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TAX &amp; LEGAL NEWS FOR THE BALTIC STATES

## Commercial pledge regulation and registration procedure in Estonia



### Commercial pledge regulation in Estonia

Commercial pledges are regulated in Estonia primarily by the Commercial Pledges Act. Under the Commercial Pledges Act, a commercial pledge is an undertaking that is registered in the Commercial Pledge Register, whereby a pledgor uses his or her movable property as a security for a claim without transferring the possession of the property to the pledgee. Essentially all encumberable property can be included in a commercial pledge that is owned at the time of the pledge by the undertaking and that is acquired afterwards. However, certain items are exempt from commercial pledges such as money in credit institutions, shares and stocks. The extent of the claim secured by a commercial pledge is limited to the amount pledged, with provisions that consider unpaid interest within three years before the sale of the pledged property and other costs as a part of the security covered by the pledge.

### Registration of commercial pledge in Estonia

A commercial pledge shall be created on the basis of a notarised agreement or a court judgement and registered with the Commercial Pledge Register. In the event of the pledgee sending an application to the Commercial Pledge Register, the notarised consent of the pledgor is required.

The legal effect of a commercial pledge begins when the relevant entry is signed in the Commercial Pledge Register. Consequently, the commercial pledge is extinguished by the removal of the relevant entry with the exception of a situation otherwise provided by law. Generally, commercial pledges are removed from the Commercial Pledge Register by an application from the pledgor that includes the notarised consent of the pledgee, alternatively the pledgee may file an application whereby the commercial pledge will be removed from the register.

In a situation where the commercial pledge has been lawfully ended prior to its deletion from the register, the commercial pledge will be removed by the registrar.

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# Changes in the Lithuanian legislation in 2016

Regarding language requirements. Please note that all advertisement in the Republic of Lithuania, including advertisement in radio or television, shall be prepared in Lithuanian language. Description of goods or services shall also be provided in Lithuanian language. If a name or brand name is mentioned in foreign language, translation or explanation in Lithuanian language shall be provided. In case these regulations are not followed, the company shall receive an administrative fine of 86-145 EUR.

applied if a person receives minimum salary. If a person has children (up to 18 years old), additional sum of 120 EUR for each child will be applied to the tax free minimum.

As the salary of an employee increases, tax-free minimum decreases as it is calculated following the formula:  $200 - 0.34 \times (\text{monthly salary} - 350 \text{ EUR})$ . Once monthly salary of 938.24 EUR is reached, tax free minimum is no longer applicable.

Regarding share capital of companies. Please be informed that following January 1, 2015 all the companies registered in Lithuania are imposed with obligation to change their share capital as the country has joined the Euro zone. Several amendments have been implemented in Lithuanian legislation and it was established that the share capital as well as nominal value of the shares shall be indicated in Euros and Euro cents (if any). For this reason, the Articles of Association of each company registered in Lithuania shall be amended and submitted to the Commercial Register until December 31, 2016.

The official exchange rate  
EUR 1 = LTL 3.4528.

The decision to change the Articles of Association of a company shall be taken by the General meeting of the shareholders following the provisions of the Law on Companies of the Republic of Lithuania. The decision shall be approved by the majority of the shareholders. A difference in the value of shares or share capital which has been caused by rounding of numbers shall not be regarded as the change of share value or share

**R**egarding changes in labour and employment law. Please note that new version of Labour Code is planned to be adopted in 2016. The new labour code will introduce more flexible employment forms such as temporary employment agreement, labour agreement for project implementation, employment agreement with several employers, and etc. Employment agreements with fixed terms will be easier to conclude.

There will be more possibilities to fire employees much easier, without giving extensive reasoning as it is currently required. It shall be noted that maximum period of notice will be reduced until 1 month (2 months for parents with small children). All the severance payments will be also reduced, and maximum amount of such payment will be 2 months for the employees which have worked more than 12 months in the company.

Said amendments shall liberalise employment relations in Lithuania and stimulate the employers to hire more employees. The new Labour Code is currently being discussed in the Parliament of the Republic of Lithuania.

## **Increase of minimum salary**

Starting from 1st of January, 2016 the minimum hourly rate for full time workers is 2,13 EUR. Minimum monthly salary will be 350 EUR (gross) per month.

## **Increase of tax-free minimum**

Starting from 1<sup>st</sup> of January, 2016 tax-free minimum will be equal to 200 EUR (prior to the amendments it was 166 EUR). Tax-free minimum will be

capital. Any differences of the value of share capital shall be included in the accounting as profits (losses) of the company.

Amendments of the share capital shall be registered in the Commercial Register within period January 1, 2015 – December 31, 2016.

Please do not hesitate to keep in touch, if you have any additional questions regarding the share capital conversion procedure.

## Information about invoices shall be submitted to Tax Inspection

As of 1<sup>st</sup> of October, 2016 all information about incoming and outgoing VAT invoices as well as bills of lading shall be submitted to Tax Inspection using SAF-T classifier. Registries of VAT invoices shall be prepared by the companies, and all incoming and outgoing VAT invoices, including simplified VAT invoices shall be included in the registries.

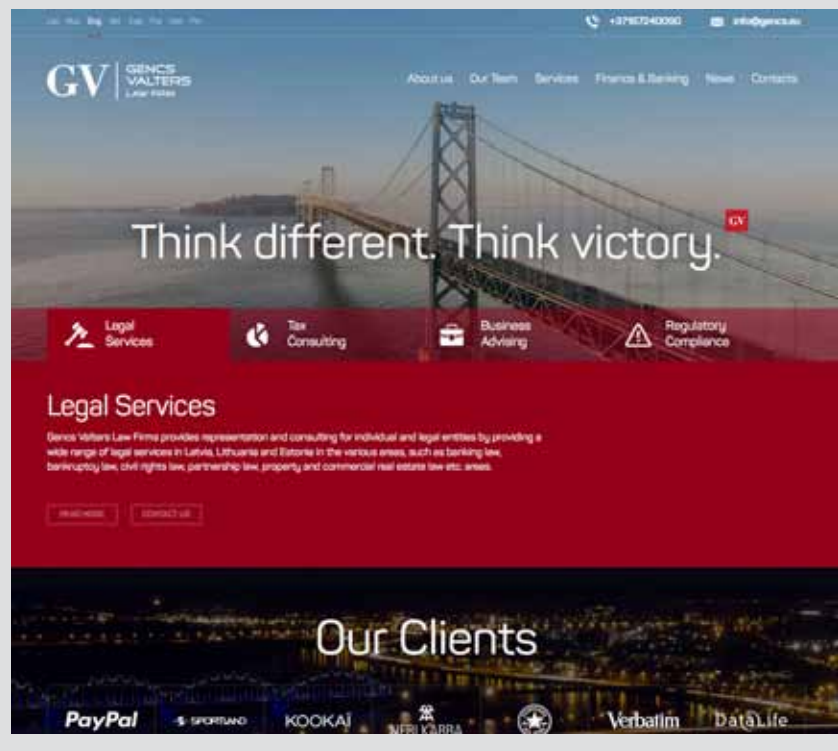
## No advance VAT

Starting from the 1<sup>st</sup> of January, 2016 there is no obligation to pay advance VAT. When declaring VAT for the month of January and all succeeding months, there is no obligation to pay advance VAT.

## Advance payments

Generally any advance invoices which require to calculate VAT, shall

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have the sum of VAT indicated in the invoice. When the invoice for supply of goods or services is issued, the remainder balance shall be indicated as well as the whole sum of the transaction. As of 1<sup>st</sup> of October, 2016 there will be no obligation to indicated the sum of the whole transaction and only the remainder sum shall be indicated in the subsequent invoice.

## PIT and Social security taxes

As of 1<sup>st</sup> of December, 2015 the companies can provide revised data about PIT and Social security taxes for the whole financial year. Prior to

the amendments, only data regarding the aforementioned taxes of one month or one calendar quarter could have been submitted.

## Payment of taxes

Starting from the 1<sup>st</sup> of January, 2016, most of the taxes shall be paid until the 15<sup>th</sup> of each month. The amendment shall simplify the payment of taxes as the majority of payments will be due on one date. VAT declaration and payment date remains unchanged, as previously it will be 25<sup>th</sup> of each month. Any advance payments or tax payments where the dates are indicated in the EU legislation, shall be paid on their respective dates.

# The new amendments in Latvia regarding micro company tax

Starting from 13<sup>th</sup> May 2015 new amendments in micro company tax are in force.

## The previous regulation of micro company tax

Till the amendments the following rates of micro company tax was applicable

- If turnover is not exceeding 7000 EUR – 9%
- If turnover was between 7001 EUR – 100 000EUR – 11%

## The new amendments of micro company tax

New micro company tax rate is more favorable and

have better treatment for micro companies.

In line with the new amendments:

- If turnover of the company is not exceeding 7000 EUR, then applicable rate is 9%.
- For companies with turnover between 7000.01 EUR and 100 000 EUR, applicable micro tax rate for first, second and third year is 9%,

Further on in fourth year of micro company's existence the applicable rate would be 12%.

Moreover we would like to inform you that starting from 1st January of 2016 it is proposed to increase the micro company tax rate

up to 13%. Nevertheless, we rise your attention that there still might be changes of micro company tax rate for the next years.

## The requirements of micro company in Latvia

In addition we would like to remind of the requirements which should be met in order to register micro company in Latvia

- Establisher/shareholder is a natural person (max 5)
- The same person (s) in board
- The person can own only one such micro company

- Share capital of the company shall be less than 2800 EUR, namely, from 1-2800 EUR.

In order to become a micro-enterprise tax payer the following main conditions must be fulfilled:

- a turnover not exceeding 100 000 euro in calendar year;
- number of employees – up to 5;
- a salary per employee not exceeding 720 euro a month.

Should you wish our assistance in establish the micro business company in Latvia please contact our English speaking lawyers at [info@gencs.eu](mailto:info@gencs.eu) and we would be happy to be at your disposal.

# Tax amendments in Latvia in 2016

## VAT

From January 1<sup>st</sup>, 2016 reversed VAT has been implemented. It adjusts for the delivery of firewood timber, for example, briquettes, wood shavings, wood scobs, granules etc. For delivery of mobile devices, laptops, tablet PC and integrated circuit devices reversed VAT will be implemented starting from April 1<sup>st</sup>, 2016.

Starting from July 1<sup>st</sup>, 2016 costs about administrating residential buildings will also be VAT applicable.

## The authority of State Revenue service (SRS) is increased

The SRS has the power to determine taxable object that is decreased with taxes and fees on the basis of statement



## Comparison between Latvia and Lithuania

LATVIA		LITHUANIA*	
<b>TURNOVER</b>			
Estimated turnover	100,000	Estimated turnover	100,000
Tax rate for micro company tax payer	9%	Tax rate for micro company tax payer	5%
Tax calculation	9% from 100,000	Tax calculation	5% from 100,000
Tax payable from turnover:	9,000	Tax payable from turnover:	5,000
<b>SALARY</b>			
Salary on a yearly basis (gross)	8,640	Salary on a yearly basis (gross)	15,000
Allowed salary on a yearly basis**	8,640	PIT 15%	2,250
		Social security tax (employee contribution) – 9%	1,350
		Social security tax (employer contribution) – 26.3%	3945
<b>DIVIDENDS</b>			
Dividends for distribution***	82,360	Dividends for distribution	76,055
Personal income tax on dividends (rate)	10%	Personal income tax on dividends (rate)	15%
Tax payable from dividends	8,236.00	Tax payable from dividends	11,408.25
<b>INCOME THAT CAN BE DISTRIBUTED</b>	<b>74,124.00</b>	<b>INCOME THAT CAN BE DISTRIBUTED</b>	<b>64,646.75</b>
* Calculation is made based on the fact that company is micro company from legal and tax sense			
** Please note that max salary that can be paid to micro company tax payer is 720EUR per month.			
*** Please note that the calculation is made taking into account that neither the company in Latvia nor company in Lithuania has no other expenses in the fiscal year, but the expenses related to salary.			

LATVIA		LITHUANIA*	
<b>TURNOVER</b>			
Estimated turnover	300,000	Estimated turnover	300,000
Tax rate for micro company tax payer	15%	Tax rate for micro company tax payer	15%
Taxable amount	282 198,72	Tax calculation	5% from 300,000
Tax payable:	42 329,81	Tax payable from turnover:	15 000
<b>SALARY</b>			
Salary on a yearly basis (gross)	14 400,00	Salary on a yearly basis (gross)	14 400
Cost of Salaries	17 801,28	PIT 15%	2 160
		Salary tax - 9%	1 296
		Social security tax - 26.3%	3 787,2
<b>DIVIDENDS</b>			
Dividends for distribution	239 869	Dividends for distribution	266 813
Personal income tax on dividends (rate)	10%	Personal income tax on dividends (rate)	15%
Tax payable from dividends	23 986,89	Tax payable from dividends	40 021,92
<b>INCOME THAT CAN BE DISTRIBUTED</b>	<b>215 882,02</b>	<b>INCOME THAT CAN BE DISTRIBUTED</b>	<b>226 790,88</b>

# Tax amendments in Latvia in 2016 *(continued)*

and levy fine in the amount of 100 %, if it is established that tax payer uses cash register, hybrid cash register, cash register's system or other device with changed construction or programme and it is not possible to determine the time period in which the taxable object is decreased or hide.

If the infringement will be revealed repeatedly, the taxpayer's commercial activities might get suspended without previous warning.

The SRS has the power to forbid taxpayer to dispose assets, reorganize the company, liquidate the company and change board members, if the SRS has warned the company about infringement or possible infringement made by the company and has given a time for terminate the infringement. Also, starting from July 1<sup>st</sup>, 2016 those enforcement measures shall be applicable before or during administrative control procedure (audit). The SRS informs the Commercial register about the intention to make the control procedure (audit) in the company and any changes in company won't be done without SRS permission.

Starting from April 1<sup>st</sup>, 2016 the credit institutions are obliged to inform SRS about their client's possible infringements or suspicious transactions.

## Excise Taxes

From January 1<sup>st</sup>, 2016 excise taxes for fuel has been increased. For example, excise tax for unleaded fuel increased from 411,21 EUR to 436 EUR (per 1000 litres), for petroleum gases and other gaseous hydrocarbons from 161 EUR to 206 EUR (per 1000 litres), etc.

Starting from January 1<sup>st</sup>, 2016 excise taxes has also been raised for alcoholic beverages. For example, for beer it is increased for 1 EUR and it is 4,8 EUR (per 100 litres), for wine the tax is increased from 64,03 EUR (in January 1<sup>st</sup>, 2015) to 82 EUR (per 100 litres), other alcoholic beverages with absolute alcohol content more than 22 per cent by volume is increased from 1337,50 EUR (in January 1<sup>st</sup>, 2015) to 1500 EUR (per 100 litres).

From January 1<sup>st</sup>, 2016 excise duty for smoking tobacco (for pipes and rolling tobacco) increased from 60 EUR to 62 EUR (per 1000 grams). Starting from July 1<sup>st</sup>, 2016 duty tax will be applicable also for heated tobacco. Excise tax for heated tobacco will be 62 EUR (per 1000 grams).

For alcoholic beverages and tobacco products the increment of excise taxes will continue gradually till April 1<sup>st</sup>, 2018.

## Vehicle Operation Taxes and Company Car Taxes

From January 1<sup>st</sup>, 2016 the vehicle operation tax for vehicles with gross weight till 12 000 kg is increased more than twice in almost all weight categories. For example, for vehicles with gross weight till 1500 kg the operation tax is increased from 17,07 EUR to 36 EUR, in weight category from 1501 kg till 1800 kg the amount of operation tax has increased from 34,15 EUR to 72 EUR, etc.

The amount of Company car tax is increased, however, not as sharply as it is to operation tax. For vehicles

that engine capacity is up to 2000 cm<sup>3</sup>, tax increased for almost 2 euros and the amount of tax is 29 EUR/ per month. For vehicles that engine capacity from 2001 cm<sup>3</sup> till 2500 cm<sup>3</sup> the tax is 46 EUR/ per month, and for vehicles that engine capacity is above 2500 cm<sup>3</sup> the company car tax starting from January 1<sup>st</sup>, 2016 is 62 EUR/ per month.

Starting from January 1<sup>st</sup>, 2016 the car tax shall also be applicable for taxicabs, until these amendments, taxicabs were exempt from paying company car tax.

## Micro company tax

Micro company tax starting from January 1<sup>st</sup>, 2016 did not change and the tax of 9% is applicable for companies with turnover till 7000 EUR, but micro companies with turnover from 7001 EUR to 100 000 EUR are subject for 11% tax fee.

However, starting from January 1<sup>st</sup>, 2016 there are practice fields in which the micro tax is not applicable, for example, logging, tobacco factories, metal factories, construction business, legal services and others.

Starting from January 1<sup>st</sup>, 2017 micro company tax will be 5% that will be applicable for companies with turnover till 7000 EUR, but companies with turnover from 7001 EUR to 100 000 EUR will be subject for 8% tax rate. However, the micro company tax will not include state social insurance fee, and it will be mandatory to pay extra state social insurance fee no less than it shall be for minimum monthly wage.

## Non-taxable minimum

Minimal monthly salary starting from January 1<sup>st</sup>, 2016 is increased from 360 EUR to 370 EUR. Accordingly, the minimum hourly rate is increased, however, the amount varies each month according to the amount of workday in each month and the hourly amount is stated in law regarding the amount of

work day of relevant month.

General non-taxable monthly minimum in year 2016 is 75 EUR, but, it will decrease gradually and in year 2020 there won't be any non-taxable minimum. However, the differentiated non-taxable minimum is now applicable and it is calculated regarding formula given in law.

## Solidarity tax

Solidarity tax starting from January 1<sup>st</sup>, 2016 is applicable for persons that yearly income exceeds 48 600 EUR.

The solidarity tax is 34,09% from which 10,5% will be applicable to the employee and 23,59% to employer.

# Overview of taxes in Estonia in 2016

## VAT

- General VAT rate is 20 %.

## Social tax

- Social tax rate is 33%;
- Minimum basis for paying social tax is 390 euros;
- Minimal obligation of employer to pay social tax is 128,7 euros;
- In case of sole proprietor the minimal social tax payment per quarter is 386,1 euros.

## Income tax

- Income tax rate is 20%;
- Income tax on payments made by legal person (fringe benefits, gifts, donations, dividends, expenses not related to business) is 25%;
- Tax free income is 170 euro per month, per year 2040 euros.

## Changes in the Estonian legislation in 2016

### • Raise of minimum salary.

Starting from 1<sup>st</sup> of January 2016 the minimum hourly rate for full time workers is 2,54 EUR. Minimum salary in Estonia will be 430 EUR (gross) per month.

### • Business trip daily allowance tax free limit rises.

Tax free daily allowance in the amount of 50 EUR can be paid only for the first 15 days of the business trip. In case the business trip lasts for a longer period, then 15 days is with 50 EUR per day and for example 5 days is with tax free allowance in the amount of 32 EUR per day.

### • Changes in the terms of audit and review.

Audit is necessary in case 2 of the criteria are met:

- 1) sales revenue or income 4,000,000 euros;
- 2) total assets as of the balance sheet date 2,000,000 euros;
- 3) average number of employees 60 people.

Audit is necessary in case 1 of the criteria is met:

- 1) sales revenue or income 12,000,000 euros;
- 2) total assets as of the balance sheet date 6,000,000 euros;
- 3) average number of employees 180 people.

Review of the annual account is necessary when at least 2 of the criteria are met:

- 1) sales revenue or income 1,600,000 euros;
- 2) total assets as of the balance sheet date 800,000 euros;
- 3) average number of employees 24 people.

Review of the annual account is necessary when at least 1 of the criteria is met:

- 1) sales revenue or income 4,800,000 euros;
- 2) total assets as of the balance sheet date 2,400,000 euros;
- 3) average number of employees 72 people.

### • Changes in the Health Insurance Act

Starting from 2016 persons who work on the basis of management board member agreement or agreement concluded on the basis of Law of Obligation Act, social security will not be connected to the entry in the Employment Register, but person will be covered with health insurance on the basis of submission of social tax declaration (TSD).

### • Excise tax raise

Starting from 1<sup>st</sup> of February 2016:

- 1) Alcohol excise tax will be raised by 15%;
- 2) Petrol excise tax will be raised by 10%;
- 3) Diesel and light heating oil excise tax will be raised by 14%;
- 4) Natural gas excise will be raised by 20%.

# Our law firm continues to host international trainees

## Samuli Rissanen



### Tell us about yourself

My name is Samuli Rissanen and I am new trainee at Gencs Valters Law Firm. I will be working in Riga for the next three months. I am a fourth year law student from the University of Lapland, Finland. I have recently finished my master's thesis which I did as an assignment to RSM Finland, an

auditing company. I still have few exams to do before graduating though.

During my studies I have been interested in international business law and I think being a trainee at Gencs Valters Law Firm is a great opportunity to learn and gain insight into work in an international law firm. I also see the Baltics as a growing economic area with lots of future possibilities. So far I have really enjoyed my days here at the firm. The tasks have been diverse and challenging not to mention fun colleagues.

### Have you noticed any differences between

### legal systems of the Baltics and Finland?

It is still my first week here at the firm, but I have already learnt a lot about i.e. international tax planning and Latvian insolvency law. It has been interesting to notice differences and similarities between legal systems of Finland and Latvia.

It is rather common knowledge that taxation is lighter in the Baltics compared to Finland and Scandinavia. This is true especially in case of corporate taxation. In Latvia and Lithuania corporate tax is dependent on the size of the company. In practice smaller companies pay a lowered rate.

Estonia's corporate taxation is rather unique even in international comparison. In Estonia a company is not required to pay the corporate tax until dividends are distributed. Profits kept within the company are not taxed.

As an area of law Latvian insolvency system has been constructed slightly differently in comparison to the Finnish law. For example bankruptcy doesn't exist in Latvia as a separate legal institution, but it is part of the general process of insolvency.

I am looking forward for the coming three months and hope it will be a rewarding experience for both, me and the firm.

## Aleksi Kajander



I am a second year student in the Tallinn University of Technology studying Law. It is my intention that upon completing my studies, including a

Master's, and that I would work in the field of international business law.

During my internship, I have both truly begun to appreciate the meticulous effort by the Estonian government to have all materials available in English, as well as valuable practical information about the real world of law, especially that of, business law. The contact with the practical aspects of the Estonian legal system has been a great learning experience in

terms of knowledge of the local legal system and legal systems in general.

One of the more striking differences between Finnish and Estonian legal systems, which has both caught my interest and attention is their approach towards corporate income taxation. Under the Finnish system, income received by a business entity is taxable by a 20% corporate income tax, in contrast, under the Estonian system there

is no corporate income tax as such but rather the distribution of profits, such as in the form of dividends is taxed at 20%. In my opinion, becoming aware of the alternative approaches taken by legal systems is valuable as it prevents one from becoming blind to the quirks of the system one is accustomed to, and as such I am very glad to have the opportunity to operate within a different legal system to that of my country of origin.

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