

# Tax & Legal Alert

Ernst & Young Bulgaria

In this edition of the Tax & Legal Alert, we outline the most recent legislative changes in Bulgaria and highlight some domestic and international tax and customs matters.

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## New Renewable Energy Sources Act (RESA)

RESA took effect on 3 May 2011, introducing amendments to current power purchase agreements, feed-in tariffs and accession to power-grid procedures. It also applies to uncompleted development projects and may affect their financing.

RESA foresees new periods for purchases of electricity at preferential prices, as follows:

- ▶ Twenty years - for electricity produced from geothermal and solar energy, as well as biomass
- ▶ Twelve years - for electricity produced from wind power
- ▶ Fifteen years - for electricity produced from water power up to 10 MW, as well as any other renewable energy sources

Under the new regime, the feed-in tariff will be updated annually by 30 June and the premium for each renewable energy source may be decreased unlimitedly. A revision of the current feed-in tariff is expected in June 2011.

Renewable energy plants in operation will retain their preferences as regards the term of their power purchase agreements. The feed-in tariff, which will apply to them, will be the one announced on 31 March 2011.

The feed-in tariff, applicable to projects with connection agreements, will be determined upon completion of the construction and, subject to certain conditions, will also apply to projects with a preliminary connection agreement.

Producers of biomass electricity would enjoy a simplified procedure for accession to the power grid if they ensure a total installed capacity of up to 1 MW.

The minimum biofuel content in imported fuels will gradually increase.

## Amendments to the Commercial Register Act

The amendments introduce changes to the rules for disclosure of annual financial statements, registration with the Commercial Register and liquidation procedures for sole proprietors and companies, which are not re-registered by 31 December 2011.

As of 3 May 2011, new deadlines for submission of annual financial statements apply for:

- ▶ Sole proprietors - by 31 May following the financial year-end
- ▶ Limited liability companies - by 30 June following the financial year-end
- ▶ Joint-stock companies, branches of foreign companies and other commercial operators - by 31 July following the financial year-end

Company names cannot be identical or similar to a protected trademark. Affected parties may seek damages in court.

On 1 January 2012, changes to registration procedures will take effect, including:

- ▶ Access to the Commercial Register's database will require a registration on the website. Free access would be granted only to publicly available information, such as company names, companies' representatives and registered capital.
- ▶ Joint-stock companies will have to submit applications to the Commercial Register only electronically.
- ▶ Discounts for electronic registration will be up to 50% of the regular fees.

Companies, sole traders and branches of foreign companies that have not yet applied for registration with the Commercial Register, should do so by 31 December 2011. Otherwise, registration of the sole proprietors and the branches of foreign companies will be closed and all business activities of the companies will be terminated.

## Amendments to the Labor Code

Home-based employees may now be hired under employment agreements. They should enjoy equal payment and employment conditions.

## Travel restrictions for debtors lifted

Persons with outstanding liabilities may not be restrained from leaving the country, the Bulgarian Constitutional Court has recently decided. Currently, the Bulgarian law provides for such restrictions to be imposed on creditors' requests where the debts exceed BGN 5,000. However, the Court found these provisions incompliant with the EU principle of free movement of persons. This judgment is in line with the European Court of Human Rights' case law.

## Pharmaceuticals' dealers to connect cash registers to NRA

The National Revenue Agency (NRA) has introduced a shorter term for importers, producers and dealers of pharmaceuticals to connect their cash registers to NRA's electronic system by 31 August 2011.

## Dutch VAT may be reclaimed within five years

EU customers, established and identified for VAT purposes in other Member States, may seek recovery of Dutch VAT, paid on purchases of goods and services, within five years. The new rule applies to purchases made back in 2005. VAT paid in the period 2005 - 2008 may be reclaimed in 2011.

## Changes to Italian VAT affecting Bulgarian companies

Italy has recently changed its rules regarding VAT registration for intra-Community trade in goods. Therefore, Bulgarian suppliers should check Italian recipients' VAT identification numbers. If the latter are no longer valid, they have to charge Bulgarian VAT.

## ECJ's ruling on binding tariff information

The European Court of Justice has recently held that importers of goods in one EU Member State may rely on binding tariff information regarding the customs classification of the same goods, issued in other Member States.

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