

The holder of property rights is entitled to prohibit or authorize the following actions concerning the object:

- reproduction in any form;
- distribution of originals or copies of the object and its renting;
- public performance of objects;
- presentation or showing to the public;
- translation into other languages;
- modifications or other conversion.

The remedies of civil legal protection of copyright and related rights in the event of their violations are:

- recognition of the right;
- restoration of copyright or related rights;
- confiscation of the infringing goods and materials, which are mainly used for production of the corresponding objects;
- suppression of unlawful acts that violate copyright or related rights, or endanger their violation;
- recovery of damages, including lost profits;
- collection of income that got the offender as a result of infringement of copyright or related rights (instead of recovering damages);
- compensation in the amount from 87,500 to 437,000 Euros (from 10 to 50 thousand base units) instead of damages or collection of income, taking into account the gravity of the offense.

In addition, the legislation provides administrative or criminal liability for certain types of violations of copyright or related rights.

9.2. Industrial Property Objects

9.2.1. Inventions, utility models, industrial designs

Invention in any field of technology gets the legal protection if it is new, relates to product or process, involves an inventive step and is industrially applicable.

A useful model, which has the legal protection is a technical solution relating to the devices that is new and industrially applicable.

An industrial design is understood in law as an artistic or art-design solution for the product that defines its look and is new and original.

Legal protection of inventions, utility models and industrial designs shall be certified by the patent. A patent is valid from the date of application to the National Centre of Intellectual Property (hereinafter – NCIP):

- in respect of inventions – during the 20 years, renewable for not more than 5 years;
- for utility model – within 5 years, renewable for not more than 3 years;
- with regard to industrial design – within 10 years, renewable for not more than 5 years.

Attribution of authorship, the compulsion to co-authorship, illegal disclosure of the essence of the invention, utility model and industrial design before submitting the application concerning them without the permission of the author, as well as violation of the exclusive rights of patent holders entail civil, administrative or criminal liability.

Civil remedies of protection of violated rights are:

- restoration of law;
- suppression of unlawful acts in violation of copyrights and the threat to their violation;
- recovery of damages;
- publication of the violation with information about the actual owner.

9.2.2. Means of individualization

Means of individualization which has the legal protection in the Republic of Belarus are trademarks (service marks), trade names, geographical indications.

A trademark is a designation that distinguishes the goods or services of one person from the goods or services of others.

The brand name refers to the name of a legal entity used for individualization for civil law purposes.

Geographical indication is recognized designation that identifies goods as originating from the country or the region or locality in that territory, where a certain quality, reputation or other characteristics of the goods are to a large extent linked to its geographical origin.

To obtain legal protection for all of the above means of identification must be registered with the NCIP with the subsequent issuance of a certificate of registration. The term legal protection of trademarks and geographical indications is 10 years, renewable for another 10 years for an unlimited number of times.

The term legal protection of brand names in effect until the liquidation of a legal entity or a change in its corporate name.

Ways to protect the rights of the means of individualization are:

- suppression of unlawful acts that violate the law and posing a threat to their violation;
- reimbursement for damages;
- removal from the product or its packaging the unlawfully used symbols and/or the destruction of images of the notation;
- seizure or destruction of goods with regard to which the notation was illegally used;
- penalty in favor of the aggrieved party in the value of the goods in respect of which was illegally used designation.

The above-mentioned objects of intellectual property are the most common and most often require protection against unauthorized use. However, in addition to these objects of legal protection in Belarus are also selection achievements, integrated circuits, undisclosed information, including production secrets (know-how).

10. Consumer Rights Protection and Advertising

Consumer rights in Belarus are protected by the Consumer Rights Protection Law of January 9, 2002. This law stipulates main obligations of seller (manufacturer) and main rights of consumer regarding information about the goods (works, services) and their quality, as well as seller's (manufacturer's) liability towards consumer, procedure and mechanisms of consumer's rights protection.

10.1. Information about the Goods and about the Seller (Manufacturer)

Seller (manufacturer) is obliged to provide consumer with full and accurate information about itself and about the goods (works, services).

Information about the seller (manufacturer) includes:

- firm name of organization;
- location and working hours of organization;
- name of branches, representative office (if relevant);
- information about special permission (license) to perform respective types of activities (number, issued body, term of validity), if relevant.

Information about the goods (works, services) includes:

- name of goods (services);
- types and features of proposed works (services);
- quantity and completeness of goods;
- price and terms of payment for the goods (works, services);
- date of manufacture (service life, shelf life, shelf life of products, results of operations);
- consumer characteristics;
- terms and conditions;
- availability of quality certificate;
- name, location of the manufacturer (seller or performer) and other characteristics of goods.

Information must be communicated to consumers in Belarusian or Russian language clearly and legibly in the documentation accompanying the goods (works, services), on consumer packaging (packing), the label, in catalogs, brochures, advertisements or other information sources, including global computer network. Using a foreign language is permitted only at the request of the consumer.

10.2. Liability of a Seller

Sale without quality certificate and hygienic registration is prohibited regarding such goods as: household appliances, electronic equipment, lighting products, playground equipment, communications equipment, furniture, products for construction, light industry goods, toys, cosmetic products, food products, alcoholic beverages, services and works, and others. The seller is liable for damages caused to consumers by defective goods, including compensation of emotional distress.

The Law determines the main obligations of the seller (manufacturer). According to the Consumer Protection Law, seller (manufacturer) is obliged to provide safety of goods (result of work) within a set of their service life or shelf life or, absent such term, within ten years from date of sale. Upon discovery of defects (non-conformity of goods) consumer may require:

- replacement of a defective product;
- commensurate reduction of purchase price;

- free elimination of defects;
- compensation of defects incurred by independent elimination of defects.

Consumer has the right to return a non-food goods of proper quality to the same goods with other size, form, fabric, and color during 14 days after purchase, with making re-calculations with a seller, if needed. There is a list of goods, which are not subject to return. This list includes such goods as textiles, underwear, jewellery, vehicles, fragrance, medical instruments and apparatus, drugs, tobacco, perfumes and beauty products, periodic, flowers, toys and others.

10.3. Advertising

The Law on Advertising of May 10, 2007 provides several restrictions, concerning advertising within the territory of the Republic of Belarus.

- advertising of certain goods or services (medicine, alcoholic beverage, beer, tobacco, weapons, narcotics, etc);
- advertising locations (educational establishments, residential areas, etc);
- means of advertising (mass media, television, billboards, vehicles etc);
- contents of advertisements (required information, wording, colors, etc).

The following types of advertising require advance approval from state bodies:

- external advertising – regional Executive Committee (Executive Committee of city of Minsk);
- advertising with using of transport – regional Executive Committee (Executive Committee of city of Minsk, as well as the general rule with the subdivision of the State Automobile Inspection of the Ministry of Internal Affairs of the Republic of Belarus);
- advertising of medical supplies – the Ministry of Health of the Republic of Belarus;
- advertising of veterinary services – the Ministry of Agriculture and Food Production;
- advertising of services, concerning job placement and education of Belarusian citizens abroad – the Ministry of Internal Affairs.

Such forms of inappropriate advertising as unfair, misleading, unethical, hidden advertising are prohibited under legislation of Belarus.

To make decisions on question of inappropriate advertising is empowered The Ministry of Trade of the Republic of Belarus, as well as local executive and administrative bodies (except the decision to recognize the unfair advertising). Since, advertisement is recognized as inappropriate; in the decision an advertiser may be obliged to make counter advertising. Counter advertising is to be made by the advertiser at its own expense and in terms, stated in the decision.

11. Telecommunications, Data Transmission and Internet

Currently, there is a tendency of improvement of regulatory system in the provision of telecommunications services, data transmission and Internet use in Belarus.

Telecommunications services can be provided by:

- **using telecommunications networks;**
- **using the radio frequency spectrum.**

Unified Telecommunications Network of Belarus consists of the following categories of telecommunication networks situated in the territory Belarus:

- public telecommunications network;
- dedicated telecommunications network;
- technological telecommunication network;
- telecommunications networks for special purposes.

The right of radio spectrum using is provided by the allocation of radio frequency bands, radio channel or radio frequencies and/or assignment (purpose) of radio frequency or radio frequency channel under the **appropriate resolution**.

Maintenance service activities in the field of public telecommunications (wired and wireless communications, data transmission services in the Internet, etc.) requires obtaining **the license**.

In addition, in Belarus since the February 1, 2010 issues concerning the functioning of **the national segment of the Internet**, which is a set of information networks, systems and resources having Internet connection, located on the territory of the Republic of Belarus and/or using hierarchical names of the national segment of the Internet, have settled by the special act.

Thus, at present:

- Business entities carrying out activities using the Internet, must use only information networks, systems and resources of **the national segment of the Internet, placed on the territory of Belarus** (hosting services should be provided on the territory of Belarus and the server must be physically located on its territory).
- Providers (Internet service providers) have to **identify subscriber devices** (e.g., modems) while providing Internet services, and computer clubs and Internet cafes also must make **user authentication**. In addition, providers and Internet services collective using stations should keep information about provided Internet services for a year.
- There is a **procedure of registration** of information networks, systems and resources of the national segment of the Internet located on the territory of the Republic of Belarus by providers.

Also in 2010, in the foundations for centralized management of data networks in the country have been made, in particular, the creation of a **Unified republican data network (hereinafter – ERSPD)**. For providing centralized management:

- government agencies and organizations, as well as business entities with the state share in statutory fund, must attach their networks to ERSPD up to 01/01/2012;
- all newly created / reconstructed network will also operate only within ERSPD.

Before the act about ERSPD entry into force available data transmission networks can be attached to ERSPD by the request of their owner.

To ensure the functioning and management of ERSPD (including the accession data networks) Republican Unitary Enterprise “National Center for the exchange of traffic”

(hereinafter – NTSOT) was created. Using ERSPD including skipping the international traffic is allowed only through NTSOT which is entitled to join the telecommunications networks of foreign countries.

12. Court system

The court system of the Republic of Belarus consists of the Constitutional Court, general courts and economic courts.

12.1. The Constitutional Court

12.1.1. Competence

The Constitutional Court verifies the conformity of legal acts to the Constitution of the Republic of Belarus, international legal acts ratified by the Republic of Belarus, laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

12.1.2. Procedure

Only certain entities have the right to appeal to the Constitutional Court with a proposal of verification. They are:

- the President of the Republic of Belarus;
- the House of Representatives of the National Assembly;
- the Council of the Republic of the National Assembly;
- the Supreme Court of the Republic of Belarus;
- the Supreme Economic Court of the Republic of Belarus;
- the Council of Ministers of the Republic of Belarus.

All other subjects are entitled to address to the above-mentioned bodies and persons only with the initiative to verify the conformity of legal acts.

On the result of verification the conformity of legal acts the Constitutional Court accepts the conclusion, which has supreme legal force and direct action.

12.2. General Courts

The system of general courts consists of:

- district (city) and military courts;
- regional and Minsk city courts, the Belarusian military court;
- the Supreme Court of the Republic of Belarus.

12.2.1. Competence

General courts consider:

- criminal cases;
- civil cases arising from civil, family, labor, housing, land and other relations provided that at least one of the parties is individual;
- cases involving creation, legal protection and use of intellectual property, regardless of the parties (only intellectual property judicial board of the Supreme Court of the Republic of Belarus is authorized to consider such cases);
- cases involving legal entities only if it stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

Military courts and the Belarusian military court considers civil cases arising from military service relationship, as well as criminal cases of all crimes committed by servicemen.

12.3. Economic Courts

The system of economic courts consists of:

- regional economic courts and Minsk City Economic Court;
- the Supreme Economic Court of the Republic of Belarus.

12.3.1. Competence

Economic courts consider:

- cases on economic (business) disputes between legal persons, individual entrepreneurs;
- cases related to realization of entrepreneurial and other economic (business) activities;
- cases on appealing against non-normative legal acts and actions (inactivity) of a state body, which touches on the rights and legitimate interests of the applicant in the sphere of entrepreneurial and other economic activities;
- cases on recognition and enforcement of decisions of foreign courts and foreign arbitral awards on the disputes arising at realization of entrepreneurial and other economic activities;
- cases with participation of the Republic of Belarus, administrative and territorial units of the Republic of Belarus, state bodies, bodies of local government and self-government, organizations, which are not legal persons, officials and citizens in the instances stipulated by laws of the Republic of Belarus, decrees and edicts of the President of the Republic of Belarus.

12.3.2. Jurisdiction

The cases shall be considered on the first instance by the economic courts of the regions and Minsk City Economic Court.

Specified cases shall be considered on the first instance by the Supreme Economic Court of the Republic of Belarus (the cases related to state secrets, disputes between the Republic of Belarus and administrative and territorial units of the Republic of Belarus, etc.)

The Supreme Economic Court of the Republic of Belarus shall have the right to accept to proceedings and to consider any case.

12.3.3. Terms

Considering cases in the court of first instance consists of two main stages:

- preparation of a case for proceedings (as a rule shall be completed by holding the preparatory judicial session not later than 15 days from the date of arrival of the application to the economic court);
- proceedings.

As a rule the case shall be considered by the economic court of the first instance within the time of no more than two months from the date of adoption of the ruling of the economic court on appointment of the case to proceedings.

The term of considering specified cases (disputes over state property, connected with the state registration and liquidation of legal entities and individual entrepreneurs; disputes on the release of property from seizure) is one month from the date of adoption of the ruling of the economic court on appointment of the case to proceedings.

The term of consideration of cases on certain kinds of proceedings (cases on appealing against non-normative legal acts, actions (inactivity) of a state body, cases on recognition and enforcement of decisions of foreign courts and foreign arbitral awards) is one month from the date of arrival of the application (complaint) to the economic court.

The case with participation of foreign persons located outside the Republic of Belarus shall be considered within the term of no more than seven months, unless otherwise established by international treaty of the Republic of Belarus.

The cases with participation of foreign persons, if these persons or bodies of their management, branches, representative offices or their representatives, authorized to conduct the case, reside or live in the territory of the Republic of Belarus, shall be considered in the general terms.

In exceptional cases, taking into account special complexity of the case, the term of consideration of the case can be extended by the chairperson of the economic court or his or her deputy up to four months, and the cases with participation of foreign persons located outside the Republic of Belarus – up to one year.

12.3.4. Mandative proceedings

The mandative proceedings means adoption by the economic court of a ruling on an injunction (court order) without consideration and summon of the parties on such demands that are:

- uncontroversial;
- that are recognized (not contested) by the debtor but not satisfied yet;
- with the amount up to 100 base units.

The cases in the order of mandative proceedings shall be considered within twenty days from the date of arrival of the application on institution of mandative proceedings to the economic court.

12.3.5. Proceedings on review of judicial decisions

The judicial decisions of the economic courts may be appealed in the appeal and cassation instance, in order of supervision.

Appeal instance

The judicial decisions of the economic court of first instance that do not come into force may be appealed in the appeal instance.

Petitions for appeal shall be considered by the economic court of the appeal instance of the economic court of the region and Minsk City Economic Court.

A petition for appeal can be submitted within 15 days after acceptance by the economic court of the first instance of the appealed judicial decision.

The petition for appeal shall be considered within 15 days from the date of its arrival to the economic court.

In exceptional cases, with account of special complexity of the case, the term for consideration of the petition for appeal can be prolonged by the chairperson of the economic court or his or her deputy, but by no more than 15 days.

Cassation instance

The judicial decisions of the economic court of first and appeal instances that come into force may be appealed in the cassation instance.

The economic court of the cassation instance is the Cassation Bench of the Supreme Economic Court of the Republic of Belarus.

A cassation appeal can be submitted within one month from the date of coming into force of the appealed judicial decision.

The cassation appeal shall be considered within one month from the date of arrival of the case to the cassation instance.

Order of supervision

Judicial decisions of the economic courts that have come into force may be reconsidered in the order of supervision only under the protest of the officials which have the right to move the protests.

The following persons shall have the right to move the protests in the order of supervision:

- the Chairperson of the Supreme Economic Court of the Republic of Belarus and his deputies;

- the General Public Prosecutor of the Republic of Belarus and his deputies.

The economic court of the supervising instance shall be:

- the Presidium of the Supreme Economic Court of the Republic of Belarus – with regard to the judicial decisions adopted by the economic courts of the first, appeal and cassation instances;

- the Plenum of the Supreme Economic Court of the Republic of Belarus – with regard to the decisions of the Presidium of the Supreme Economic Court of the Republic of Belarus.

The appeal in exercise of supervision on the judicial decision may be submitted within one year from the date of entry of the judicial decision into legal force.

The appeal in exercise of supervision shall be considered by the official within two months from the date of its arrival.

The protests shall be considered:

- within two months – by the Presidium of the Supreme Economic Court of the Republic of Belarus,

- within three months – by the Plenum of the Supreme Economic Court of the Republic of Belarus.

12.3.6. Rates of the state fee

Rates of the state fee for consideration of cases in the economic courts are established by the Special Part of the Tax Code of the Republic of Belarus. Their size depends on type and amount of the claim and other circumstances:

Type of the claim		Rates of the state fee
Claim of ownership with the amount:	up to 100 base units	15 base units
	from 100 to 1 000 base units	5 % from the amount of the claim, but no less than 15 base units
	from 1 000 to 10 000 base units	5 % from 1 000 base units + 3 % from the amount exceeding 1 000 base units
	over 10 000 base units	1% from the amount of the claim, but no less than 11 200 000 belarusian rubles
Non-property claim submitted by:	legal entities to the Supreme Economic Court of the Republic of Belarus	20 base units for each requirement
	legal entities to other economic courts	10 base units for each requirement
	individual entrepreneurs and individuals	5 base units for each requirement
An application of mandative proceedings with the amount:	up to 100 base units	2 base units
	over 100 base units	5 base units

Appeals:	to appeal instance	40 % from the rate established for non-property claim; 40 %from the rate calculated on the basis of the disputed amount - for the claim of ownership
	to cassation instance	80 % from the rate established for non-property claim;
	in order of supervision	80 %from the rate calculated on the basis of the disputed amount - for the claim of ownership