



Tax and Legal Newsletter

January-February 2017

Audit and consulting company, Deloitte Lithuania, is glad to introduce you with Tax and Legal Newsletter. In this edition, you will be presented with the latest tax and legal news prepared by our experts from Tax and Legal Department

Tax News

Amendments to the registration of foreign legal entities

On 4 January 2017 the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania (hereinafter – STI under MF) issued Order No VA-1 “On Foreign Legal Entity Registration/Deregistration to the Tax Register” amending some registration procedures. The key amendments are as follows:

- If a permanent establishment of a foreign legal entity is registered in the Register of Legal Entities, it is also automatically registered as a Lithuanian Tax payer (there is no need to register it separately). Besides, it is also granted with access to STI systems;
- A foreign legal entity may be deregistered upon the decision of the STI, if the entity does not receive any income in Lithuania during a consecutive 5 years period;
- The updated Form FR0227 provides for a possibility to include both the director and an authorised person of a foreign legal entity for its representation in Lithuania (previously only one of them could be indicated);
- When the director of a foreign legal entity changes, Form FR0227 has to be submitted to the STI.

The Order enters into force on 5 January 2017.

More information is available [here](#).

The Commentary to the Law on Corporate Income Tax has been amended

STI under MF amended the Commentary of Article 58 Paragraph 16 of the Law on Corporate Income Tax that relates to corporate taxation of entities established in free economic zone (hereinafter – FEZ).

The updated Commentary provides detailed explanations related to the taxation of the profit of legal entities established in FEZ, which are engaged in accounting, bookkeeping, consultancy, office administrative and maintenance service, human resource, architecture and engineering (with some exceptions) services.

More information is available [here](#).

The Commentary to the Law on Value Added Tax has been supplemented

According to the EU regulation No 1042/2013, wherein a detailed explanation of services related/not related to immovable property is provided, the STI under MF has prepared a supplement to Article 13 Paragraph 4 to the Law on Value Added Tax (hereinafter – VAT).

Following the mentioned supplement, services (identifying place of supply) are considered to be connected with the immovable property if:

- They are derived from an immovable property and that property makes up a constituent element of the service and is central to, and essential for, the services supplied (e.g. lease, permission to use property, etc.);
- They are provided to, or directed towards, an immovable property, having as their object the legal or physical alteration of that property (e.g. reconstruction of a building, land cultivation, etc.);
- Services are related to work on land, including agricultural services such as tillage, sowing, watering and fertilisation;

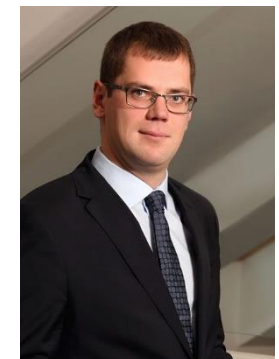
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- Legal services relating to the transfer of a title to immovable property, to the establishment or transfer of certain interests in immovable property or rights in rem over immovable property (whether or not treated as tangible property), such as notary work, or to the drawing up of a contract to sell or acquire immovable property, even if the underlying transaction resulting in the legal alteration of the property is not carried through.

Services which are not considered to be related to immovable property and to which Article 13 paragraph 4 of VAT is not applicable:

- The storage of goods in an immovable property if no specific part of the immovable property is assigned for the exclusive use of the customer;
- The provision of a stand location at a fair or exhibition site together with other related services to enable the exhibitor to display items, such as the design of the stand, transport and storage of the items, the provision of machines, cable laying, insurance and advertising;
- Legal services other than those covered in the list above, connected to contracts, including advice given on the terms of a contract to transfer immovable property, or to enforce such a contract, or to prove the existence of such a contract, where such services are not specific to a transfer of a title on an immovable property.

Please note that the list of mentioned services related/not related to immovable property is non-exhaustive and therefore in order to establish the place of a supply (where service may be related to immovable property) every case should be examined on an individual basis.

More information is available [here](#).

Excise duties imposed on the utilization of biogas and natural gas

On 17 January 2017 STI under MF updated information on the taxation of biogas and natural gas.

Excise duties for biogas occur given that biogas has been utilized or sold in the territory of the Republic of Lithuania as heating or engine fuel and its supplements. Natural gas is only taxable on the production of heating. Both types of gases are considered as energy products to which tax exemptions apply only if they are consumed in the process of the production of electricity, except for infrastructure maintenance.

In addition, the report clarifies:

- Biogas and natural gas taxation in case of the production of mixed heating and electricity energy;
- The procedure of filing excise duties returns;
- The taxation of electricity produced from natural gas;
- Excise duties refund procedure for biogas, natural gas and electricity.

More information is available [here](#).

Treatment of vouchers for VAT purposes

On 31 January 2017 STI under MF issued an explanation regarding the VAT treatment of vouchers.

In the abovementioned explanation STI under MF singled out two treatments of vouchers:

- a) The treatment of single-purpose vouchers, i.e. those which grants the right to acquire homogenous and clearly identifiable goods or

- services (e.g. a ticket to see a movie in a specific movie theatre),
and
b) The treatment of multi-purpose vouchers.

Payment received upon the sale of single-purpose vouchers are considered to be advance payments for VAT purposes and therefore the seller of such vouchers:

- Has the right to choose whether to calculate VAT if the expiry date of such voucher is shorter than 12 months;
- Has the duty to calculate VAT if the expiry date for such voucher is longer than 12 months.

Multi-purpose vouchers (e.g. a gift voucher to acquire any goods or services in a shopping centre) are not treated as advance payments, and therefore VAT should be charged only after such vouchers have been used for their intended purpose, and supply of goods or provision of services is formalised by issuing a VAT invoice.

Moreover, in the issued explanation, STI under MF clarifies VAT rates applicable to vouchers, cases (including the distribution of vouchers) when a VAT invoice has to be issued, whether VAT has to be calculated on vouchers with an expired date and other related issues.

Please note that the VAT treatment of vouchers might change upon full implementation of the Council directive (EU) 2016/106, which partly amends the provisions of the Council directive 2006/112 regarding the VAT treatment of vouchers, i.e. it is likely that the possibility to choose the moment of single-purpose voucher's taxation may cease to exist.

More information is available [here](#).

Changes to the activity of members of management or supervisory board treatment

On 20 February 2017 STI under MF provided a clarification regarding a member's of a management or supervisory board activity being treated as the individual activity as explained in the Law on Personal income tax (hereinafter – PIT).

Following the rules set out in the Law on Companies regarding a member's of a management or supervisory board election and revocation procedure, decision making process and other relevant factors, STI under MF states that the activity of an individual who is a member of a Lithuanian management or supervisory board has no characteristics of autonomous and entrepreneurial activity. Therefore, on the basis of Article 2 Paragraph 7 of the Law on PIT, such an activity should not be considered as the individual activity and a company making payments to its members of the management or supervisory board is required to calculate, withhold and pay 15 percent of PIT.

Nevertheless, STI under MF provided an example when such member's activity could be considered as the individual activity, i.e. when a resident of Lithuania is a member of several management boards in different foreign companies.

More information is available [here](#).

Clarifications regarding income received in 2016

As the reporting period of PIT comes to an end, STI under MF announces these clarifications:

- ["The taxation and reporting specifics of income received from the sale of financial instruments or other kind of transfer of their ownership, and the realisation of derivative financial instruments"](#);
- ["Taxation and reporting procedures of interests received by individuals in 2016"](#).

Updated tax publications and tables

STI under FM informs about the updated tax publications and tables:

- ["Adjustment of VAT deduction"](#);
- ["Guidance on filling in VAT return \(form FR0600\)"](#);
- ["Corporate income tax incentives"](#);
- ["Customer's obligation to calculate VAT on acquired goods or services"](#);
- ["Application of personal income tax exempt amounts, for 2016 – 2017"](#);
- Table ["Taxation of benefits"](#);
- Table ["Taxation of interests"](#);
- Table ["Taxation of personal income as of 1 January 2017"](#).

Legal News

New Wording of the Competition Law adopted

On 12 January 2017 the Government adopted a new wording of the Competition Law (hereinafter – the Law). The main novelty is that the Law establishes more favourable possibilities to claim damages incurred because of unlawful agreement concluded between economic entities or abuse of dominant position.

Further, the Law establishes amended regulation regarding payments for examination of concentration.

The Law enters into force on 1 February 2017.

More information is available [here](#).

Law on Development of Small and Middle-Size Business amended

On 12 January 2017 the Parliament adopted amendments to the Law on Development of Small and Middle-Size Business (hereinafter – the Law), which specifies definition of middle-sized, small and very small companies.

1. Middle size company shall meet the following requirements:
 - Annual income does not exceed 50 mln. euros; or
 - Value of the assets in the balance-sheet does not exceed 43 mln. euros;
 - Maximum 250 employees.
2. Small company shall meet the following requirements:
 - Annual income does not exceed 10 mln. euros; or
 - Value of the assets in the balance-sheet does not exceed 10 mln. euros;
 - Maximum 50 employees.
3. Very small company shall meet the following requirements:
 - Annual income does not exceed 2 mln. euros; or
 - Value of the assets in the balance-sheet does not exceed 2 mln. euros;
 - Maximum 10 employees.

The Law also specifies forms of support for subjects of small and middle-sized business. The Law enters into force on 1 May 2017

More information is available [here](#).

List of highly qualified professions that are in demand in Lithuania approved

On 8 February 2017 the Government approved a list of highly qualified professions that are in demand in Lithuania. The list establishes 27 professions, which include the following:

- Graphic Designer
- Computer Systems Analyst;
- Administrator of Databases
- IT Systems Administrator;
- Programmer;
- Network Analyst, etc.

A simplified immigration procedure for the issue of temporary residence permit (Blue Card) applies for third-country nationals invited to work in Lithuania as professionals mentioned above.

More information is available in Deloitte [overview](#).

Updated average gross monthly salary

In February the Statistics Department of Lithuania announced updated average gross monthly salary of the IV quarter of 2016 which amounts to EUR 822,8.

The average gross monthly salary is important for foreign citizens, who apply for temporary residence permit in Lithuania as highly qualified employees (Blue Card). Depending on the Blue Card type chosen, a monthly salary of the Blue Card holder should be at least either 1,5 or 3 average salaries of Lithuania (i.e. at least EUR 1,235 or EUR 2,469 respectively).

More information is available [here](#).



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