

## **A&P Overview**

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### **Draft calendar of activities on liberalization of economy of Belarus is prepared and introduced to the Government.**

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**Sergey Mashonsky,**  
Managing Partner

In order to liberalize the economy the Ministry of Justice and the Ministry of Economy of Belarus are taking measures to improve the legislation. Decree No. 1 adopted in 2009 has significantly simplified procedure of state registration and liquidation of legal entities. Now, a draft document making amendments to this Decree is prepared.

Its main provisions concern simplification of registration and liquidation procedure of legal entities. At the same time, it is planned to place limitations on business activity for the period up to three years under economic court decision for individuals providing registering body with unauthentic data.

It is provided a possibility of exclusion of the legal entity from the Unified State Register of Legal Entities and Individual Entrepreneurs (hereinafter – USR) upon decision of the authorized official of the registering body what shall decrease liquidation terms. A list of documents to be provided to the liquidation committee by individual entrepreneurs in order to be excluded from the USR is decreased. State pays attention to reduction of bureaucratic procedures.

Since last May a Law “On foundations of administrative procedures” regulating these relations fully came into force. 19 governmental authorities have already abridged 275 administrative procedures.

The Ministry of Economy plans to include certain measures on simplification of improvement of some administrative procedures into the Calendar of activities on liberalization of economy in 2010, including issuance of certificates on domestic goods, certificates of state hygienic goods registration and a number of other procedures.

Besides, Edict of the President on licensing is being prepared for signing. It is planned that licensing of 23 types of activities will be cancelled, 13 of them containing 89 works and services. Licensing of 54 positions of works and services forming 10 different types of activities remaining licensed, is cancelled, as well.

The National Bank prepares a statutory act “On certain measures on collection of debts” aimed to create legal conditions for collecting debts with help of collecting organizations, what shall allow to establish effective means of solving a problem of collecting accounts receivable.

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## Privileges for rural areas and small cities

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Elena Lefter,  
Lawyer

Decree No. 4 dated March 1st, 2010 amended Decree No. 9 dated December 20th, 2007 "On certain issues of regulation of business activity in rural area". We would like to remind that the mentioned statutory act sets a special taxation order, compulsory duties payments to the budget, issuance of special permits (licenses) and their alterations in respect of economic entities in the rural area.

One of the most important amendments of Decree No. 4 is extension of the list of both economic entities with foreign capital and without it that enjoy this special order. Now, not just economic entities residing in rural settlements are subject to the order, but entities residing in any rural area, as well.

Heretofore, it was defined that economic entities can not apply a special order when carrying out trade and mediatory activity simultaneously. But since January 1st, 2010 economic entities have the right to enjoy the special order (in respect of receipts from manufactured goods) when caring out production of goods and trade and mediatory activity at the same time in the rural area subject to separate accounting of receipts. This order does not cover trade and mediatory activity on realization of wholesale and (or) retail trade in non-domestic manufacture goods.

Decree No. 4 extends application of import customs duties and VAT privileges when importing technological equipment aimed for contribution to the statutory fund at the stage of company's registration. Formerly, privileges could have been applied just in case of change (increase) of the statutory fund of the registered company.

In order to apply privileges there is no need to obtain at the executive committee a confirmation stating that the imported good refer to technological equipment. All of the goods items being classified as technological equipment under the Unified Commodity Nomenclature of foreign-economic activity of the Customs Union are listed in Decree No. 4.

The Decree amended Decree No. 1 dated January 28th, 2008 "On stimulation of manufacture and realization of goods (works, services)" regulating business activity in small cities.

The list of economic entities having the right to enjoy privileges provided by Decree No. 1 was abridged since commercial organizations established through reorganizations are withdrawn from the Decree's sphere of application, save for reorganization in form of affiliation to commercial organization.

Term of validity of profit tax benefit is increased from 5 up to 7 years in respect of commercial organizations classified under Decree No. 1. This period begins on the first day of the first month of the quarter when the company was established.

An obligation to provide tax authority with certificates on formation of the statutory fund is cancelled for commercial organizations with foreign investments, whose activity is regulated by Decree No. 1. Previously such organizations had to provide the certificates on formation of the statutory fund on expiration of a two year period from the day of their state registration; otherwise duties were levied in full for the whole period of benefits application.

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**Decree of the President of the Republic of Belarus No.4  
dated March 1st, 2010**

**"On amendment and alteration of decrees of the President  
of the Republic of Belarus No. 9 dated December 20th,  
2007 and No. 1 dated January 28th, 2008"**



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## Taxation

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**Andrew Yermolovich,  
Lawyer**

In connection with entering into force of the Special part of the Tax Code the President of the Republic of Belarus adopted Edict No. 143 "On certain taxation issues" of March 9th, 2010 aimed to bring a number of statutory legal acts in conformity with the Tax Code and to settle additionally some matters of taxation.

The most significant changes made are listed below:

### 1. Profit tax

The Edict brought provisions of Edict No. 398 dated June 16th, 2006 "On establishment of expenses limits" in compliance with the Tax Code. Particularly, it is affirmed that expenses on advertising, marketing, consulting and information services are not subject to limitations.

The level of existing limitations is preserved in respect to companies' expenses on representative purposes – that are included in cost structure – connected with reception of and providing services to foreign delegations and individual persons, organization of meetings, conferences, seminars, boarders – at the amount of 0,2 per cent of remuneration of labor of employees of these organizations for the accounting period.

### 2. Land tax and real estate tax

Local councils of deputies were granted a right to increase or decrease but, only writhing double amount, land tax rates and real estate rates in respect of certain categories of taxpayers. Decisions of local councils of deputies on increase of mentioned rates does not cover legal entities and individual entrepreneurs, which receive state support in form of alteration of legislatively established terms of payments of tax, duties, customs duties and fine, financial support from the republican budget.

If a payer of real estate tax has a taxation object out of the territorial unit, real estate tax on such object shall be calculated according to the tax rate and the coefficient set at the territory of the territorial unit where this object is located.

### 3. VAT

Edict of the President No. 397 dated June 15th, 2006 expired. This Edict was a principal act on regulation of calculation, set-off and refund of VAT and excise duties. Currently, such issues are settled by provisions of the Tax Code.

### 4. Single tax from individual entrepreneurs and other individuals

The Edict sets single tax rates in respect of individual entrepreneurs and other individuals. At the same time, a decision is made to renounce the linkage of tax rates to Euro – now they are defined in Belarusian rubles.

### 5. Income tax from individuals

The Edict determines exemption from income tax payment for individuals, who are non-residents of Belarus permanently residing at its territory and who collect revenue (dividends, interests, royalty, securities operations profit) from sources outside the Republic of Belarus.

The mentioned exemption is granted for five calendar years at the amount of profits gained by individuals from property or property rights deals and transferred to bank accounts opened at banks at the territory of Belarus.

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**Edict of the President of the Republic of Belarus No. 143  
dated March 9th, .2010  
"On certain taxation issues"**



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## On land lease fee

A single approach to annual lease fees and land tax levy is set in Belarus.

Land fees that had been levied were previously regulated by Law of the Republic of Belarus dated December 18th, 1991 No. 1314-XII "On land fees" which provided for land payment in forms of land duties and lease duties for land plots owned by the state (hereinafter – lease fee). Since January 1st, 2010 levy order of land fee is regulated by the Special part of the Tax Code of the Republic of Belarus in terms of cadastral price of land plots depending on their functional use (kinds of valuation zones) and purpose. Lease fee for land plots is not reckoned as tax payment, therefore, it is not regulated by the Tax Code.

Order of lease payment levy is set by Edict of the President No. 101 dated March 1st, 2010 "On levy of lease payments on land plots owned by the state". According to the Edict, amount of annual and plot lease payments is calculated pursuant to cadastral price of the plot with application of coefficients depending upon functional use (kinds of valuation zones).

In order to estimate annual lease payments coefficients are determined similar to those applied according to the Tax Code of Belarus to size up land tax. In consequence of the mentioned above, amount of annual lease fee for land plots owned by the state shall not differ from amount of annual land tax for similar plots. Unified approach to calculation of fees will create favorable climate for foreign investors when granting them land plots on lease.

The Edict determines that when land plots are leased by investors and (or) foreign organizations established in the Republic of Belarus for realization of investment projects, amount of lease fee fixed on the date of conclusion of the lease agreement shall not be increased during the period of realization of the investment project. Previously such norm was applied just in connection to residents of free economic zones.

Thereby, the Edict sets unified and quite clear approaches to determination and levy of annual lease fee for land plots owned by the state at the whole territory of the republic.

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**Edict of the President of the Republic of Belarus No. 101  
dated March 1st, 2010  
"On levy of lease payments on land plots owned by the state"  
Came into force on March 4th, 2010**

## Taxation novels

Edict No. 159 "On certain issues of profit taxation of foreign organizations" aimed to create advantageous conditions for attraction of foreign investments to the Republic of Belarus was signed on March 26th, 2010.

Its provisions amend tax legislation concerning taxation of foreign organizations not carrying out activities in our country through a permanent representative office.

Previously, residents withheld and paid to the budget 10% of non-resident profit from the interests received from granting a loan. According to new regulations, this duty shall not be levied from foreign organizations not carrying out activity in Belarus through a permanent representative office when granting a loan, credit to the Government and residents of the Republic upon a state security of the Republic of Belarus.

The mentioned provision guarantees payment of full sum of interests on return of loan, what favors attraction of a bigger amount of capital into the country. Under such conditions, the next step of the state might be to exempt from taxation on any loans, credits granted by non-residents.

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**Edict of the President of the Republic of Belarus No.  
159 dated March 26th, 2010  
"On certain issues of profit taxation of foreign  
organizations"  
Came into force on January 1st, 2010**



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## Land into ownership

Edict of the President of the Republic of Belarus No. 93 "On conditions of construction of a multifunctional complex in the city of Minsk in frames of streets J.Kupala – M.Bogdanovicha – river Svisloch" was signed on March 1st, 2010.

Peculiarity of the Edict lies in the fact that for the first time in the history of modern Belarus a commercial organization with foreign capital obtained a land plot into ownership. Heretofore, despite legislation gave such opportunity, none of legal entities became owners of land plots in practice.

Signing of the Edict is an example of application of Decree of the President of the Republic of Belarus dated August 6th, 2009 No. 10 "On creation of additional conditions for investment activity in the Republic of Belarus" and does correspond to policy of Belarus on active attraction of foreign investment. An important step towards this aim could be granting a legal entity a land plot into ownership under usual procedure.

## Going public and privatization of state property

The President gave an order on alienation of shares of five joint-stock companies on the basis of contest on March 1st. Open joint-stock companies "Bobruisk machine building factory", "VolMET" (Volkovysk), "Lida casting mechanical factory", "Barkhim" (Baranovichi) and "Rechica textile" are on the list.

This is just the beginning – the so called pilot projects – to work out all procedures. Further, a lot of other companies, including "Belkommunmash", "Belgosstrakh", etc. shall be added to the going public and privatization list.



## Company News

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### Belarusian delegation visited Switzerland

On 17th-19th March the Belarusian delegation under the aegis of the Ministry of Foreign Affairs with participation of the Managing Partner of Arzinger & Partners Sergey Mashonsky visited Switzerland.

On 17th March the seminar for representatives of Swiss business circles on trade, economic and investment cooperation with the Republic of Belarus took place in the city of Zurich hosted by the leading Swiss bank "Credit Suisse". Members of the Ministry of Foreign Affairs, Ministry of Finance, Belarusian Universal Commodity Exchange made speeches on major trends in Belarusian economy.

Managing Partner Sergey Mashonsky addressed participants of the seminar with the presentation "Investment legislation of the Republic of Belarus. Investment agreement" and acquainted the audience with information on major steps taken by the Belarusian Government in order to create the best possible investment climate in the republic. Moreover, information on current investment projects was presented.

A number of meetings and negotiations took place between members of the Belarusian delegation and representatives of Swiss businessmen after the seminar. As a result of negotiations, engagements upon legal support of several investment projects in the Republic of Belarus in different economic areas were attained.

On 18th March Belarusian delegation took part in the 8th session of the Belarusian-Switzerland Commission for Trade and Economic Cooperation.

The representative of Arzinger & Partners (Minsk) made a speech for the Swiss audience about investment cooperation and innovations in this sphere. Swiss business circles expressed particular interest to the entry to the Belarusian market taking into account the potential 170-million market of the countries that form the Customs Union.