

Digital Decree: Would Belarus become a new IT mecca?

The Decree of the President of the Republic of Belarus of 21 December 2017 No. 8 “On Digital Economy Development” (**Decree No. 8**) is a significant step in development of Belarus IT sphere.

The major changes that Decree No. 8 is to bring about are listed below. They enter into force on 28 March 2018.

“Cryptocurrency” opportunities

According to Decree No. 8, tokens are legal, but still cannot be used as payment means. Legal entities, both foreign and local, can own and store tokens in virtual wallets. Moreover, they can create tokens or place them in Belarus. Every transaction with tokens (e.g. sale or purchase) shall be carried out through cryptocurrency platform operators (**CCPO**) or cryptocurrency exchange operators (**CCEO**). Decree No. 8 mentions certain requirements CCPO and CCEO shall meet, e.g. they shall be High Technologies Park (**HTP**) residents and have a security deposit in Belarus banks in the amount of BYN 1,000,000 (approx. EUR 425,000) for CCPO and BYN 200,000 (approx. EUR 85,000) for CCEO. Individuals are also entitled to create and own tokens, as well as perform different transactions with them.

Decree No. 8 has retroactive effect over the tokens mined or purchased before its entry into force.

Taxation of tokens

Until 1 January 2023 full corporate income tax, value added tax (**VAT**) and personal income tax (**PIT**) exemptions are applicable to mining, creation, purchase and sale of tokens and income from these transactions. Moreover, tokens are not subject to declaration by individuals.

Long life and more incentives to HTP

HTP regime is prolonged till 1 January 2049. This prolongation is also backed by significant extension of the list of activities which HTP residents are entitled to carry out. For example, Decree No. 8 allows HTP residents to involve into activities related to drones, blockchain and other decentralised information systems, artificial intelligence, Internet of things, cybersport and cryptocurrencies. ICO and smart contracts related activities are also allowed. Outsourcing of software development is allowed in any amount below 100%.

HTP “carrots with no sticks”

In addition to yet rather favourable treatment HTP regime is again sweetened with:

- **“Immunity” from foreign trade control regulations and primary accounting documents standards.** That means unilateral primary

accounting documents and no time limits for transaction settlements. Invoices issued by a foreign counterparty should suffice and can be used;

- **English law instruments.** That means non-compete and non-solicitation agreements, convertible loans, options, irrevocable power of attorney for HTP residents and their deals. Decree No. 8 also mentions indemnification agreements where aforethought and gross negligence concepts are taken into account;
- **Immigration regulations liberalisation.** Visa-free entry is applicable to HTP residents' employees, owners and shareholders. Temporary stay (without residence permit) is extended up to 180 days for those mentioned. HTP residents are also not required to get a special permit to hire foreign staff;
- **Currency control exemptions.** Opening accounts in foreign banks, transferring money to them and making transactions through them are possible without National Bank of the Republic of Belarus permit. HTP residents are also not subject to targeted currency purchase requirement and can take up capital transactions in a "notification only" regime;
- **Subsidiary liability limits.** Owners, shareholders, director and other persons having control over HTP residents should not be subject to subsidiary liability, as a general rule. They may be subject to such liability, only if they were convicted of a criminal offence;
- **Conditional audits.** Audits can be carried out by state controlling authorities only with a prior approval of HTP Administration.

Special attention is drawn to traditional tax benefits and exemptions that are extended, for example:

- VAT exemption for transactions on sale of IP and certain services (e.g. marketing, advertising, consulting), including digital ones (e.g. information processing, software development, search services) to HTP residents by foreign companies having no tax registration in Belarus;
- Withholding tax (**WHT**) at 0% rate e.g. for sale of shares in HTP residents, providing information processing services, advertising services, web hosting, cloud services, licencing to HTP residents. WHT 0% rate is applicable only to sale of shares in HTP residents by foreign companies if they owned the share at sale for not less than 365 calendar days;
- Offshore levy exemption for marketing, advertising and intermediary transactions;
- PIT exemption is granted to individuals on share sale income, if they owned the share at sale for not less than 365 calendar days.

Please note that 1% HTP fee is payable quarterly on revenue received by HTP resident and any revenue received from sale of tokens regardless of transaction currency (BYN, foreign currency or e-money).

How PwC Belarus can help?

If you are interested in Decree No. 8 novelties or have any questions, PwC Belarus team would be happy to provide you with a tailor-made advice or give any other legal support that may be required concerning the Decree No. 8.

Key contacts:

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