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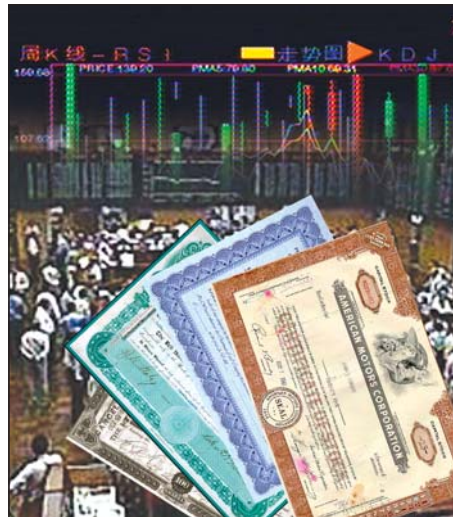
VAT

Triangle supplies

According to recent changes in VAT law, non EU persons (for example, US companies) may register as VAT payer via fiscal representation in any EU country based on local rules and such use of the registration number in Latvia will be accepted for VAT zero export on triangle transactions as described below.

Example 1

Export of goods outside EU will be subject to VAT zero, if the custom seal is affixed on an export declaration, confirming that the goods left EU, as well as other documents (payments, orders, etc.) will support the export fact.



The State Enterprise register has granted us a license to provide evaluation opinions of value of shares and stock for purposes of investment in kind in equity of a company.

Example 2

Supply of goods to EU registered VAT persons will be subject to 0 % VAT, if transport documents will support an existence of supply of goods with the EU recipient.

Example 3

There is a seller, a broker and a buyer in triangle transaction. All the before mentioned persons shall be VAT registered in different countries. Goods ought to be supplied upon instructions of the broker to the buyer. Invoices issued by the brokers will be subject to VAT 0%, if recipient of goods is VAT registered person.

VAT upon liquidations

Upon liquidations of a company, all residual value of fixed assets and stock regarding which VAT is deducted shall be calculated in total and subject to VAT. VAT is payable not later than 30 days after liquidation is recorded with the Commercial register.

Advances

Advances are not subject to VAT, if services are not yet provided. However, if the services are provided on continued bases, advance is VAT taxable in the 7th month after the receipt of the advance.

Accrual deductions

As of May 1, 2004 input VAT may be deducted on accrual bases without a payment of invoices for both goods and services.

Pricing

New rule is introduced in regards to price charged for goods and services. If systematically and continually price is charged to buyer below commercially substantiated level, at the end of a taxation year additional VAT shall be charged on the omitted difference, except discounts.

SOCIAL TAX and EU

General principle

The social tax rate in Latvia for resident working for resident is 33,09%, non-resident working for non-resident – 31,20%. The social tax shall be paid in a Member State (State), where a person is working, even if he/she resides in another State or the registered office of the employer is situated in another State.

Person has been posted to another State up to 12 months

If a person has been posted to another State until 12 months, then the social tax may be paid in the State from which he/she has been posted.

The provisions for the posted employee:

- when going to another State he/she should be registered as socially insured person in his/her State (in Latvia, if Latvian person is going to work in another State);
- the work abroad should be short-term (12 months with possibility to prolong);
- he/she should be posted by an assignment of the employer from his/her State (Latvian, if a Latvian person is going);
- during whole posting period the direct link with the employer, who has posted the employee, should be maintained.

E101 certificate

The E101 certificate is required in order to pay tax only in his/her home State. E101 provides that the employee is registered as socially insured person in his/her State (e.g., in Latvia). A statement should be presented to the competent authority of the employment State, if the authority requests it. The E101 is not given to a person who is going to change another person, whose assignment period has been expired.

Secondment exceeding 1 year

If the duration of the work to be performed due to the unforeseen reason exceeds the initially expected and becomes longer than 12 months, then the exemption may be applied and a person may remain insured in his State for the following 12 months. Usually the exemption is not applied for the period exceeding 5 years. The competent authorities (Social Agencies) of both states shall agree on the exemption application. In such case the employer an employee shall in due time request the E101 certificate.

Person working in 2 States

If a person is working in 2 States, then he/she pays the social tax in the State where he/she resides. If the person's permanent residence is not located in any of the territories of States, where he/she is working, then the person should be insured according to the laws of the state, where the registered office of the company is located. If a person is employed by several

employers, whose businesses are located in several States, then the person should be socially insured in the State of permanent residence. Also, in this case E101 form should be arranged.

If the situation arises where a company is registered in one State, but the social tax for the employee should be paid in another State, then the company shall be registered in that State where the social tax for the employee should be paid. The company may be registered by itself or through the employee.

Social fee rates and amounts

The social fee payment amounts are as follows:

- Self-employed – Minimal LVL 402,6 (rate 30.50% from LVL 1320)
- Directors – Minimal LVL 317,66 (rate 9%+24.09% from LVL 960)
- Non-resident employed by non-resident – Maximal LVL 6208,8 (rate 31,20% from LVL 19900)
- Resident employed by non-resident – Maximal LVL 6567 (rate 33% from LVL 19900)
- Resident employed by resident – Maximal LVL 6584,91 (rate 9%-24.09% from LVL 19900).



SENSITIVE DATA PROTECTION

According to the “Law On Personal Data Protection” any individual, entity or institution carrying out personal data processing (personal data processing comprise any operation carried out regarding personal data which is information related to an identifiable individual- including data collection, registration, recording, storing, arrangement, transformation, utilization, transfer, transmission and dissemination, blockage or erasure), and establishing systems for personal data processing, shall register such system in the State Data Inspection. This regulation applies also to cases, when the personal data (for example name, ID number) are collected for the bookkeeping and personal accounting, except, if the data are not collected electronically, but on paper. If the system is not registered, a penalty up to 250 LVL may be imposed.

PROCURATION

According to the Commercial Law a company or its authorized representative is entitled to issue the power of attorney (procuracy)- the commercial authorization, assigning to the procurator the rights on behalf of the company to enter into transactions and perform other legal activities related to the business.

Representation rights

An authorized person (procurator) may alienate, pledge or encumber with property rights a real property only if rights have been specially assigned to him to be checked at the procuracy registration application. The information will be recorded in the data base of the Commercial register and is accessible by any third party.

Rights to perform all procedural activities in court proceedings

A procurator may perform all procedural activities in court proceedings (bringing a claim, agreeing on settlement, appealing judgments etc.).

Representation jointly with one or more board members

The amendments to the Commercial Law foresee that the company’s Articles of Association may provide the representation rights of the procurator jointly with 1 or more board members. Now such restriction is recorded also in the data base of the Commercial register. However, the forms of procuracy registration are not amended similarly and the marking in forms that a procurator represents a company jointly with 1 or more board members is not accepted. If a company wishes that this information will be recorded in the Commercial register and publicly accessible then the application must enclose Articles of

Association setting the representation rights of the procurator jointly with 1 or more board members or other documents, e.g. a procuracy itself marking this restriction.

Representation jointly with another procurator (joint-procuration)

A procuracy may be issued jointly for several individuals. On the basis of such joint-procuracy the procurators may represent the company only jointly. The grant of the joint-procuration shall be marked in the application for procuration.

Other restrictions

A company is entitled to foresee in procuration also other restrictions, e.g. set the ceiling, to which a procurator may enter into transactions. Such restrictions will not be recorded within the Commercial register. The law provides that the restrictions to procuration amount are not in force against third parties. Though to avoid misunderstandings, a company entering into transactions with another company represented by procurator, shall ask the procurator to present the procuracy. As well a procurator to certify his rights to act in a certain amount on behalf of the company shall present the procuracy.

The amendments to the information on the procurator and termination of the procuration shall be notified to the Commercial register. If a joint-



procuracy is issued to two procurators and the company wishes to recall one procurator, then both procurators should be recalled and a new procuracy should be issued for one procurator. Similarly if the recording of changes to the procurator's representation rights is decided, the existing procuracy should be terminated and new one shall be granted.

ELECTION OF AUDITORS

The Commercial Law provides that the term of powers of an auditor is starting from the election until the approval of next annual report. The shareholders meeting along with the approval of annual report shall yearly elect an auditor for the next reporting year. The election of the auditor shall be notified to the Commercial register regardless if the same auditor remains or a new is elected. Notifying to the Commercial register on the auditor's election an application form, auditor's consent and payment documents for state duty and publication shall be submitted. Also if a person is elected as an auditor repeatedly the application shall enclose his/her written consent to be as the auditor for the next term.

NEWLY EMPLOYED

We are pleased to announce that Antis Apsitis has joined the firm as a lawyer. He received LL.M. in Law from the University of Latvia and for last 3

years he was the Head of the Ministry of Economics Internal market department Consumer rights protection office and deputy director of the department.

Mostly he was engaged in court cases against Latvian banks, constructions and trading companies for unjust agreement terms as well as worked in introduction of EU consumers protection law in Latvia. He is fluent in English and Russian. He specializes in administrative law, consumer law, advertising law and competition law.



SEMINAR NEWS

Recently our firm held seminar for the Dutch chamber of Commerce "Legal and tax news for real estate market" and seminar "Expatriate taxation" which were mostly attended by members of Swedish Chamber of Commerce, Finnish Trade guild as well as Dutch Chamber of Commerce. The presentation provided real estate key questions as well tax planning opportunities, for example, how to move tax residency to lower taxation countries, such as Latvia, and become fully taxable in Latvia. The presentations are available at <http://www.gencs.lv/doing.htm>

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