

# 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 Pollution Tax

As of 12 February 2008 amendments to the Law on Pollution Tax came into force. According to the amendments:

- New tax rates for pollution from stationary sources were established (applicable as of 1 January 2010)
- Pollution tax returns have to be submitted to only one tax administrator – the Tax Authorities
- The requirement to establish tax rates for pollution from stationary and mobile sources two years before they are applicable was abolished
- Tax period for tax on pollution from mobile sources is established to be half a year.

### Supplemented commentary of the PIT Law

On 5 February 2008 the Official Commentary of the PIT Law was supplemented in respect to the provision related to the income in kind. According to the adjustments, assets and services received by an individual for the employment-related work may be treated as income in kind only if the agreement between the employee and the employer exists. The agreement should specify that the employment-related work is remunerated not only in cash but also by providing assets or services to the

employee. Such agreement may be concluded verbally or in writing.

### Draft amendments to the CIT Law

The Lithuanian Government proposed draft amendments to the CIT Law. The purpose of the amendments is to assure that dividends paid to foreign recipients are not taxed more heavily than dividends paid to comparable domestic recipients. The measures were taken in response to the infringement procedure started against Lithuania. Due to heavier taxation on dividends paid to non-resident recipients, Lithuania fails to comply with the fundamental principle of the European Union – free capital movement.

The legislation currently in force provides that a Lithuanian entity paying dividends to another Lithuanian entity may reduce its CIT payable by the tax withheld on dividends, however, such option is not granted if dividends are paid to a foreign entity.

According to the draft amendments, 15% tax rate will be levied on dividends paid to both foreign and Lithuanian companies (if participation exemption rule is not applicable) and the Lithuanian entity paying the dividends in both cases would not be allowed to reduce its CIT payable by the tax withheld on dividends.

The draft amendments provide that tax withheld on dividends paid by a Lithuanian entity to other Lithuanian

entities may reduce the amount of CIT payable by the receiving Lithuanian entity.

According to the draft amendments, dividends received from foreign companies, which are corporate income tax payers and are registered in EEA member states, are not subject to taxation in Lithuania. Moreover, the tax paid on such dividends in a foreign country could be deducted from the CIT payable by the Lithuanian entity receiving the dividends, i.e. the credit method could be applied.

The draft envisages that the amendments should come into force on 1 January 2009.

#### Public consultations

On 7 February 2008 the Tax Authorities announced that as of 19 February 2008 the draft official commentaries on Lithuanian tax legislation will be published on the website of the Tax Authorities for public consultations. Hereby a public opinion will be taken into consideration before publishing the commentaries officially.

#### Amendments to the rules for receiving certain certificates

On 26 February 2008 the Order of Head of the Tax Authorities announced the rules for receiving certain certificates. The rules mainly deal with the notification regarding the commencement of business activities of a Lithuanian resident, the certificate of performing such business activities and the certificate of the permanent base registration for non-residents in Lithuania. The Order also ratified the forms related to the aforementioned certificates.

#### News from the European Union

On 28 February 2008 the European Commission sent a reasoned opinion (the second step of the infringement procedure) to Lithuania on its rules under which interest paid to foreign companies are taxed more heavily than interest paid to comparable domestic recipients. Lithuania is requested to reply within two months.

Interest paid to foreign recipients, with the exception of Latvian recipients, are subject to withholding tax at the rate of 10%, whereas interest paid to Lithuanian domestic companies are not subject to taxation.

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## Legal news

#### Amendments to the legal status of foreigners

On 1 February 2008 amendments to the Lithuanian Law on Legal Status of Foreigners were passed and came into force on 23 February 2008. The amendments are related to the Decision of the EU Council of Ministers as of 6 December 2007 to support the joining of the Schengen area of nine EU member states – Lithuania, Latvia, Czech Republic, Estonia, Poland, Malta, Slovakia, Hungary and Slovenia. These nine countries abolished the border control between EU internal borders as of 21 December 2007.

The main amendments are related to the transfer of Schengen *acquis* to the domestic legal acts. Amendments cover rules for arrival of foreigners to Lithuania, issuing and requirements for visas as well as other related amendments.

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