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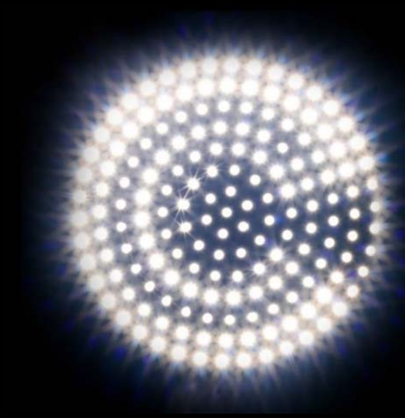
International Tax
Lithuania Highlights 2018



Investment basics:

Currency – Euro (EUR)

Foreign exchange control – No

Accounting principles/financial statements – IAS and IFRS, or Business Accounting Standards (BAS). BAS are prepared in conformity with IAS, IFRS and the European accounting directives. Financial statements must be prepared annually.

Principal business entities – These are the public/private limited liability company, general/limited partnership, small partnership, subsidiary of a foreign enterprise and branch or representative office.

Corporate taxation:

Residence – A corporation is resident if it is incorporated in Lithuania.

Basis – Lithuanian entities are subject to tax on their worldwide income minus the income of their permanent establishments (PEs), provided the PEs are based in European Economic Area (EEA) countries or countries that have concluded a tax treaty with Lithuania and the income from activities carried out through the PEs is subject to corporate income tax (or equivalent tax) in those countries. Nonresident entities are subject to tax on Lithuania-source income and on income received by a PE in Lithuania.

Taxable income – Corporate income tax is imposed on a company's profits, which consist of business/trading income, passive income, capital gains and positive income of a Lithuanian entity's controlled foreign entity, or part of such income. Normal business expenses may be deducted in computing taxable income.

Taxation of dividends – Dividends are taxable at a rate of 15%, unless the participation exemption applies in accordance with which dividends are exempt from corporate income tax if a parent company holds at least 10% of the shares of the subsidiary for at least 12 months.

Dividends received from a foreign entity registered in an EEA member state and whose profits are subject to corporate income tax or an equivalent tax are exempt from tax. Dividends received from a foreign entity registered in a state other than an EEA member state may also be tax exempt if the Lithuanian company holds at least 10% of the shares of the subsidiary for at least 12 months, the foreign entity's profits are subject to corporate income tax or an equivalent tax and the foreign entity is not registered in a blacklisted territory.

Capital gains – Capital gains of resident and nonresident companies are taxed as general taxable income, at a rate of 15%. An exemption may apply to capital gains derived by a Lithuanian resident holding company or PE of a foreign company on the disposition of shares in a company (that is subject to corporate income tax) located in Lithuania, another EU/EEA member state or a country that has concluded a tax treaty with Lithuania. To qualify for the exemption, the Lithuanian company or PE must hold more than 10% of the voting rights for an uninterrupted period of at least two years. In the case of a reorganization, the exemption applies if a company or PE has held more than 10% of the voting rights for an uninterrupted period of at least three years.

Losses – Operating losses may be carried forward indefinitely if the entity continues to carry on the activity that resulted in the losses. However, losses carried forward cannot offset more than 70% of taxable income of the entity in any tax period, except for micro companies. Losses incurred on the sale of shares may be carried forward for five consecutive tax periods and may be offset only against income from the sale of shares. Losses may be transferred within a group of companies if certain criteria are met. The carryback of losses is not permitted.

Rate – The general rate is 15%. Micro companies (those with up to 10 employees and annual income of up to EUR 300,000) may be exempt from tax for the first tax period and entitled to a reduced rate of 5% for subsequent tax periods. Income earned from the commercialization of scientific research and experimental development production is subject to a reduced rate of 5%.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid may be credited against Lithuanian tax on the same profits, but the credit is limited to the amount of Lithuanian tax payable on the foreign income. Foreign tax paid on income earned through a Lithuanian company's PE located in an EEA member state or a country that has concluded a tax treaty with Lithuania may not be credited against Lithuanian tax.

Participation exemption – Dividends are exempt from corporate income tax if the parent company holds at least 10% of the shares of the subsidiary for at least 12 months. See also above under "Capital gains."

Holding company regime – Lithuania does not have a holding company regime, but an exemption may be available on capital gains derived from the disposal of shares (see above under "Capital gains").

Incentives – Three times the amount of scientific research and experimental development costs incurred may be deducted when calculating corporate income tax. According to an incentive for investment programs, a company may reduce its taxable profits by 100% for expenses incurred between 2009 and 2023. Incentives also are provided for small companies and companies in free economic zones.

From 2014-2018, a Lithuanian entity or a PE of a foreign entity that provides funds to a Lithuanian film producer for the production of all or part of a film may be entitled to: (i) reduce its taxable income by 75% of funds provided to the film producer; and (ii) reduce up to 75% of the corporate income tax payable by the amount of funds provided to the film producer, provided certain conditions are satisfied.

Withholding tax:

Dividends – The withholding tax on dividends paid to a nonresident is 15%, unless the rate is reduced under a tax treaty, the participation exemption applies (see above under "Taxation of dividends" and "Participation exemption") or the EU parent-subsidiary directive applies.

Interest – There is no withholding tax on interest paid to EEA-resident companies and companies resident in countries that have concluded a tax treaty with Lithuania. Otherwise, the rate is 10%.

Royalties – Royalties paid to a nonresident company are subject to a 10% withholding tax, unless the rate is reduced under a tax treaty or eliminated in accordance with the EU interest and royalties directive.

Technical service fees – No

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – Real property (with certain exceptions) owned by a legal person; real property used by a legal person under an installment sale or lease contract or financial lease providing for the transfer of ownership; or real property owned by an individual and transferred to a legal person for an indefinite period or a period exceeding one month, is subject to real property tax. Depending on the municipality, the rate varies from 0.3% to 3% of the value of the property. The type of property will determine the applicable valuation method and, therefore, the taxable amount.

Social security – In addition to withholding a 3% pension social insurance (plus an additional 2% for resident individuals participating in the second pillar pension funds program) and a 6% health insurance contribution on behalf of an employee, an employer must contribute to social insurance (including pension social insurance, sickness and motherhood social insurance, unemployment insurance, health insurance and occupational accident and disease contributions) at a rate between 30.98% and 32.6% of the employee's gross salary, depending on the risk group.

Stamp duty – No, although a notary fee may apply to certain transactions.

Transfer tax – No

Other – An employer must contribute 0.2% of an employee's gross salary to the Guarantee Fund.

Anti-avoidance rules:

Transfer pricing – The transfer pricing rules are based on the OECD transfer pricing guidelines. Companies must document transfer prices if the annual turnover exceeds

EUR 2,896,200 (this threshold does not apply to financial and credit institutions or insurance companies).

Thin capitalization – Thin capitalization restrictions apply to interest paid to controlling entities. A creditor qualifies as a controlling entity if it owns more than 50% of the shares in the company paying the interest (or more than 50% of the shares are owned together with associated persons and the creditor's "own" holding is 10% or more). A group company also qualifies as a controlling entity. A debt-to-equity ratio of 4:1 applies, and any interest attributable to the debt in excess of this ratio is nondeductible. The thin capitalization restrictions do not apply if the paying entity can demonstrate that the same loan would have been granted under the same circumstances by an unrelated party. No thin capitalization restrictions apply to financial institutions rendering financial lease services.

Controlled foreign companies – A foreign company is treated as a CFC if it is controlled by the controlling person on the last day of the tax period and the controlling person holds, directly or indirectly, more than 50% of the shares (or the controlling person, together with related persons, holds more than 50% of the shares and the portion controlled by the controlling person accounts for at least 10% of the shares) in the controlled entity or in other rights to a portion of distributable profits or preemptive rights to the acquisition thereof.

Disclosure requirements – No

Other – The substance-over-form principle applies.

Lithuania has adopted country-by-country reporting rules in accordance with action 13 of the OECD BEPS project.

Compliance for corporations:

Tax year – The tax year is a financial year that coincides with the calendar year. However, at the request of the taxpayer and taking into account the characteristics of the taxpayer's activities, the tax authorities may set a 12-month tax period other than a calendar year.

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – Companies are required to file an annual corporate income tax return and advance corporate income tax returns (if the income for the previous tax year exceeded EUR 300,000). The annual corporate income tax return must be submitted and the corporate income tax must be paid by the 15th day of the sixth month of the following tax period, i.e. by 15 June of the following tax year for calendar year taxpayers. If the company's income for the previous tax period exceeded EUR 300,000, the company also is required to make advance payments no later than the 15th day of the last month of each quarter of the tax period, of at least one-fourth of the total annual corporate income tax calculated according to the rules specified in the Law on Corporate Income Tax.

Penalties – Penalties equal to 10%-50% of the tax liability may be imposed; the amount depends on the type of violation, whether the taxpayer cooperates with the tax authorities and other circumstances the authorities deem relevant. A daily late penalty of 0.03% applies to late tax payments.

Rulings – A taxpayer can request a binding ruling or advance pricing agreement on future transactions.

Personal taxation:

Basis – Lithuanian tax residents are subject to tax on their worldwide income; nonresidents are subject to tax only on income sourced in Lithuania and on income derived from activities through a fixed base in Lithuania, including foreign-source income attributed to that fixed base.

Residence – An individual is treated as a resident if at least one of the following conditions is satisfied: (i) the individual's permanent place of residence during the tax period is in Lithuania; (ii) the individual's personal, social or economic interests during the tax period are in Lithuania, rather than abroad; (iii) the individual is present in Lithuania for at least 183 days during the tax period; (iv) the individual is present in Lithuania for at least 280 days during two consecutive tax periods and has stayed in Lithuania for at least 90 days in either of the tax periods; or (v) the individual is a citizen of Lithuania who does not meet the criteria in (iii) and (iv) above and who receives employment-related remuneration or whose costs of living in another country are covered by the state budget or municipal budgets of Lithuania (e.g. diplomats, consuls, etc.).

Filing status – Joint filing is not allowed.

Taxable income – Taxable income includes employment income, income from commercial activities, royalties, income from the lease of assets and all other personal income.

Capital gains – Individuals are taxed at a rate of 15% on gains from the disposal of property, including shares. Any gains from the disposal of financial instruments not exceeding EUR 500 per tax period are tax exempt unless the shares disposed of were issued in a blacklisted territory. Capital gains from the sale of immovable property located in the EEA are exempt if the property is owned for at least ten years before the sale. Gains derived from the sale of a residence are not taxable if the individual lived in the premises for at least two years, or if less than two years, when the income from the sale is used within one year to purchase another residence where domicile will be declared.

Deductions and allowances – The annual tax-exempt amount (TEA) of EUR 4,560 is applicable if annual income does not exceed EUR 4,800. The annual TEA is reduced on annual income from EUR 4,800 to EUR 13,920, and no TEA is applicable if annual income exceeds EUR 13,920. The annual TEA is calculated by taking into account taxable income (not only employment income), with certain exceptions. A tax resident also is allowed to deduct the following expenses: life insurance premiums, contributions to private pension funds and fees paid for certain types of studies.

A resident carrying out individual business activities can deduct 30% of his/her annual income without providing documentation for the expenses. Deductible expenses, however, generally are similar to those available for corporate income tax purposes.

Rates – Income derived by individuals generally is subject to personal income tax at the standard rate of 15%, although an exception applies to income earned from the sale of waste, which is taxed at 5%. As from 1 January 2018, a progressive system of taxation applies to income from independent individual activities (i.e. business and professional income). A 5% rate applies where annual profits do not exceed EUR 20,000 and the rate increases progressively to a maximum of 15% where annual profit is at least EUR 35,000. Alternatively, fixed income tax rates may apply to: (i) income earned from individual activities or the rental of real estate which does not exceed EUR 35,000 per tax period; or (ii) income earned from activities for which the taxpayer holds a business certificate.

Other taxes on individuals:

Capital duty – No

Stamp duty – There is no stamp duty, but a notary fee may apply to certain transactions.

Capital acquisitions tax – A 15% personal income tax is levied on gifts valued at more than EUR 2,500, but only the portion of the gift exceeding EUR 2,500 is subject to tax. Gifts received from a spouse, child, brother, sister, parent, grandparent or grandchild are tax exempt.

Real property tax – Real property owned by an individual and real property used by an individual under an installment sale or lease contract providing for the transfer of ownership are subject to real property tax.

Progressive tax rates are applied to real estate (such as residential property; gardens; garages; farms; greenhouses; households or auxiliary households; buildings used for science, religious or recreational purposes; and fishery and engineering constructions) depending on the value. Real estate with a value of up to EUR 220,000 is exempt; a 0.5% tax rate applies to the total value of real estate valued between EUR 220,000 and EUR 300,000; a 1% tax rate applies to the total value of real estate valued between EUR 300,000 and EUR 500,000; and a 2% tax rate applies to the total value of real estate valued in excess of EUR 500,000.

Preferential rates and thresholds apply to individuals raising three or more children (or adopted children) under the age of 18 years and children (or adopted children) who require special care.

Real estate tax rates from 0.3% to 3% apply to buildings intended for certain purposes (administration, accommodation, trading, services provision, catering, transportation, manufacturing, industrial, warehousing, medical services and sports) that are owned by individuals. Rates can vary depending on the municipality.

Individuals do not pay real estate tax if use of the real estate is transferred to another legal person for an indefinite period or a period exceeding one month. In that case, the legal person using the real estate must pay the real estate tax.

Inheritance/estate tax – The inheritance tax rate is 5% of inheritable assets valued at EUR 150,000 or less, and 10% on inheritable assets valued at more than EUR 150,000. However, the taxable base is only 70% of the inherited assets. The taxable value not exceeding EUR 3,000 is exempt. Exemptions also apply to assets inherited by family members.

Net wealth/net worth tax – No

Social security – The employer must withhold a 3% pension social insurance (plus an additional 2% for resident individuals participating in the second pillar pension funds program) and a 6% health insurance contribution on behalf of its employees from employment-related income, and pay the employer's part of social security contributions at a rate between 30.98% and 32.6%, depending on the insurer's risk group.

Income received from an appointment to the Management Board, the Supervisory Board or the Loan Committee is subject to a 22.3% pension social insurance contribution, paid by the employer. Individuals receiving such income must contribute 3% of the income to the pension social insurance fund (plus an additional 2% for resident individuals participating in the second pillar pension funds program).

Royalties are no longer subject to social security contributions as from 1 August 2017.

Income from individual activities generally is subject to a 9% health insurance contribution (except where the individual holds a business certificate). This income also is subject to social security contributions, at a rate of 28.7% or 30.7%. Caps for both health insurance and social security contributions are set so that annual contributions are calculated on the amount of income not exceeding 28 average salaries in Lithuania, which would amount to approximately EUR 20,753.60. The base for health insurance and social security contributions is 50% of taxable income before the deduction of health insurance and social security contributions.

Income of owners of unlimited civil liability entities, members of partnerships and members of small partnerships is subject to a 9% health insurance contribution and a 30.8%-32.8% social security contribution. The base for the social security contributions is the remuneration received by the owners of the unlimited civil liability entity and members of partnerships, declared to the State Tax Inspectorate, and cannot be lower than the minimum statutory monthly salary (currently EUR 400). The requirement to pay social security contributions on the amount not lower than the minimum statutory amount does not apply in certain cases. The base of health insurance contributions is the amount on which the owners of unlimited civil liability entities and members of partnerships pay social security contributions and cannot be lower than minimum statutory monthly salary. The maximum monthly amount on which health and social security contributions are calculated cannot exceed 28 average salaries in Lithuania, which would currently amount to approximately EUR 20,753.60.

The health insurance contribution on income derived from carrying on individual activities with a business certificate is 9% of the minimum statutory monthly salary. Health insurance contributions for persons that carry on individual activities with a business certificate and who also receive employment related income are calculated in proportion to the time during which they hold a valid business certificate. Social security contributions on such income are 25.3% or 27.3% of the minimum statutory monthly salary.

Special provisions apply to income derived by athletes, income from entertainment activities, income from farming and certain other types of income.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Employment income is taxed by withholding at source.

Individual tax returns are due by 1 May following the end of the taxable year. An individual must file an annual return unless: (1) he/she does not wish to utilize unused additional tax exempt amounts and deduct expenses; or (2) he/she did not receive income other than employment income from a Lithuanian entity during the tax year.

Penalties – Penalties equal to 10%-50% of the tax liability may be imposed; the amount depends on the type of violation, whether the taxpayer cooperates with the tax authorities and other circumstances the authorities deem relevant. Daily penalties of 0.03% apply for late payments.

Value added tax:

Taxable transactions – VAT applies on the sale of goods and the provision of services, intra-community acquisitions and the import of goods.

Rates – The standard rate is 21%, with reduced rates of 9%, 5% and 0%.

Registration – Registration is compulsory for Lithuanian businesses whose annual turnover exceeds EUR 45,000, but voluntary registration also is possible. Lithuanian and foreign taxable persons, or legal persons that are not taxable persons, also must register as VAT payers in Lithuania if they acquire goods in Lithuania from another EU member state and the value of such goods exceeded EUR 14,000 in the previous calendar year, or if it is foreseeable that the value of such goods will exceed that amount in the current calendar year.

The turnover threshold does not apply to foreign companies; they must register irrespective of turnover. Foreign taxable persons must register either through a local affiliate or a fiscal agent. Direct registration is possible only for companies established in an EU member state or in territories where agreements exist concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures and administrative cooperation and combating fraud in the field of VAT.

Filing and payment – VAT must be paid on a monthly basis, no later than 25 days after the end of the taxable period. In some instances, a calendar half-year or other taxable period basis can be applied. The annual tax return (if applicable) is due on 1 October of the following tax year.

VAT payers registered in Lithuania also are obliged to submit VAT registers no later than 20 days after the end of the taxable period.

Source of tax law: Tax Administration Law, Corporate Income Tax Law, Personal Income Tax Law, Law on Health Insurance, Law on Social Security Contributions, Value Added Tax Law

Tax treaties: Lithuania has concluded 53 tax treaties. Lithuania signed the OECD multilateral instrument on 7 June 2017.

Tax authorities: State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania, Customs Department of the Republic of Lithuania, State Social Insurance Fund Board under the Ministry of Social Security and Labor

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