

*AS PricewaterhouseCoopers in Estonia helps clients in finding tax efficient business solutions and managing tax risks.*

We work together with our colleagues in other PricewaterhouseCoopers' offices world-wide and use our access to international know-how and long-term experience to quickly and efficiently solve tax issues that arise both locally and in foreign jurisdictions. For more information, please see our contact details below.

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Contacts:

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Hannes Lentsius

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E-mail: [hannes.lentsius@ee.pwc.com](mailto:hannes.lentsius@ee.pwc.com)

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AS PricewaterhouseCoopers

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Tax Services

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Pärnu mnt 15, 10141 Tallinn, Estonia

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Tel: +372 614 1800

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E-mail: [tallinn@ee.pwc.com](mailto:tallinn@ee.pwc.com)

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[www.pwc.ee](http://www.pwc.ee)

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# Tax alert

Estonia, Issue 26, April 2017



## *Legal acts*

### *Tax Alert April 2017*

In March 2017 the Parliament made amendments to the Taxation Act that came into force on 1 April 2017. Below we provide an overview of the more important changes.

#### *Publishing information on the number of employees and turnover*

At the moment it is possible to become acquainted with information regarding the summarised amount of paid state taxes on the Tax and Customs' Board website <sup>1</sup>, including separate information on payroll taxes. As of 1 April the tax administrator will have the right to publish even more information. The data is to be published by the 10<sup>th</sup> day following a quarter, i.e. the first time for the extended scope will be 10 April.

Information submitted to the employment register, more specifically the amount of “working persons” as of the last day of a quarter will be subject to publishing along with the summarised taxable supplies of a quarter. With respect to the information on supplies, the quarter will be shifted by one month due to the date of submitting the VAT return as by the 10th date it is not yet possible to retrieve information on the previous month (the information submitted about the first quarter of 2017 will therefore reflect the supplies declared for period of December 2016 to February 2017).

<sup>1</sup> <https://www.emta.ee/et/kontaktid-ja-ametist/maksulaekumine-statistika/tasutud-maksud>

Although acting as a member of the management or supervisory board is also considered a form of working, then the Tax and Customs Board will not be releasing the number of members of a board since the respective information is already available in the commercial register.

Information on quarterly supplies is collected by the Tax and Customs Board based on the KMD return lines 1, 2 and 3 submitted by the VAT registered person, corresponding to 20%, 9% and 0% VAT rated supplies. Since only the aggregate amount of taxable supplies is published and not that of each line, then it is not possible to deduct the respective person's supplies separately for KMD return lines 1, 2 and 3.

The manner in which the information is presented is also subject to change – if prior to 1 April 2017 the reported tax amounts were published on a quarterly basis, but in a cumulative way (after the first quarter the table includes the sum of taxes paid in three months, after the first half year the total amount of taxes paid in six months etc.) then going forward, all of the information is to be displayed by the quarter and the amounts are not summed up for the year. The same principle applies to reporting turnover.

#### *TA audit department is gathering information*

The audit department of the Tax and Customs Board will be granted the possibility of gathering both individual and bulk data on taxpayers by

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submitting a substantiated request to another respective register (i.e. traffic register, land register, cadastral register, population register etc.) Such collection of information is not deemed as initiating examination or audit proceedings yet which does not imply that proceedings have been started regarding a specific taxpayer. According to the explanatory memorandum of the law, this information is necessary for conducting more effective risk analyses prior to audits and examinations and for locating potential violators of tax laws, since the information included in the taxpayers' register is often insufficient.

By comparing the information collected from other registers with existing data, it would be for example possible to determine whether the taxpayer has failed to declare income from a taxable real estate transaction, sale of timber or renting out real estate. Also, it allows for identifying the connections between affiliated persons in the meaning of ITA §8. The tax administrator can request information from other registers in connection with the following: the ownership or possession of assets, economic activities and the nature of related goods, services and logistics.

### *Deferral of date of payment becomes more flexible*

As of 1 April 2017, a taxpayer experiencing payment difficulties can apply for a deferral on an upcoming tax liability. At the same time, the tax administrator will have the right to cancel the deferral if tax returns are not submitted on time.

### *Tax late payment interest of 0.06% per day is in fact constitutional*

On 29 March 2017 the Constitutional Review Chamber of the Supreme Court upheld the current tax late payment interest rate of 0.06%. This means that the decisions rendered by the Tallinn Administrative Court in December 2016 and January 2017 along with the claim to apply 0.03% per day on the late payment of tax arrears were regrettably denied. The decision is available in Estonian under the following link: <http://www.nc.ee/?id=11&tekst=222583356>

### *Country-by-country reporting for large corporations*

In March 2017 the Parliament passed laws amending the Tax Information Exchange Act and the Taxation Act to commence with country-by-country reporting applicable to large corporations.

An Estonian tax resident corporation is deemed a reporting entity<sup>2</sup>, if its consolidated turnover is in excess of EUR 750m and it engages in cross-border activities i.e. at least one member of the group is tax resident in another jurisdiction (also if through a permanent establishment). As a rule, the reporting entity is the group's parent company.

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<sup>2</sup> According to the explanatory memorandum there are less than 10 groups meeting the criteria in Estonia

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The country-by-country report consists of information regarding the group's tax calculations in respect of each state or jurisdiction where they carry out business activities. Respective information will give the tax administrator of the certain state the tools for determining whether taxes were remitted in the same place where profits were earned. Information is only exchanged with the tax administrator of the state of residence (in case of an Estonian group thereby to the Tax and Customs Board), who in turn shares this information with other interested states.

Under the new regulation the first report regarding information on financial year 2016 must be submitted by the end of 2017 at the latest.

employee lives at least 50 km from the border of the settlement of the place of work and he does not own real estate possible to be used as an abode in the area of work.

It is also planned to amend ITA § 48(5') which as an exception precludes trips made between home and a place of work meeting certain conditions from the definition of a fringe benefit. Additional exceptions are introduced: the employer may compensate transportation costs to the employee free of tax on the condition that (a) the employee lives at least 50 km from the border of the settlement where his place of work is located, or (b) transportation organised by the employer uses a category M2 or M3 vehicle (bus).

## *New draft law initiated for amending the Income Tax Act*

The Ministry of Finance has initiated a draft law, with the aim of exempting certain costs of covering accommodation and transportation by an employer from the scope of a fringe benefit in order to enable employers in need of workforce to recruit employees who live away from the place of work. The draft law has been sent for harmonisation.

The draft law proposes adding a provision which allows the employer to cover the housing costs of an employee exempt from tax on condition that the accommodation is in the interest of the employer, costs do not exceed set thresholds (up to EUR 200 in a month per employee in Tallinn or Tartu and up to EUR 100 in other instances), if the

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