

Tax & Legal Alert

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Tax & Legal Alert

The publication of tax and legislative updates by the Tax department at PricewaterhouseCoopers.

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Tax news

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Amendments to the Law on Real Estate Tax (RET)

On 5 March 2009, the Law on RET was amended. According to the amendments RET should not be applicable to the real estate or its part which are used by individual for the purpose of earning income from agricultural activities irrespectively whether this income is subject to PIT or not.

Real estate owned and used by legal entities should not be taxable with RET if more than 50% of this entity's income is earned from agricultural activities.

The Lithuanian version of the document may be accessed [here](#).

Supplements to the Official Commentary on the Law on VAT

On 5 March 2009, the Official Commentary on Art. 75 of the Law on VAT was supplemented by the letter of the Tax Authorities No. (18.2-31-2)-R-2194.

Commentary on Art. 75 on deregistration from the VAT payers' register specifies cases when a taxable person may be recognised as not performing activities and deregistered from the VAT payers' register upon a decision of the Tax Authorities. The Commentary also establishes the criteria of minimum 2 taxable periods for which nil VAT returns are filed or failure to file any returns as well as other circumstances when a tax

payer may be deregistered from the VAT payers' register.

The Lithuanian version of the document may be accessed [here](#).

On 20 March 2009, the Official Commentary on Art. 28 and 32 of the Law on VAT was supplemented.

The Commentary on Art. 28 was supplemented with an example, when services may not be treated as financial services. In cases when services are of technical nature and do not impact the legal or financial status of the transaction they may not be treated as financial services and, therefore, must be subject to the standard VAT rate (e.g. administrative services to the utility services providers).

According to the supplemented Art. 32 of the Law on VAT, the land where road constructions are planned, should be treated as a building land. Consequently the sale of such a land plot should be subject to the standard VAT rate.

The Lithuanian version of the document may be accessed [here](#).

Amendments to the instructions for filing of the annual CIT return

On 30 March 2009, based on the Order of the Head of the Tax Authorities, filing instructions for returns PLN204, PLN204A, PLN204N, PLN204U were amended.

The amendments were determined by the amendments of the Law on CIT applicable for calculating taxable profits of financial year 2008. These amendments are related to the deduction of charity expenses from income, R&D expenses' deductions from income, loss carry forward after reorganization.

The amended rules should be applied for filing CIT return for 2008.

The Lithuanian version of the document may be accessed [here](#).

Amendments to the monthly A class income PIT return

On 6 March 2009, based on the Order No VA-23 of the Head of the Tax Authorities, a form and filing instructions of monthly A class income PIT return FR0572 (version 03) and its annex FR0572A were amended.

The main amendment is a requirement for the entities to report in the returns PIT withheld from residents as well as compulsory health insurance contributions calculated on income from lease of assets, health allowances and other payments made to such individuals.

The new return form should be applied as from 1 January 2009. Returns which have already been filed should be adjusted in accordance to the new version.

The Lithuanian version of the document may be accessed [here](#).

Increased interest rates on late payments and tax loans

On 9 March 2009, increased interest rates on late payments and tax loans were approved by orders No 1K-058 and No 1K-059 of the Minister of Finance. For the second quarter of 2009, the rates should be as follows: 0.05% late payment interest for each day of delay (previously it was 0.04%) and 0.02% interest rate on tax loans for each day (previously it was 0.01%).

The Lithuanian versions of the documents may be accessed here: [1K-058](#) and [1K-059](#).

Social security contributions' return and its filing instructions for athletes, performers and individuals receiving royalty income

On 14 March 2009 an Order of the Head of the State Social Insurance Fund (SSIF) Board came into force. The Order approves filing instructions for the social security contributions' return, form 13-SD for athletes, performers and individuals receiving royalty income. Instructions also provide forms 13-SD and 13-SD-T and their electronic versions.

The Order requires that insurers provide the data on income received by individuals as royalty income and income from sports or performance activities during the period from 1 January 2009 to the date when the Order came in force, i.e. 14 March 2009. This information should be reported by 30 March 2009.

The Lithuanian version of the document may be accessed [here](#).

Payment codes for contributions to SSIF

On 30 March 2009, Order No V-144 of the Head of the SSIF Board was adopted. The Order approved payment codes for contributions to SSIF in 2009. The Order came into force as from 4 April 2009.

Insurers can find the codes by the contribution name and rate [here](#).

Explanation on recognition of income in kind

On 17 March 2009, the Tax Authorities issued an explanation (Reg. No (18.18-31-1)-R-2528) regarding application of Art. 9 of the Law on PIT (Income in kind). Tax Authorities provided examples when benefits received by individuals are/are not treated as income in kind.

The Lithuanian Government or its authorised institution should prepare the rules on valuation of income in kind. According to the Tax Authorities, since no new rules are adopted, old rules are still applicable if they do not contradict with the rules of the Law on PIT.

This explanation is applicable as from 1 January 2009.

The Lithuanian version of the document may be accessed [here](#).

New publications of the Tax Authorities

On 4 March 2009, the Tax Authorities published a new informational publication „Taxation of Lithuanian resident’s income from individual activities”. The publication is related to the newest amendments of the Lithuanian Law on RET, Law on PIT and Law on Health Insurance.

The publication may be accessed [here](#).

On 30 March 2009, the Tax Authorities published an informational publication and explained how tax payers should calculate PIT and compulsory health insurance contributions on employment-related income.

The publication may be accessed [here](#).

Legal news

Guidelines of the Securities Commission to avoid money laundering and financing of terrorists

On 5 March 2009, Decision No 1K-2 of the Securities Commission established the guidelines with respect to financial brokerage firms, investment companies, management companies and depositories designed to prevent money laundering and financing of terrorists.

The guidelines provide the requirements related to procedures of client’s identification, control of financial transactions and operations, reporting to the Financial Crime Investigation Service, etc. The aforementioned requirements should be applicable as from 1 July 2009.

The Lithuanian version of the document may be accessed [here](#).

Implementation of EU Directive provisions to control activities of companies in the financial sector

On 19 March 2009, amendments and supplements to the Law on Banks, Law on Collective Investment Undertakings, Law on Markets in Financial Instruments were adopted. They came into force on 4 April 2009.

The amendments are related to implementation of provisions of EU Directive 2007/44/EC as regards procedural rules and evaluation criteria for the prudential assessment of acquisitions and increase of holdings in the financial sector.

The Lithuanian version of the amendments to the Law on Banks may be accessed [here](#).

The Lithuanian version of the amendments to the Law on Collective Investment Undertakings may be accessed [here](#).

The Lithuanian version of the amendments to the Law on Markets in Financial Instruments may be accessed [here](#).

Courts’ decisions in tax cases

Exemption from penalties and late payment interest concerning absence of guilt of a tax payer

On 16 March 2009, the Supreme Administrative Court of Lithuania (SACL) decided administrative case No A-438-331/2009. It was stated that a tax payer incorrectly applied zero-rated VAT on goods, since they were not exported out of the country

notwithstanding the fact that the custom's declaration of export was drawn. It is important to note that the tax payer did not challenge the amount of additionally calculated VAT, but requested to exempt him from the penalty and late payment interest since he was not guilty for the violation.

SACL stated that despite the fact that the tax payer had the export declarations required for recognition of goods as exported, it is not sufficient to treat the tax payer as acting with due care and honesty. The tax payer had to know that he will have to support the fact that the goods were actually exported. Therefore, he had to undertake additional actions in order to be certain that the goods were actually transported outside of Lithuania (e.g. request for a written approval from the buyer that the goods were received, apply to the competent foreign institution for an approval that the goods were carried into the territory of the foreign country). Therefore, SACL stated that there are no legal grounds to say that there is no guilt of the tax payer regarding the violation of the tax law in the pending case and the tax payer cannot be exempted from the penalty and late payment interest calculated.

The Lithuanian version of the case may be accessed [here](#).

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