

Business-Friendly Tax Measures Take Effect

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Reprinted from *Tax Notes Int'l*, September 27, 2010, p. 1016

COUNTRY DIGEST

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In 2009 Lithuania and other Baltic countries faced a difficult challenge combating financial instability. Lithuania increased most taxes to offset economic losses and to bolster public finances in 2008-2009. However, the tax burden has decreased in 2010, restoring Lithuania's attractiveness to foreign investors in search of favorable tax planning opportunities. The most significant 2010 tax developments are outlined below.

Tax Laws

Write-Off of Bad Debts

The Finance Ministry on June 10 issued a decision, applicable as of the 2010 tax year, that reduces companies' administrative burden by simplifying the procedure for the recognition of bad debts.

Companies will no longer be required to document their efforts to collect small debts, regardless of whether the debtor is an individual or a legal entity. (Previously, the documentation exemption applied only in cases of individual debtors.)

Also, the new rules establish alternative documentation requirements for larger debts. For example, a taxpayer may now prove a bad debt resulting from the bankruptcy of the debtor by providing documentation showing the debtor company's removal from the register of legal persons. Previously, the documentation had to include a final court order to liquidate the company because of bankruptcy or a copy of the creditors' meeting resolution declaring the debtor company's liquidation because of bankruptcy.

Business Certificates

Under a governmental decision in force since May 23, the one-month minimum operational period for business licenses obtained by individuals has been reduced to five days. This will reduce the fixed-rate tax payable by individuals conducting temporary business activities that last less than a month, because they now will be subject to the fixed tax rate for only five days, or as long as they conduct the licensed business activi-

ties, whichever period is longer. Commercial business licenses will be issued for the time period specified by the taxpayer (even for a single day).

VAT

Starting this year, taxpayers may apply for a refund of VAT paid in other EU member states by filing an electronic form with local tax authorities in Lithuania. The local tax authorities will forward the application to the tax administrator in the applicable EU member state. Lithuania's VAT rate increased from 18 percent to 19 percent in January 2009 and from 19 percent to 21 percent on September 1, 2009. During a transitional period that runs through December 2010, the 19 percent VAT rate will apply for cigarettes and manufactured tobacco if the excise duty stickers for those products were ordered before September 1, 2009. In July 2009, President Dalia Grybauskaitė signed a law introducing a temporary reduced VAT rate of 9 percent for the heating of residential premises and water. That reduced rate expired on August 31.

Advance VAT

As of May 1, the threshold for advance VAT payments has been raised to LTL 10 million. Previously, companies were required to make advance VAT payments if their average monthly VAT payable over three consecutive months exceeded LTL 100,000. (Companies that are exempted from paying advance VAT generally pay VAT monthly for the previous period.)

This new rule is intended to ensure that only large companies with high turnover and activities that are focused mainly on the domestic market and domestic consumption will be required to pay the advance VAT. However, the advance payments will reduce those companies' tax burden when their final tax payments are due. In addition, exports are now subject to a 0 percent VAT rate.

Corporate Income Tax

Notably, the corporate income tax has dropped to 15 percent (from 20 percent), and a new law allows for the transfer of losses from 2010 and earlier between a Lithuanian resident parent company and its domestic subsidiaries.

In addition, as of 2010, a corporate tax exemption is available for budget-financed institutions; Lithuanian banks; state and municipal institutions, agencies, and organizations; state company deposit and investment insurance programs; and European Economic Interest Groupings.

Small businesses that employ 10 or fewer employees and have annual income of LTL 500,000 or less are eligible for a special 5 percent corporate income tax rate (previously 13 percent).

And in addition to the aforementioned tax breaks for corporations and small businesses, the withholding tax on interest will be revoked if the interest is paid to legal entities registered or organized within the European Economic Area or in countries with which Lithuania has signed an income tax treaty.

Investment Projects

Under a new rule in force until 2013, companies now can invest 50 percent of their profits into long-term assets used to produce new products or services, to increase capacity, or to implement new processes and technologies, and the reinvested profit will not be included in the companies' taxable income. The replacement of production assets with similar new assets will not, however, be deemed a tax-beneficial investment project.

Personal Income Tax

The personal income tax rate in Lithuania remains unchanged at 15 percent, while dividends and other profit distributions are taxable at a rate of 20 percent. The Law on Personal Income Tax provides a complete list of benefits in kind and lists income that will not be classified as a benefit in kind for the tax period starting in 2010. An August 2009 amendment to the Law on Personal Income Tax established a new rule for the calculation of nontaxable income, a benefit that will no longer be available to members of non-limited liability companies.

Excise Duty

Electricity was brought under the excise tax regime as of January 1. The amended Law on Excise Duty states that each megawatt-hour of electricity will be subject to two excise duties: a general excise duty of LTL 3.50 and a special business excess duty of LTL 1.80. The excise duties on electricity apply to owners of excisable goods warehouses, registered and unregistered traders, and persons manufacturing or using excise-free energy products, alcohol, alcoholic drinks, or tobacco for purposes other than the established purposes. For imports, the excise duty is paid by the importer if the imported goods are not brought to an excisable goods warehouse. The applicable tax base is the tax base of goods produced or imported in Lithuania.

Tax on Real Estate

Entities (domestic and foreign) owning buildings and structures in Lithuania are required to pay real

estate tax at a rate of 0.3 to 1 percent of the taxable value of the buildings and structures. Real estate tax returns should be submitted to the state tax authorities within one month after the date of acquisition of the real estate. Legal entities should pay advance real estate tax on a quarterly basis. Individuals and legal entities both should also submit an annual real estate tax return to the state tax authorities by February 1, 2011.

Lithuanian tax authorities estimate that legal and natural persons paid more than LTL 260 million on immovable property that had to be declared by February 1, 2010. According to the Law on Real Estate, if real estate is used by individuals for business or individual activities (with several exceptions) or is transferred to legal persons for longer than one month, it is subject to the 0.3 to 1 percent real estate tax calculated on the value of the real estate. The council of the municipality or territory where the buildings and structures are located will determine the exact tax rate.

Tax Payments

Deferred Tax Payments

Taxpayers are entitled to defer the payment of certain taxes for a period of one month to one year. Unpaid taxes are subject to a late payment fee. However, the late payment amounts no longer increase when the late payment is equal to the original debt amount.

Penalties

The amount of tax penalties imposed for noncompliance depends on the type and period of the noncompliance. Late filing of tax returns triggers penalties of no more than LTL 500 for the first violation. The second violation results in an increased penalty of up to LTL 1,000. In the event of tax evasion, the penalty is LTL 2,000 to LTL 4,000 if no criminal charges are filed.

Voluntary Amendment of Tax Declaration

A taxpayer is allowed to make voluntary corrections to a tax return, thereby canceling any penalties pending for noncompliance, for a five-year period after the payment deadline if the tax authorities have not initiated an audit. The taxpayer also has the right to apply for a voluntary correction to a tax return if an audit has already commenced, but the tax authorities can deny the application.

Appeals Process

All decisions by the tax authorities may be appealed to the tax administrator, the Tax Litigation Commission, and the tax court. Decisions of the tax administrator may be appealed to the Tax Litigation Commission within 20 days of receipt of the tax administrator's decision. ◆

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