

# Problems and solutions of VAT refund in Latvia

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Riga, 25 November 2010



15:00-15:20

Attorney Valters Gencs, Chairman of the Board of the Norwegian Chamber of Commerce in Latvia

Solvita Āmare - Pilka, Head of the Ministry of Finance Department of Indirect Taxes

15:20-15:50

Marina Kuzenko, Deputy Director of the SRS Tax Administration Indirect Taxes Methods Department

16:00-16:30

Coffee break

16:30-17:00

Kristīne Kođinska, Head Lawyer of the SRS Big Taxpayers Department

17:00-17:30

Ļubova Ģvecova, Deputy Director of the SRS Financial Police Department; Head of the Investigation Department

## Direct Income of Latvian Enterprises (Lursoft)

2007. – 1.6 billion LVL

2008. – 6x decrease - 252 million LVL

2009. – 812 million LVL loss + bank losses 773.4 million - total 1.5 billion

Tax advances paid from the profit of previous years

Tax overpayment problem occurs

## VAT is not refunded until construction is commenced

Company has received:

- Topographical survey services.
- Services of designing the topographical plan.
- Preliminary design services.
- Service of designing a development plan.

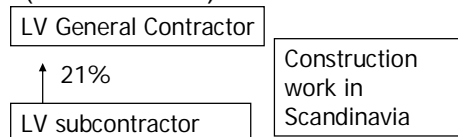
\* Received a planning and architectural assignment for the construction of complex.

SRS:

The received services related to the real estate are not in any way connected with any kind of potential building construction, but only with maintenance and management of a particular lot.

## VAT is not refunded for services received in Latvia on transactions with real estate abroad

Latvian LLCs are performing reconstruction of premises in construction unit in Scandinavia and receiving services from Latvian LLCs (subcontractors).



21% pretax cannot be discharged because the transaction has to be charged without VAT.

Question:

Why is the sanction applied to general contractor instead of subcontractor? General contractor has paid the VAT to the subcontractor. VAT remains in Latvia.

## Problems with Deadlines

Deadline for receipt of refund

Registration

- |            |           |
|------------|-----------|
| •Estonia   | 2 days    |
| •Latvia    | 7-14 days |
| •Lithuania | 3-5 days  |

Refund

- |            |                         |
|------------|-------------------------|
| •Estonia   | 7-14 days               |
| •Latvia    | 2-5 months (for export) |
| •Lithuania | 1-6 months              |



## EU Court in Luxemburg

Case C-472/08 „Alstom Power Hydro” against VID

- Construction work at Plavinas and Kegums hydroelectric power plants 1999-2003.
- Request for VAT refund in 2004 in Latvia.

Opinion of the European Commission for the EU court in 2009:

*The period of time when the refund was acknowledged and automatically transferred, has to be excluded from the 3 year term.*

- In 2010 SRS still has a question - what to do?
- As of July 1, 2010 – no automatic transfer
- Total consumed time:
  - 6 years from the request;
  - 11 years from the beginning of the project.

## How much can we get back?

9% - 18% per year per one period after the judgement is accepted.

The interest is not paid during the litigation time.

The average weighted interest rates in LVL for the raised deposits:

6.7% - year 2007

9.9% - year 2008

11.9% - year 2009