

Tax & Legal Alert

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Tax & Legal Alert

provides the latest information on changes in Lithuanian legislation most urgent to our clients.

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Tax news

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Amendments to the Law on VAT

On 23 June 2009 amendments to the Law on VAT No. [XI-317](#) were enacted. According to the new edition of the law, the application of reduced VAT rates for books and non-periodic publications (9%) as well as for pharmaceuticals and medical aid devices (5%), when their acquisitions cost is wholly or partly compensated following the provisions of the Law on Health Insurance, is prolonged until 31 December 2010.

The amendments came into force as from 1 July 2009.

Supplement to the Commentary of the Law on VAT

On 18 June 2009 decision No. [\(18.2-31-2\)-R-5905](#) of the Deputy Head of the Tax Authorities supplemented the Commentary to the Law on VAT, Art. 66, part 1 and Art. 67, part 3.

The supplements explain that a VAT payer should be liable for 100% proportionally calculated input VAT deduction in the financial year, if while filing an annual VAT return for VAT deduction adjustment, the ratio of deductible VAT according to the actual indicators of the financial year is not less than 95%. This provision should also be applicable for the annual amount of VAT deduction adjustment for items of long term tangible assets.

On 23 June 2009 decision No. [\(18.2-31-2\)-R-6034](#) of the Deputy Head of the Tax Authorities supplemented of the Commentary to the Law on VAT, Art. 22, part 1.

The supplements explain that the services of distance training provided by the electronic means, when such training is directly related to the profession of the participants, shall be treated as professional training services, therefore, shall be VAT exempt.

Supplement to the Commentary of the Law on CIT

On 26 June 2009 the Tax Authorities issued letter No. [\(18.10-31-1\)-R-6103](#) informing that the Commentary of Art. 11, part 4 of the Law on CIT was supplemented.

According to the amendments, any state or local charges paid by companies may be treated as deductible expenses based on the payment documents (payment transfers, payment receipts).

Amendments to the advance CIT return filing rules

On 12 June 2009 Order No. [VA-40](#) of the Head of the Tax Authorities amended the rules on advance CIT return FR0430 filing.

According to the new version of the Rules, as from the financial year started in 2009 the companies will be allowed to change the method of calculation of advance CIT once per taxable period.

In order to use the aforementioned possibility, a company has to prepare a request of a free form and submit it to the Tax Authorities by mail, e-mail or deliver it directly to their office.

Upon receipt of the request, the Tax Authorities have to inform the tax payer that the previously filed return is cancelled and the new return may be filed. In such a case, the box Pirmine in the 8th square of the return has to be marked.

The rules also provide that the request should be filed not later than before 1st day of the 10th month of the current financial year.

Amendments to the general administration document filing rules

On 10 June 2009 Order No. [1B-330](#) of the Director of Customs Office issued the new edition of the rules on filing of square 47 Calculation of taxes of the general administration document.

The new edition more clearly explains the rules on the calculation of taxes when not only one tax item is established and provides for other amendments.

Amendments to the rules on tax investigation

On 3 June 2009 Order No. [VA-42](#) of the Head of the Tax Authorities amended Order No. 118 Regarding approval of the rules on tax investigation, the notification about defects and contradictions identified form FR0687 and the form FR0688 of task to control/review the activities of the tax payer.

The amendments provide for more circumstances when a tax investigation may be followed by a tax inspection, e.g. when a company adjusted the return and did not consider the defects identified during the tax investigation, when indications of tax avoidance are identified, when a repeated breach of legislation is identified.

Explanation of the Tax Authorities regarding contributions to the Guarantee Fund for permanent establishments

On 22 June 2009 the Tax Authorities issued letter No. [\(18.10-31-1\)-R-5972](#) explaining the application of the provisions of the Law on Guarantee Fund for permanent establishments.

The Tax Authorities indicate that the Contributions to the Guarantee Fund should be paid by companies whose employees qualify for allowances from the Guarantee Fund if the company is insolvent.

The Tax Authorities also specify that the Law on Guarantee Fund does not provide that the funds may be paid to the employees who work in the permanent establishments of the foreign companies not legally registered in Lithuania. Therefore, foreign entities performing their activities in Lithuania through a permanent establishment should not pay contributions to the Guarantee Fund.

Postponement of the legislation coming into force

On 30 June 2009 the Tax Authorities published a [notification](#) on their official site regarding a postponement of two legal acts coming into force.

According to the notification, Order of the Head of the Tax Authorities VA-15 which approves the amendments to the rules on non-residents' of Lithuania and foreign citizens' registration with/deregistration from the Lithuanian Taxpayers' Register (see Tax & Legal Alert, issue No. 107) will come into force from 1 January 2010 instead of 1 July 2009.

According to the notification, Order of the Head of the Tax Authorities VA-189 Regarding the notification of the legal entity about its data amendments or supplements in the Taxpayers' Register will also come into force as from 1 January 2010 instead of 1 July 2009.

Until 31 December 2009 non-residents of Lithuania and foreign citizens should follow the rules valid until this date.

Information for investors on the official site of the Tax Authorities

On 5 June 2009 the Tax Authorities informed that a new column was introduced on the official site of the Tax Authorities designed for foreign investors.

Tax payers visiting the official site of the Tax Authorities may find useful information on the legalisation of activities in Lithuania, taxes and their compliance, payment and international agreements in [English](#) and [Lithuanian](#) in the new column *For investors*.

Accounting news

Amendments to the 16 Business Accounting Standard (BAS) “Consolidated Financial Statements and Investments in Subsidiaries”

On 19 June 2009 Order [VAS-5](#) of the Head of the Authority of Audit and Accounting amended 16 BAS Consolidated Financial Statements and investments in subsidiaries.

According to the amendments, while calculating the votes of another company on a General Shareholder’s Meeting, the following should be deducted from the votes related to the shares issued by this another company:

- votes related to the shares owned by this another company;
- votes related to partly paid-up shares.

The aforementioned amendments should be applicable for accounting in financial year started on 1 January 2009 and later preparing financial statements for the periods started on 1 January 2009 and later. The standard may be also applicable for preparation of financial statements of preceding periods.

Legal news

Amendments to the Law on Investment, Law on Concessions, Law on Local Self-Government and Law on Land

On 16 June 2009 amendments to the Law on Investments No. [XI-299](#), to the Law on Concessions No. [XI-302](#) and other Laws were enacted.

The Laws were amended by introducing the new definitions – partnership of public and private sectors and partnership of Government and private parties. In the Law on Investment the lawmaker establishes a new type of agreement – Government and Private Party Partnership Agreement. Amendments also provide for compulsory provisions to be included into such an agreement and consider conditions of private parties’ investment into the public sector.

Amendments to the Law on Concessions establish who and when is obliged to receive an approval from the Ministry of Finance regarding the financing conditions of the Concession Agreement, who arranges and collects all the information related to the concessions as well as indicates the institutions responsible for the implementation of such an agreement.

The aforementioned amendments and definitions were also transferred into the Law on Land and the Law on Local Self-Government.

Amendments to the Regulations of the Real Estate Register

On 17 June 2009 Decision of the Lithuanian Government No. [619](#) amended the Regulations of the Real Estate Register. As from now on for the purpose of registering real estate, ownership rights and the rights in rem on the real estate, the restrictions of such rights or legal

facts when a contract is concluded or other documents are prepared in a foreign language, the translation should be attached. Such a translation has to be approved by the signature of the translator, however, a notarial approval is not required anymore.

Tax case-law

Legitimacy of an extension of a tax inspection

On 26 June 2009 the Supreme Administrative Court of Lithuania (SACL) decided in the administrative case No. [A-556-806/2009](#). The case examined the legitimacy of an extension of a tax inspection performed by the Tax Authorities. The decision of the Tax Authorities provided the following reason for the extension of the inspection: due to the examination of the information received. The taxpayer claimed that there was no reason for the extension of this inspection and that the Tax Authorities have not motivated this extension.

SACL stated that the decision of the Tax Authorities should include all the reasons for the extension of the inspection. If the reasons are not indicated or if they are limited to a merely abstract wording, the extension of the inspection is obviously unfounded, the Tax Authorities do not follow the tax legislation precisely and the Tax Authorities' obligation to interrupt taxpayers' activities as little as possible is denied.

SACL has indicated that in this case the reason for the extension of the inspection mentioned in the decision of the Tax Authorities ("due to the examination of the information received") is obviously of an abstract character. The kind of information to be examined, the scope of this information, its relation to the examination, its source and the purpose of this examination are not clear. All the above implies that the legitimacy of the extension of the inspection is doubtful. The Tax Authorities' decision to extend the inspection must be based on impartial facts and the rule of law. It must include the rights and duties of a taxpayer as well as the process of the decision appeal.

SACL also noted that it is not tolerated that the inferior court in its decision which was not favourable to a taxpayer basically reiterated the same motives which were indicated in the Tax Authorities' response to the claim. The comparison of the wording showed that the entire paragraphs of the Tax Authorities' response to the claim were reiterated in the decision of the inferior court. It implies that the taxpayer's claim was studied partially and not thoroughly, which may have resulted in the illegitimate decision.

Taking into consideration such circumstances SACL decided that the case must be re-examined in the inferior court.

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