



## Tax and Legal Newsletter

September 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 Managers from Tax and Legal Department.

## Tax News

### **Signed agreement regarding Country-by-Country report exchange between Lithuania and US**

On 30 August 2017 the representatives of The State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania (hereinafter - STI under MF) and Internal Revenue Service of the United States Department of the Treasury signed a bilateral agreement regarding the exchange of the Country-by-Country (hereinafter - CbC) reports.

This agreement between Lithuania and the US will simplify receipt of information from the CbC reports for the competent authorities of both countries and will reduce the reporting burden for the Lithuanian and the American entities of the multinational enterprise groups.

The purpose of the CbC report is to assist the tax administrators in identifying enterprises or groups, which are likely to transfer taxable profit to other countries rather than to those in which profit generating activities are actually held and products or services are made.

It should be noted, that Lithuania is obliged to exchange the CbC reports with other member states of the European Union under the Council Directive (EU) 2016/881 adopted in 23 May 2016.

Moreover, CbC reports exchange is provided in the Multilateral Competent Authority Agreement on the Exchange of CbC Reports prepared by The Organization for Economic Co-operation and Development, which was signed by Lithuania on 25 October 2016. 64 countries have signed this agreement as at 6 July 2017, however US have not signed this agreement yet.

More information is available [here](#) and [here](#).

### **Rules of filling and issuing forms – FR0594 and FR0595 for residents and non-residents of Lithuania have been amended**

On 25 August 2017 the Head of the STI under MF issued the order No VA-69 by which the rules on the filing and issuing forms FR0594 and FR0595 were amended. The new rules indicate that Lithuanian tax residents may apply for the form FR0594 not earlier than on 1 May of the following year. The rules also foresee that both Lithuanian tax residents and non-residents may ask to include non-taxable income in the forms FR0594 and FR0595, respectively. In addition, non-residents of Lithuania may also choose to require to include their income which is not subject to taxes in Lithuania in the form FR0595 issued to them.

More information [here](#).

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### **Submission of VAT law draft regarding VAT refund**

On 10 July 27 the Lithuanian Government proposed a draft law regarding the right of a foreign taxable person to claim refund of VAT paid in the Republic of Lithuania. Under the draft, legal parity (i.e. right to VAT refund will be granted in those countries where the refund of VAT paid is granted for taxable person of the Republic of Lithuania) shall not apply to the OECD members which do not have VAT or equivalent tax.

More information [here](#)

### **Submission of VAT law draft regarding VAT recovery**

On 14 September 2017 Lithuania adopted ruling regarding reduced VAT rate for thermal energy. Ruling that will be submitted to the Parliament of the Republic of Lithuania as a matter of urgency provided an extension of the reduced VAT rate for thermal energy till 31 December 2017.

More information [here](#).

## **Legal News**

### **European Court of Human Rights Limits employers' right to monitor employees' communication at work**

On 5 September 2017, the European Court of Human Rights (hereinafter – the Court) adopted a judgement (hereinafter – the Judgement) on employers' right to monitor employees' communication at work. The Court has examined a case brought by a Romanian citizen who had created a Yahoo Messenger account to communicate with clients. However, the management confronted him using the above account for personal matters. Two weeks later, the Romanian citizen was fired. In the situation at hand, the Court examined the extent to which the employers are allowed to monitor their employees' e-mails and held that in general, employers may regulate electronic and other communications of their employees in the workplace. However, such monitoring may only occur if the following requirements are met:

- The employer should clearly notify the employee in advance about the monitoring of employee's correspondence and other communications and inform about the implementation of such monitoring measures;
- the employer should make clear to the employee whether all communication or only part of it is monitored and whether the monitoring is limited in time or not and the number of people who have access to the results of the performed monitoring;
- the employer should provide legitimate reasons to justify the monitoring;
- the employer should establish a monitoring system based on less intrusive methods and measures than directly accessing the content of the employee's communication;

- the results of the monitoring operation should be used to achieve the declared aim of the measure;
- the employer should provide employees with adequate safeguards, which should ensure that the employer could not access the actual content of the communications concerned unless the employee has been notified in advance of that eventuality.

The above requirements can serve as a useful tool when drafting "Procedure on employee's monitoring and control in the workplace" which every employer must have in place, according to Art. 27 of the Lithuanian Labor Code.

Text of the ruling can be found [here](#).

### **Amendments to the Law on Legal Status of Foreigners have entered into force**

On 25 May 2017 amendments to the Law on Legal Status of Foreigners was adopted in Lithuania implementing EU Directive 2014/66/EU and replacing former regulation on the issue of temporary residence permits for intra-corporate secondment cases.

Third-country nationals employed by non-EU entity and residing outside the territory of EU are eligible for intra-corporate transferee permit (hereinafter – ICT permit), if the following conditions are met:

- employee is posted to the host entity in Lithuania as a manager, a specialist or a trainee;
- employee has been employed by the home company for at least 6 months (for managers and specialists) or for at least 3 months (for trainees);
- the maximum duration of the assignment does not exceed 3 years for managers and specialists or 1 year for trainees.

New regulation also provides a possibility for the employee holding an ICT permit, issued in another EU country, to work in Lithuania up to 90 days within a period of 180 days.

Migration department should adopt a decision to issue ICT permit for manager/specialist as well as for his/her family members within 2 months as of application submission (in case a fast-track procedure is preferred – within 1 month).

Amendments have entered into force on 1 September 2017.

More information about amendments can be found in a special [Deloitte Legal Alert](#).

**Sample forms of notification on work council formation or non-formation were approved**

On 25 July 2017 the Senior Labour Inspector approved a sample forms of notification on work council formation or non-formation.

On 1 July 2017 the new Labour Code came into effect and established a requirement to form a works council when the average number of employees is 20 or more, unless the workplace has a trade union which operates at the level of the employer and at least 1/3 of all employees belong to the union.

Labour Code establishes a requirement to inform the territorial divisions of the State Labour Inspectorate on the following information:

- formation of works council;
- the end of the works council activities;
- non-formation of works council.

Approved sample forms can be found [here](#).



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