

# Tax & Legal Alert Lithuania No. 214

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## ***Tax News***

### ***Value Added Tax (VAT)***

*Individuals registered for VAT purposes may issue and receive e-invoices on i.SAF*

The [announcement](#) of the Tax Authority dated 24 May 2017.

*VAT and excise duties for road transport fuel are refunded to diplomatic staff of the French Embassy in Lithuania within the limit of 200 liters*

Order No. [1K-188](#) of the Minister of Finance dated 17 May 2017.

### ***Corporate Income Tax***

*Proposal to treat expenditure for health and wellness improvement as deductible*

Draft Law amending the Article 17 of the CIT Law No. [XIIIP-548](#).

*The filing rules of the Dividend income tax return were amended*

Order No. [VA-38](#) of the Head of the Tax Authority dated 9 May 2017.

*The filing rules of the annual reports on sponsorship received, its use, and on sponsorship provided were amended*

Order No. [VA-40](#) of the Head of the Tax Authority dated 12 May 2017.

## ***Personal Income Tax and Social Insurance Tax***

*Updated rules regarding the registration/de-registration with the Tax Authority and application form for the individuals' registration with the Tax Authority*

The [announcement](#) of the Tax Authority dated 11 May 2017.

*Updated rules on filing of the annual non-resident's tax return (form GPM309) due to the change in formula for calculating the applicable tax exempt amount*

The [announcement](#) of the Tax Authority dated 19 May 2017.

*Updated Commentary on Art. 2 Part 35 of the Law on PIT regarding the updated concept in respect the attribution of individual activity to independent professions*

The [announcement](#) of the Tax Authority dated 29 May 2017.

## ***General Information***

*Amendments to the procedure for calculation of land tax for 2017 and 2018*

Letter [No \(32.42-31-1E\)-RM-14251](#) issued by the Tax Authority dated 28 April 2017.

# ***Legal News***

### **➤ New regulation will ensure better protection of commercial secrets and better defense of violated rights**

Due to transposition of the European Union directive, draft Law on Protection of Commercial Secrets together with changes to the Civil Code and the Code of Civil Procedure shall come into force. The Law on Protection of Commercial Secrets will set features of commercial secrets, establish requirements of legal and illegal acquisition, use and disclosure of commercial secrets, measures of defense of violated rights and a possibility to apply interim measures, peculiarities of protection of commercial secrets in civil proceedings.

Features of commercial secrets are: (i) information is secret, i.e. it is not known or difficult to know as a whole or concrete composition of it or configuration of components in an environment where the information is usually used; (ii) information has commercial value because it is secret; (iii) the subject, which legally controls information, takes reasonable measures to keep it secret. However, information which in usual circumstances becomes experience, skills, capability or knowledge of honest employees, cannot be treated as commercial secret.

[Draft](#) Law on Protection of Commercial Secrets.

[Draft](#) amendments to the Civil Code.

[Draft](#) amendments to the Code of Civil Procedure.

### **➤ Business of insurance broker companies will be less burdensome, but additional requirements for protection of client interests will apply**

Due to transposition of the European Union directive, a draft Law on Insurance has been prepared. In addition to other provisions, the draft aims to facilitate entry into the market and business of insurance broker companies. Capital requirements shall be abolished (now insurance broker companies are required to have an authorized capital of EUR 15,000 and own capital of 4% of annual contributions) and no licence shall be required. The subject shall have a right to act as an insurance broker company after it is included in the list of insurance broker companies administered by a supervisory authority and published on the authority's website.

In order to protect client interests, insurance broker companies shall open a separate bank account, into which only funds by assured, insurant, benefactors and aggrieved third parties shall be transferred and shall only be used for their allowances. No exaction can be directed towards those funds and use of these funds is limited in case of bankruptcy of insurance broker company.

Draft Law on Insurance No. [IX-1737](#).

*List of circumstances when a company can refuse to provide stakeholders information they require will be expanded and requirements will be set for contracts of a listed stock company's contracts with related companies*

Draft Law on Companies No. [VIII-1835](#).

## ***Tax Case-Law***

### ➤ **Tax arrears in a foreign country may be covered by a tax payer's tax overpayments from the Lithuanian state budget**

A dispute arose whether the Tax Authority was entitled to transfer a taxpayer's overpayments to the German competent authority's account in order to cover his tax arrears in Germany. The Court decided that in the case of forced recovery of tax arrears, the Tax Authority has the right to dispose of a taxpayer's existing tax overpayment, which is located in the state budget accounts, and allow to offset it in order to cover the tax payer's tax arrears abroad.

Ruling of the Supreme Administrative Court of Lithuania No. [eA-331-438/2017](#) dated 18 May 2017.

### ➤ **Tax arrears of a deceased individual have to be paid by heirs in accordance with the procedure of the Civil Code**

The Tax Authority performed a tax inspection after death of an individual and decided to calculate tax arrears of the deceased. This decision was made against an heir of the deceased taxpayer, establishing an obligation to pay the tax arrears.

The court decided that the tax obligation generally does not expire after an individual's death, it must be carried out by heirs of the deceased taxpayer. However, the Tax Authority has not entitled to make an administrative decision on transferring the tax arrears of the deceased taxpayer to his heirs, because tax liabilities of a deceased taxpayer which were not performed have to be performed by his or her heirs in accordance with the procedure established in the Civil Code.

Ruling of the Supreme Administrative Court of Lithuania No. [eA-396-602/2017](#) dated 18 May 2017.

### ➤ **Providing restaurant and entertainment services to limited public for consideration by educational institutions may be exempt from VAT**

The European Union Court of Justice (EUCJ) explained that restaurant and theatrical performance activities/services provided by students of a higher education for consideration and as part of their education to third parties may be regarded as supplies 'closely related' to the principal supply of education and thus, exempt from VAT. This interpretation would apply provided that the services (i) are supplied by an eligible institution, (ii) are essential to the students' education, and (iii) its purpose is not to obtain additional income for that institution by carrying on business in direct competition with businesses whose supplies are liable to VAT.

Judgment of the European Union Court of Justice in case No. [C-699/15](#) (Brockenhurst College) dated 4 May 2017.

### ➤ **An honest buyer is entitled to apply the margin scheme for VAT calculation, even if the supplier did not apply the margin scheme**

The Court of the Republic of Lithuania appealed to the EUCJ for a preliminary ruling in proceedings between a Lithuanian company and the Lithuanian Tax Authority concerning the authority's refusal to grant the Lithuanian company a right to apply the margin scheme when calculating VAT. The Lithuanian company applied the margin scheme in relation to the sale of second-hand vehicles acquired from a Danish undertaking. The EUCJ decided that competent authorities of a Member State are not entitled to deny a taxable person the right to apply the margin scheme, if he received an invoice that includes references relating to the margin scheme, even if it is apparent from a subsequent check carried out by those authorities that the taxable person supplying the second-hand goods had not actually applied that scheme to the supply of the goods. This treatment should be applied, only if the competent authorities did not establish that the taxable person did not act in good faith or did not take every reasonable measure in his power to be sure that the transaction carried out does not result in his participation in tax fraud.

Judgment of the European Union Court of Justice in case No. [C-624/15](#) (Litdana UAB) dated 4 May 2017.

# *Opinion of PwC specialists*

*Labour Code: salaries will not grow, the amount of painful disputes - will*

More information [here](#).

*Business as usual is illegal, and dividends at risk*

More information [here](#).

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