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TAX & LEGAL NEWS FOR THE BALTIC STATES

IN THIS ISSUE:

**Amendments
in the law
“On Value
Added tax”:
VAT options**

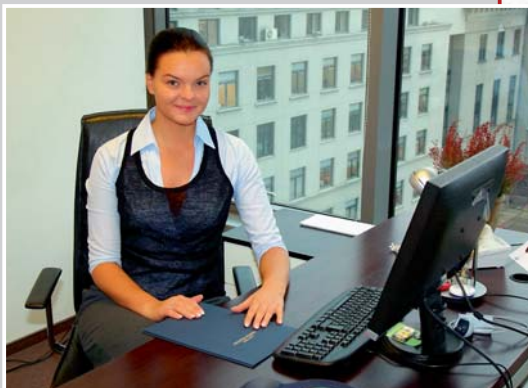
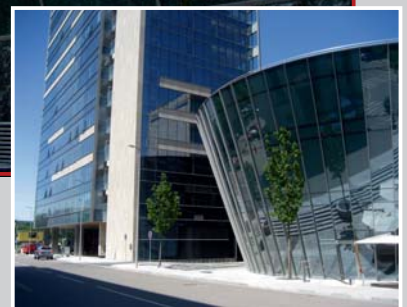
**Most Resent Tax
Changes in Lithuania**

**Changes in Latvian
tax system**

**Order-for-payment
procedure in Estonia**

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Amendments in the law

“On Value Added tax”: VAT options

On September 14, 2009 the Cabinet of Ministers of the Republic of Latvia has submitted to the Parliament of the Republic of Latvia a draft law „Amendments in law „On Value Added Tax”” (no.1434/Lp9) where it

provided fundamental changes. The draft law is still in adoption in the Parliament and it has to come into force as from October 1, 2009 as stated in Article 4 of the Cabinet of Ministers decision of August 4, 2009.

The main aim of the draft law is to enact VAT option norms that are provided in directive 2006/112/EK. The new VAT option norms are:

- associated taxable persons option to merge into VAT-payers group;
- a right to reduce the amount of payable VAT for the amount of the lost debt tax;
- VAT exemptions for the import of goods.

VAT option norms

VAT- payers Group

In accordance with the draft law associated taxable personas are allowed to merge into VAT-payers group thus making their business activity more efficient. VAT-payers group in Latvia will operate as one VAT-payer. The group shall be registered in the State Revenue Service (hereinafter- SRS). The group will have a joint VAT-payer number and joint VAT report.

It shall be underlined that members of the VAT-payers group continue to indicate their individual VAT numbers in any deal as well as the report on the input tax amounts and the delivery of goods within the EU has to be submitted to the SRS separately for each member of the group.

However, there are several preconditions for the creating VAT-payers group. For

example, the group may be created if the value of VAT-taxable services and deliveries of goods in previous 12 months of at least one of the members has reached at least LVL 250 000. Only VAT taxable persons may become members of the VAT-payers group as well as VAT taxable person may not be the member in few VAT-payers groups and other conditions.

One should keep in mind that the members of the group has a joint liability and it lasts 3 years after the group has ceased to exist.

Lost Debts

According to the draft law it will be possible to recover VAT from lost debt from unrelated persons where the value for one client is less than LVL 300 (excluding VAT). If the value of the lost debt is higher than LVL 300 an act of bailiff about impossibility of recovery is required. It will apply to the debts which have occurred on 1st January 2009.

It shall be pointed out that the debt cannot be older than 3 years (not occurred before 1st January 2009) and deliveries have to be interrupted at least 6 months before. It is not allowed to assign this debt and there shall be proofs about attempts to recover that debt.

As regards the debtor it is foreseen that debtor shall be informed that his debt for VAT purposes is recognized as the lost debt. Accordingly the debtor shall repay back into the state`s budget the deducted input tax.

Exemption for Import of Goods

The third VAT option norm is about exemption for the import of goods. It provides an option not to pay VAT in case of import of goods from the third countries. It means that one can postpone the payment for import VAT until it is stated in a respective monthly VAT report.

However, prior postponing the payment one has to get permission from the SRS. Description of the procedure will be established later in respective Regulations of the Cabinet of Ministers. However, if one imports its own capital assets and their value is at least LVL 500 and it is not planned to alienate those assets within following 12 months the permission from SRS is not required.

Conclusion

By enacting the VAT option norms the administration of the VAT will be more efficient and the duties of the taxable persons will be simplified. The payment procedure into the state`s budget will be easier as well as there will increase taxable persons` competitiveness and effectiveness of business activity.

As it is foreseen in the annotation of the draft law the general impact on society and national economic is positive as the new VAT system will facilitate the development of national economic and business environment.

Most Resent Tax Changes in Lithuania

During the year of 2009 Lithuania as well as other Baltic states faced a heavy challenge to combat the adverse financial situation in their country. Lithuania, followed by the crisis management plan, increased most of the taxes in order to offset the loss ensuring the stability of public finances due to the statements of Lithuanian Government. On the other hand, Lithuania still remains attractive to the most foreign investors due to the favorable tax planning possibilities.

It is important to note that Lithuanian Parliament currently weights attractive tax and other laws amendments which would overall improve the financial situation in Lithuania and better the state of various businesses in Lithuania. Even though the respective changes are not in force yet, the proposals for the Parliament to adopt the new set of laws include significant issues. First of all it is expected to decrease the corporate income tax from 20

to 15%. Moreover, small businesses, which satisfy the criteria set in corporate income tax law, are expected to pay the decreased 5% corporate income tax. Additionally to this, few law projects still on the Parliament table, sets the new principle on the transfer of losses between the related persons in Lithuania as at the moment transfer of losses between mother company and the daughter companies is not allowed. With regard to the Center of Registers it is expected that Registration of the company shall take only one day instead of five and Center of Registers due to transparency politics may implement new rule, upon which all the shareholders of the company will be registered within Center of Registers. Those amendments are believed to improve the financial situation in Lithuania and favorite the foreign investment.

Please find the latest update on taxes implied in Lithuania as below.

Value Added Tax

Value added tax rate has been increased from 19% to 21% since 1st September 2009. It is the second major value added tax increase. Value added tax rate has been increased previously from 18% to 19% in January 2009.

Transitional period until December 2010 is applicable to cigarettes and manufactured tobacco where 19 % of tax rate will be applicable if the excise duty stickers for the mentioned products were ordered before 1st September, 2009.

On 23 July, 2009 Lithuanian president signed the law which introduced the reduced value added tax rate of 9 % for heating of living premises and water. The reduced value added tax rate will be in force until 31 August, 2010.

Interest Rates

The Minister of Finance on September 2009 approved the rate of interest on a tax loan and default interest for the fourth quarter of 2009.

As of 1 October 2009 the rate of interest in the fourth quarter of 2009 will be 0.02 percent for each day of using a tax loan. Additionally to this, the default interest for unpaid tax or late payment of tax in the fourth quarter of 2009 will be 0.05 percent for each day overdue.

Corporate Income Tax

On July 2009 several amendments to the law on Corporate Income tax were introduced.

It is important to note that from January 2010 withholding tax on interest will be withdrawn if the interest itself is paid to legal entities registered or organized within EEA member states. The same principle will be applicable in relationship with countries with which Lithuania has signed Treaty on the Avoidance of Double Taxation.

Personal Income Tax

Since 1st of January 2009, personal income tax rate has been reduced by 3 percentage points to 21%. This rate includes 6% healthcare insurance tax – without it personal income tax would be

15%. Previously this tax has not been specified separately. However dividends and other profit distributions are subjected to 20% tax rate. With a regard to unlimited civil liability enterprise all the income received by the owner in the case if taxable profits exceeds 4000LTL (1159EUR), are subjected to 15% personal income tax rate for the taxable period of 2009.

From August, 2009 amendments to the law on personal income tax came into force. The law provides the complete list of benefits in kind and the list income which will not be interpreted as benefit in kind for the tax period starting from 2010. The amendment to the law on personal income tax sets the new rule for calculation of non-taxable amount of income which will not be applicable for members of non-limited liability companies as previously.

Excise duty

Excise payers are owners of excisable warehouses, registered and unregistered traders as well as persons manufacturing or utilizing excise-free energy products, alcohol, alcoholic drinks or tobacco for other purposes than the established one. In the case of import, the excises tax is paid by the importer, provided that the imported goods are not brought to a warehouse of excisable goods. The applicable tax base is the tax base of goods produced or imported in Lithuania.

From the 1st August, 2009 excise duty applied to 1 000 liters of gasoline is reduced from 331EUR to 275 EUR.

Tax on Real Estate

According to the law on the real estate, if real estate is used by individuals for business or individual activities with several exceptions or disposed to the legal persons for the period longer than 1 month or term less is subject to 0.3% - 1% real estate tax calculated on the value of the real estate. The council of the municipality on the territory where buildings and structures are located determines the exact rate of the tax.

Lithuanian and foreign entities owning buildings and structures located in Lithuania are obliged

to pay real estate tax. The rate of the real estate tax remains unchanged and is rated at 0.3% - 1% of the taxable value of buildings and structures.

The real estate tax return should be submitted to the State Tax Authorities within one month after the date of acquisition of the real estate. Legal entities, as opposed to individuals, should pay advance installments on a quarterly basis. Both individuals and legal entities should provide an annual real estate tax return to the State tax authorities not later than 1 February of the next year.

Tax Payments in Lithuania

Taxpayers are entitled to defer payment of certain taxes for a period of one month to one year. Unpaid taxes are subject to a late-payment fee at the rate of 0.05% per day behind schedule for the fourth quarter of the year 2009. Late payment amounts no longer increase when the late payment equals the original debt amount.

The amount of tax penalties imposed depends on the type and delay of tax non-compliance. Late filing of tax declarations results in penalties of no more than 500 LTL for the first breach. However the second breach results the increased penalty of up to 1000 LTL. If the evasion of taxes occurs – the penalty is from 2000 LTL to 4000 LTL if no criminal charges are met.

A taxpayer is allowed to make voluntary corrections to a tax declaration for a 5-year period after the payable term, if an audit by the tax administration has not been commenced. The taxpayer remains his right to apply for the voluntary corrections to tax declaration even if the audit by the tax administration was commenced, however in this case the tax authorities has the right to decline it. That results in the cancellation of any penalties pending for tax non-compliance.

All decisions of the tax authorities may be appealed to the Tax administrator, Tax Litigation Commission and Court. Decisions of tax administrator may be appealed to Tax Litigation Commission within the period of 20 days of the date the decision was received.

Latvian budget 2010 changes the tax system

On December 1 Parliament of the Republic of Latvia adopted budget 2010. By the budget after long discussions, objections and wide protests several amendments were adopted regarding tax politics in Latvia. These amendments concern Personal Income tax and capital tax, immovable property tax and living space tax, fees on passenger vehicles and motorcycles, excise tax on natural gas and excise tax on wine and cigarettes.

Personal income tax

From January 2010 the personal income tax (PIT) rate will be 26% instead of previous 23%. Furthermore the PIT rate will increase on self-employed persons (performers in economic activities) - from previous 15% to 26%.

The tax base is widened by including capital gains (the tax will be imposed on the received dividends beginning from year 2010) with 10 % tax rate.

The dividends are classified as income from capital that is not a capital growth. However, the law explains further that this applies to dividends that are income from capital-company capital shares or stocks or co-operative company debentures or other rights to participate in profit appropriation that does not result from debt liabilities.

The moment of taxation is the day when the dividends are calculated. Announcement about the dividends paid and withheld taxes must be sent to the tax payer (person that has received the dividends) and to the State Revenue Service by 15th date of the following month.

The income tax shall be withheld at the place of the payment of the income and paid into the budget by 5th date of the month following the month of the calculation of the dividends.

The same 10% will apply to income from growing forest and alienation of timber products gained from deforesting.

The rate of eligible expenditure for investments into pension funds and payments for insurance premiums will decrease from 20 % to 10 % and the tax incentive for inputs into investment funds will be cancelled.

Regarding to gifts, taxable will be any that are received from spouse or relative up to third- degree (with exception when the gift has received within the economic activity) and ones that exceed LVL 1000 per year and are not received from spouse or relative (with exception when the gift has received within the economic activity or the gift is with nature of payment) and any received from employer.

The relief for dependent persons will be LVL 63.

Innovation in the Latvian tax politics is so called 'official auto tax'. It applies on vehicles belonging to employer that employee is using for private needs. The tax will be calculated depending on engine capacity. It is presumed that employee

gets a benefit from using official auto for private needs. The tax is therefore 26% from the benefit. If the engine capacity is up to 1500 cm³, the benefit per month is LVL 40 and the tax is LVL 22.70. With engine capacity 1501-2500 cm³, the benefit is LVL 70 and tax- LVL 39.73. With engine capacity 2501-3500 cm³, the benefit is LVL 100 and tax- LVL 56.75. With engine capacity over 3500 cm³, the benefit is LVL 150 and tax- LVL 85.13 per month.

A sum of non-taxable income from agricultural production and countryside tourism services will be decreased from LVL 4000 to LVL 2000 per year, but in the same time in taxable income sums that are paid out as the state-aid or European Union-aid for agriculture will be included.

Excise tax

The excise tax increases on cigarettes and wines.

The tax on cigarettes remains LVL 22.5 for 1000 cigarettes plus 34.5 % of the maximal retail sales price. However, the sum of both rates cannot be lower than LVL 48 for 1000 cigarettes.

The tax on wines and fermented beverages increases from previous LVL 40 to LVL 45 per 100 liters. Also for intermediate products with the absolute alcohol content up to 15% by volume (inclusive) increases from previous LVL 42 to LVL 45 per 100 liters.

The new excise tax object is natural gas. The one that is used as firing the tax rate will be LVL 15.6 per 1000 cubic meters, but natural gas used as fuel – LVL 70 per 1000 cubic meters. The tax does not apply on natural gas used for other purposes than as fuel or firing, natural gas used both as firing and other purpose that is not used as fuel or firing and gas that used for mineralogical processes. However, this tax will be implemented as from May 1, 2010.

Immovable property tax

From January 2010 the progressive 'living space tax' occurs.

The amendments in Law on Immovable Property tax provide that on living space (living house or apartment) with cadastral value up to LVL 40 000 the tax rate will be 0.1% of the cadastral value, living space with cadastral value

LVL 40 000- LVL 75 000 the tax rate will be 0.2%, but with cadastral value over LVL 75 000- 0.3% per annum.

The amendments also provide to increase tax rate on land and buildings from previous 1% to 1.5% from their cadastral value. However, the 25% tax increment limit for present taxation objects remain until end of the year 2010, while the minimal payment for each taxation object will be LVL 5.

A heightened tax rate will apply to uncultivated agricultural land – 3% from the cadastral value (1.5% as basic rate and 1.5% as supplementary rate). Uncultivated agricultural land means here an agricultural land that is not used for a production or cultivation of agricultural goods including harvesting, animal grazing and keeping for agricultural purposes, or a land that is not kept good agricultural and environmental condition.

Fees on vehicles and motorcycles

As from January 2010 yearly fees on vehicles will depend on their full mass but for motorcycles the fee is fixed.

Until now the yearly fee on motorcycles, tricycles and ATVs was LVL 3 but after the amendments it is LVL 24.

It is decided that on automobiles with full mass up to 1.5 tons the fee is LVL 24. On vehicles with mass from 1.5 to 1.8 tons LVL 48 instead of previous LVL 24, with mass from 1.8 to 2.1 tons LVL 75 instead of previous LVL 45, with mass from 2.1 to 2.6 tons LVL 95 instead of previous LVL 54, with mass from 2.6 to 3.5 tons LVL 115 instead of previous LVL 72, but personal vehicles with mass over 3.5 tons the fee will be LVL 150 instead of previous LVL 78.

There are no changes concerning fees on buses and trucks. The same invariability of fee remains on vehicles with historical status.

As from January 2010 also the tax rate on motorcycles and personal vehicles is changed. The rate is still set depending on the age of the personal vehicle. However the changes apply to those personal vehicles that is not registered before or for first time is registered abroad after January 1, 2009. The tax is set depending on carbon dioxide (CO₂) emitted by the vehicle per one kilometer: up to 120 grams per one kilometer (120g/1km) the tax is LVL 0.3 per each gram on one kilometer (it means if the emission is for instance 115g/1km the tax will be 115x0.3= 34.5 LVL). Further the rate is set as follows:

121-170g/km	– LVL 1.00
171-220g/km	– LVL 1.50
221- 250g/km	– LVL 2.50
251- 300g/km	– LVL 3.00
301-350g/km	– LVL 4.00
Over 350g/km	– LVL 5.00



Last day of Mermaid II



The vessel Mermaid II was built in 1972 in Finland. On 2004 she was purchased by our customer SIA „HLVB Shipping”. Currently the vessel has been scrapped to metal.



Order-for-payment procedure in Estonia

Introduction

All the Member States are aware of the problem of recovering uncontested debts. The swift recovery of outstanding debts whose justification is not called into question is of paramount importance for economic operators in the European Union and for the proper functioning of the internal market. Late payments are a major reason for insolvency threatening the survival of businesses, particularly small and medium-sized ones, and resulting in numerous job losses.

It has become essential to distinguish the truly contentious cases at the earliest possible stage of the proceedings from those where no real legal dispute exists. Such a differentiation is a necessary, albeit not sufficient condition to make efficient use of the limited resources allocated to the courts.¹ For remedy of this situation, the European Parliament and the Council of the European Union created the European order for payment procedure² with purpose to simplify, speed up and reduce the costs of litigation in cross-border cases concerning uncontested pecuniary claims.³

Domestic case

As of January 1, 2009 the applications of order-for-payment procedure are accepted by court in an electronic form only. The portal⁴ is accessible by ID card and the application must be signed digitally. Possible is to fail claims for debt and child support. The debt claims for order-for-payment shall not exceed EUR 6400 (EEK 100 000) and the amount covers the main claim as well as collateral claims (e.g. interest). The collateral claims must not exceed the main claim. The payment deadline shall be arrived and the debtor should not be bankrupted. The state fee is 3% of the main claim but not less than EUR 48 (EEK750) and not more than EUR 1280 (EEK 20 000). The court makes a decision within 15 days, and it has to be complied immediately. Debtors have 15 days for contesting the order. Approximately 10% of order-for-payment applications are contested for now, what means that these disputes are resolved in ordinary civil procedure. Estonian Courts expect the present maximum claim EUR 6400 may be increased in the near future.

Cross-border case

A cross-border case is defined as a case is one in which at least one of the parties is domiciled or habitually resident in a Member State other than the Member State of the seized court.⁵ In case the parties (legal persons) have agreed with Estonian jurisdiction for disputes but one of them locates in other Member State, the Estonian court is obliged to issue the order and the execution command to the country where the debtor is located. The requirements for claim are the same as domestic case - maximum claim about EUR 6400 and the state fee 3% of the claim. The main difference is the court's decision making time 30 days and the debtors have 30 days to contest the order. Also there is no electronic application form for European order-for-payment, thus the application should be filed into court using the traditional ways.

The claimant only has to submit his application, after which the procedure will lead its own life. It does not require any further formalities or intervention on the part of the claimant. This will ensure a swift and efficient handling of the claim, which should substantially reduce the length of traditional court proceedings.⁶

On November 20, 2009, Estonian court Harju County Court Kentmanni courthouse received the first European order-for-payment application in case the debtor locates in Member State, filed from Gencs Valters Law Firm.

¹ Communication from the Commission to the European Parliament pursuant to the second subparagraph of Article 251 (2) of the EC Treaty concerning the common position of the Council on the adoption of a Regulation of the European Parliament and of the Council creating a European order for payment procedure. Brussels, 4.7.2006 COM(2006) 374 final 2004/0055 (COD).

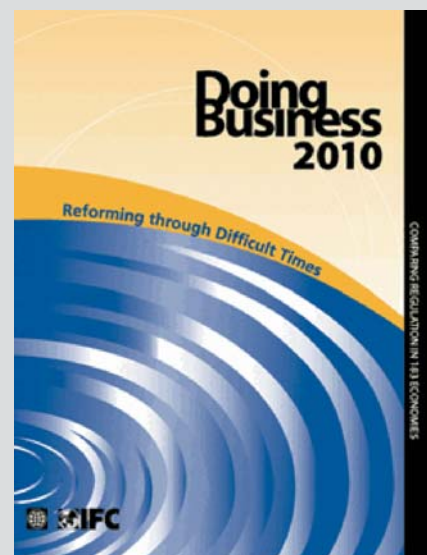
² In Estonian: Maksekäsu kiirmenetlus. In Latvian: Eiropas maksājuma rīkojuma procedūra. In Lithuanian: Europos mokoājimo sakymo procedūra

³ Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure. Official Journal L 399, 30/12/2006 P. 0001 - 0032

⁴ E-toimik. URL: www.e-toimik.ee (23.11.2009).

⁵ Green Paper on a European order for payment procedure and on measures to simplify and speed up small claims litigation COM (2002) 746 [final - not published in the Official Journal].

⁶ Regulation (EC) No 1896/2006 of the European Parliament and of the Council of 12 December 2006 creating a European order for payment procedure



Doing Business 2010 by World Bank

is the seventh in a series of annual reports investigating the regulations that enhance business activity and those that constrain it. Regulations affecting 10 stages of a business's life are measured: starting a business, dealing with construction permits, employing workers, registering property, getting credit, protecting investors, paying taxes, trading across borders, enforcing contracts and closing a business.

Destruction of counterfeited goods



We as the representative of the Company FORMULA ONE LICENSING B.V. have assisted in the procedure of

the destruction of the counterfeited toy cars with the sign "F1". Counterfeited goods, which are detained and seized by the Customs office, are destroyed (if the decision of the Custom office on the seizure is not appealed).



LATEST COURT CASES



Our firm has represented in November 2009 French engineering company ALSTOM POWER HYDRO for VAT deduction case with the European Court of Justice in Luxembourg.



The case is second case heard in the ECJ from Latvia and concerns rights of the companies to claim VAT deductions exceeding 3 year statute of limitations imposed in laws in 2004. The decision is expected within a half a year time.

Zviedrijas vēstniecība Latvijā piedāvā Lūcijas dienai veltītu

Santa Lucia

Koncertu

Rīgas Domā, 2009. gada 12. decembrī, plkst. 19.00

koncertā piedalās
kors Sankta Eugēnija Vokālensemble / Zviedrija /
Nordea koris, diriģents Jānis Taranda / Latvija /
zviedru Ziemassvētku dziesmas / soprāns Inese Galante / Latvija /
F.Šūberta, E.Loīda Vēbera, kā arī /
diriģents un ērģelnieks Ulf Samuelson / Zviedrija /
ilāju un zviedru komponistu skaņdarbi / ērģelnieks Tālvāldis Deksnis / Latvija /

Third year our firm sponsored Swedish

“Santa Lucia”

concert organized by the Swedish Embassy.

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