



IT LAW
FINANCE LAW

January 2018

ECONOMY DIGITALIZATION: ICOs and Other New Opportunities of Belarusian High-Tech Park

BY: Nikolay Artemyev
Senior Associate

Illia Salei
Senior Associate

I. INTRODUCTION

On 21 December 2017 the President of Belarus has signed Decree No. 8 on Digital Economy Development (“Decree”) which provides new legal framework for IT and related activities in Belarus and legalizes blockchain technologies. The Decree comes in force on 28 March 2018.

II. HIGH-TECH PARK

High-Tech Park (“HTP”) is a special legal and tax regime in Belarus (so-called local “Silicon Valley”) for IT companies first introduced in 2005.

The Decree has prolonged HTP’s regime duration until January 1, 2049 and significantly increased benefits and preferences for the hi-tech IT companies.

The Decree has substantially expanded types of activities that can be performed by HTP residents which now *inter alia* include:

- software developments;
- blockchain technologies;
- creation/placement of tokens related services (ICO);
- mining;
- cryptocurrency platform and exchange operator;
- cloud computing technologies;
- unmanned motor vehicle driving;
- aviation and space technologies;
- fintech, neuron networks, AI algorithms;
- medical technologies, biotechnologies;
- trading platforms (e-commerce) technologies;
- internet of things;

- e-sports activity.

HTP resident companies are entitled to carry out activities clearly prescribed by the Decree or other activities in the field of new and hi-technologies approved by the HTP's Board.

Entering the HTP

- i. establishing a subsidiary company in Belarus;
- ii. developing a business-project according to the activities planned for implementation which is subject to approval by HTP's Administration and Board.

III. BENEFITS AND PREFERENCES

Tax Benefits

- exemption of HTP resident companies from corporate tax (18%), VAT (20%) and the offshore duty (15%);
- 0% withholding tax and exemption from VAT for foreign companies providing certain services for HTP's residents (e.g. advertising, data processing, hosting services), selling IP rights and shares in a HTP resident company;
- reduced personal income tax (9% instead of 13%) for the employees of the HTP resident companies;
- 5% withholding tax for foreign companies receiving dividends from HTP resident companies unless more favorable regime is stipulated by the DTT;
- other tax and regulatory benefits.

Migration Preferences

- no need for work permits for foreign employees of HTP resident companies;
- temporary resident permit is issued for the duration of labor contract (now up to 1 year with a right to extend);
- visa-free entry for employees of HTP resident companies, its shareholders and shareholders' employees up to 180 days.

Developed Mechanisms for Deals Structuring

For transactions structuring HTP resident companies may use clear and generally familiar

to international investors mechanisms of common law systems that are now also recognized in Belarus, i.e. convertible loans, options, indemnity agreements, non-compete and non-solicitation agreements, irrevocable power-of-attorneys, foreign-law governed shareholders' agreements.

IV. CRYPTOCURRENCIES AND ICOs

Cryptocurrencies and Tokens

The Decree legalizes business based on blockchain as a technology underlining cryptocurrencies and all crypto-tokens which in addition are now legally defined. Individuals and legal entities are granted a right to own, buy and sell cryptocurrencies with no limitations. The right to mine, however, is limited only to individuals and HTP resident companies.

ICOs

Legal entities are also given a right to create and offer their own tokens by running ICOs either (i) through HTP resident companies or (ii) by becoming HTP residents themselves. Moreover, until January 1, 2023 any fiat money or cryptocurrency received from an ICO is not considered as revenue or income for tax purposes and are therefore not taxed; token sales through ICOs are neither subject to VAT.

Cryptocurrency Exchange

The Decree also allows registration in Belarus of both (i) cryptocurrency exchanges and (ii) cryptocurrency ATMs (exchange points). The right is however limited to HTP resident companies and requires keeping the minimal capital in a Belarus-based bank of not less than BYN 1 million (approx. EUR 420k) and BYN 200k (approx. EUR 85k) respectively.

V. SUMMARY

The Decree has allowed Belarus to make a large step forward in technologies regulation and made the jurisdiction significantly more attractive for foreign companies and investors by providing unique legal framework. Significant benefits and possibility to attract investments by running ICOs will definitely make numerous IT companies and investors consider moving their business or establishing a subsidiary in Belarus.

WHAT WE OFFER:

- ‘turn-key’ setting up of business in Belarus or conducting legal due diligence of a target;
- drafting documents for HTP residency;
- negotiating with HTP’s Administration on the residency related issues;
- providing legal opinion in relation to the potential project based on the blockchain technology as may be requested by HTP’s Administration;
- advising on the full range of legal issues related to ICOs, including analysis of token model, ICO’s structuring and drafting of related agreements, i.e. privacy policy, terms of use, token sales agreement, etc.;
- negotiating with HTP resident companies conducting ICOs, drafting cooperation and agency agreements;
- drafting internal policies including for cryptocurrency exchanges and ATMs;
- fighting for your interest in relations with any private or governmental organizations in Belarus.

The content of this Newsletter is not a legal or tax advice. Should you seek advice with regard to the content hereof or any other specific issue, please contact **Borovtsov & Salei** or any of the following persons directly:



Nikolay Artemyev
Senior Associate

nikolay.artemyev@borovtsovsalei.com



Illia Salei
Senior Associate

illia.salei@borovtsovsalei.com

Borovtsov & Salei | Law Firm | Attorneys-at-law

4 Svabody Square, 3rd Floor, Minsk, 220030 Belarus

T: +375173434418

F: +375172600004

E: info@borovtsovsalei.com

www.borovtsovsalei.com

