



# THE BALTIC Times



NEWS FROM ESTONIA, LATVIA AND LITHUANIA

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## Taking counsel

*By Janis Taukacs, an attorney-at-law at Sorainen Law Offices in Riga*

### Real estate transfer duty in the Baltic states

Generally, pursuant to the current provisions of the law in Latvia upon registration of transferring the title to a real estate with the Land Books, the stamp duty amounts to:

2 percent (in case of selling, but the duty cannot exceed 30,000 lats [43,000 euros]), and

3 percent (in case of transferring as a gift, but the duty cannot exceed 50,000 lats).

There is a stamp duty in the case of registering a mortgage as well - 0.4 percent of the amount of the loan (but the duty cannot exceed 1,000 lats).

The base of the duty is the highest of the following three figures: the purchase price as indicated in the purchase agreement, the cadastral (or inventarization) value, or the appraisal by an expert made for the purposes of registering a mortgage to the benefit of a bank.

There may be several more sophisticated cases for calculating the said stamp duty – investment in kind into a share capital, reorganization, exchange of properties – but in most cases the above general duty calculation principles (2 percent of the value of the real estate) apply.

Unfortunately, it is also a widespread practice for smaller-scale businesses and individuals in Latvia to reduce the purchase price in the contract artificially. Such reduction may have several reasons, most popular of which are:

I reduction of the stamp duty payable (cadastral value of the real estate often is rather small comparing to the real purchase price, thus the artificially reduced purchase price still exceeds the cadastral value),

I reduction of the real estate tax where the tax base is the book value, and

I reduction of the income tax on the capital gains;

I reduction of a taxable base for VAT purposes, thus reducing for the seller non-deductible input VAT ratio.

As a result, people sometimes are taking the risk that:

I the “unofficial” part may be legalized through false transactions, or

I the seller in theory may claim either not receiving the remaining part of the purchase price, or

I title to the real estate because the Civil Law allows to dispute transactions where the purchase price is less than a half of the fair market price.

As a rule, we always recommend our clients to avoid such “tax planning” schemes and substitute them with correct ones, such as:

I introduction of shelf companies – sale of shares of a company owning the real estate instead of selling the real estate itself,

I some cases of de-merger, including transfer of a business as an ongoing concern, etc.

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In Estonia, for transactions with real estate up to 10 million kroons (640,000 euros) there is a fixed amount of the stamp duty payable between 40 kroons up to 40,000 kroons, depending on the transaction value. Transactions exceeding 10 million kroons are subject to a stamp duty of 0.4 percent of the transaction value. In Lithuania, the stamp duty depends on the amount of the transaction but does not exceed 0.2 percent (but not less than 100 litas [30 euros] and not more than 10,000 litas), when the property belongs to the legal person and does not exceed 0.05 percent (but not less than 20 litas) and not more than 1,000 litas when the property belongs to the natural person, of the average market value of the real estate.

It can be noted that the stamp duties in Estonia and Lithuania are significantly smaller than in Latvia. However, in both Estonia and Lithuania there are comparably high notary fees (in Estonia, generally 0.16 percent - 0.04 percent of the real estate value; in Lithuania, generally 1 percent - 0.5 percent of the real estate value). In Latvia notary fees are insignificant (25 euros – 250 euros) unless the parties wish the purchase agreement to be prepared and certified by a notary.

In our view, the main principle of collecting stamp duties is to cover administrative costs associated with the procedure for which the duty is collected. In this respect the system of collecting 2 - 3 percent in Latvia indicates the state's aim to increase income as opposed to covering its costs. The costs should not differ so significantly for registration of a building worth either 10,000 euros or 10 million euros. Therefore, a fixed stamp duty based on calculation of costs would be a preferred solution in Latvia.

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