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New lease standard may bring additional obligations

IFRS 16 is a new lease standard, which requires lessee to recognize right-of-use assets stipulated in lease contracts on its balance sheet as when signing lease contracts, the lessee gains the right to use the leased assets (assets user rights as immaterial assets) and associated liability arises for payments to lessor for using the asset (liability arises from right to use).

Exception applies to assets with acquisition costs under 5000 dollars (the value is measured as the asset would be new/unused) and to short-term assets (under 12 months). The new standard will be effective as of 1st of January 2019 or later together with possible transitional measures. Currently it is not known when the new standard will be implemented to Accounting Standards Board guidelines (Estonian financial standard). Many Estonian companies already prepare reports based on IFRS (EU), for example subsidiaries of international groups, who prepare accounting according to Estonian financial standard, but group reporting based on IFRS.

The new lease standard will most likely affect a lot of companies operating in Estonia. Even though terms "operating lease" and "financial lease" will be replaced with single term "lease" in financial reporting, then from value added taxation perspective the economic content of the transaction and type of lease remain important. Therefore, in case lease transaction is considered as a financial lease (regarded as supply of goods) according to Estonian VAT Act, then VAT is paid upon the transaction and in case of operating lease (regarded as supply of service) on a monthly basis. The new lease standard may also bring detailed transfer pricing documentation preparation obligation. Estonian regulation No. 53 issued by Estonian Ministry of Finance on 10th November 2006 "Methods for determining the value of transactions conducted between associated persons" (*hereinafter the Estonian Regulation*) §18

stipulates the transfer pricing documentation obligation for following companies:

- for a resident credit institution, insurance undertaking and company listed on a stock exchange;
- if one transaction party is a person situated in a low tax rate territory;
- for a resident business association or non-resident being active in Estonia via a permanent establishment, having together with its related persons 250 or more employees including related persons, or having a turnover or 50 million Euros or more including related persons in the financial year preceding the transaction, or having a consolidated balance sheet total of 43 million Euros or more.

As companies balance sheets will increase due to new lease standard, then it is essential to monitor whether consolidated balance sheet equals or exceeds the value of 43 million euros. In case the criteria is met, then detailed transfer pricing documentation needs to be prepared based on requirements stipulated in the Estonian Regulation (§ 18). Thus, it is important to consider and analyse in an early stage how the new standard could affect companies and consult with specialists if necessary.