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Tax alert

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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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Legal acts

Enhanced predictability in tax legislation

On 19 February, an amendment to Taxation Act was passed by the Parliament introducing a new general principle that should increase legal certainty in the field of taxation. As from 1.07.2015, the changes in tax laws, if disadvantageous for the taxpayers, must be generally subject to a six-month time lag between adoption and enforcement of the respective legal act.

While introduction of the new principle is certainly positive, it is only half of a step forward as the wording of the respective paragraph reserves the Parliament a right to derogate from the general rule. Furthermore, the wording allows to conclude that the six-month requirement does not apply to regulations of the Minister of Finance, including the regulations establishing new tax return forms.

As a fresh example of violation of the principle of legal certainty, the Minister of Finance Regulation passed on 11.09.2014, which significantly changed the corporate and payroll tax return forms TSD, came into force on 1.01.2015. Although taxpayers were able to examine the images of the new forms from the Official Journal as early as from 19.09.2014, the electronic structure and completion rules remained a mystery until 6.02.2015 (four days before the deadline of submission of the new forms). Considering that over 95% of taxpayers file their taxes electronically, the new or amended forms should be available for online testing by the same date the respective regulation is enforced, the latest.

To appropriately complete the initiation of the Chamber of Commerce, the newly adopted six-month rule should also be applied to all regulations of the Minister of Finance that are burdensome for taxpayers. And, if a regulation prompts a change in electronic filing, a clear reference should be given within the regulation as to when up-to-date online application will be made available.

Anti-KMD INF petition handed to Parliament

Initiated by Estonian Chamber of Commerce and the Taxpayers Association, a petition carrying 1,901 signatures was handed to Parliament on 14 January. The petition requests the Parliament to abolish recent amendment to VAT Act which established from 1.11.2014 the requirement to report information on all sales and purchase invoices exceeding 1,000 euros per transaction partner during a calendar month. The VAT return form KMD was therefore complemented by a new form KMD INF.

The petition has been left to the attention of the new, 13th Parliament. Given the results of 1 March election, abolishment of the respective VAT rule along with the KMD INF form is highly unlikely.

Real-time tax audits

On 28.10.2014, Estonian Supreme Court made a ruling (No 3-3-1-46-14) in a case about whether the Tax and Customs Board has a right to conduct a real-time tax audit, i.e. to audit taxpayer’s transactions and finances when they occur rather than after the end of a taxable period and deadline of the respective tax return.

The Supreme Court held that in principle the tax authorities have a right to carry out a tax audit regarding a current taxable period. However, requesting information and documents during a real-time audit can be only an exceptional measure the necessity of which must be thoroughly and conclusively demonstrated by way of providing the taxpayer proper argumentation on what are the special circumstances that do not allow to gather evidence in a usual manner, i.e. after the tax return is filed. Lack of such argumentation was what led the Supreme Court pass a decision in taxpayer’s favour.