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PROPOSED AMENDMENTS TO A NUMBER OF TAXATION LAWS

On 7 October 2008, the Cabinet of Ministers supported amendments to the law “On Value Added Tax” (VAT), “On Personal Income Tax” (PIT), and “On Company Income Tax” (CIT). Although the amendments together with the Latvian State budget must still be ratified by Saeima, they provide material changes to the current laws in force. We would like to draw your attention to the most relevant amendments.

AMENDMENTS TO THE VAT LAW

“Unused real estate”

The draft amendments define the term “unused real estate” more precisely by establishing that the following shall be considered as such:

1. a newly built building or construction (including its internal stationary fixtures) which has not been used after it has been completed and is ready for operation;
2. a newly built building or construction (including its internal stationary fixtures) that is sold within one year of it having been completed and put into operation;
3. a building or construction which after the completion of its renovation, reconstruction or restoration is not used;
4. a building or construction which after the completion of its renovation, reconstruction or restoration that is sold within one year of it having been completed and put into use;
5. uncompleted construction objects – buildings and constructions that have not been put into use;
6. a building or construction that is being renovated, reconstructed or restored and has not been put into use.

As of 1 December 2008, this will expand the types of such real estate, of which the first sale, will be subject to VAT.

Transfer of VAT to pay other tax debts

In the future, a taxable person will also be able to request overpaid VAT to be diverted to the payment of import and export duty, excise tax on oil products and excise tax on alcoholic drinks. Such rights are not currently provided by the existing regulations which exclude the abovementioned taxes and duties.

VAT payment procedures

The amendments further provide that a taxable person registered in Latvia will be required to pay VAT for services related to movable (physical) assets (including valuation, repair, maintenance) rendered by a taxable person of other EU member state, only if the movable asset, after the rendering of the services, is exported from the member state where the services were actually rendered.

Exemption for import of non commercial goods

The draft law provides amendments to the VAT provisions providing exemptions for goods imported into Latvia from a third country or territory by a physical person in their personal luggage. A VAT exemption is applicable if the import of the goods is not commercial (i.e., the goods are imported for personal use or the use of family members or as gifts) and their total value does not exceed:

1. LVL 210 if a person arrives by land;
2. LVL 300 if a person arrives by air or sea transport;
3. LVL 200 if a person is younger than 15 years, regardless of the method of entering Latvia.

AMENDMENTS TO THE LAW “ON CIT”

Payments to non-residents for the use of airplanes in international traffic

The draft law provides that in the future, a payment to a non-resident for the lease in Latvia of airplanes used in international traffic will no longer be subject to any withholding taxes. Previously, the situation was odd, because at least in theory, in respect of airplane lease payments non-residents were subjected to two different withholding taxes – both for royalties and for use of property located in Latvia.

Transportation of employees

Expenses incurred by an employer for the transportation of employees from home to work and work to home will in the future be considered as expenses related to the economic activities of the employer, provided that employees can not get to the work or home by public transport due to the specificity of the work performed.

Replacement of fixed assets with new fixed assets

The draft law provides that income from the alienation of partially depreciated fixed assets will not be subject to CIT, provided that in the 12 months prior to or after the sale of the fixed assets, similar fixed assets have been acquired. This will however, not apply to motorcycles, automobiles and other ocean, river or air transport machines as well as investment properties, works of art, antiques and jewellery.

The value of the similar fixed asset for tax depreciation purposes will however have to be reduced by the amount income received from the alienation of the previously existing asset.

Carry forward of losses

From 2010, it is planned to increase the period over which losses may be carried forward from the current 5 years to 8 years for the following:

1. companies formed from the conversion of an individual enterprise and which has also taken over the individual enterprises pre existing tax losses;
2. pre existing tax losses of European commercial associations or European cooperative associations previously registered in Latvia but which have now been replaced by a Latvian registered permanent establishment;
3. losses from the sale of securities that are not publicly traded in the European Union or European Economic Area.

This only applies to securities that have been owned for at least 12 months and the taxpayer makes no more than one sale of securities per year.

Increasing the value of fixed assets for tax depreciation calculations

The draft law proposes increasing the period for depreciating certain new manufacturing equipment for 5 years (from 2009 to 2013), by increasing the coefficient to 1.5. (from the current 1.1 or 1.2) by which the cost value of the equipment can be increased for depreciation. It is also proposed to introduce a coefficient of 1.5 to be applied to the value of intangible investments which from 1 January 2009 result in the registration of a trademark or patent.

Increasing equity

Commencing 2009, a proposed amendment will provide an incentive to reinvest profits to increase equity and not take company profits out as dividends. The amendment provides a notional deduction for an amount equal to the interest (based on Bank of Latvia official rates) that the taxpayer would have to have paid if it had borrowed an amount equal to the profit that was reinvested.

AMENDMENTS TO THE LAW “ON PIT”

Dividends

It is proposed to exempt Latvian dividends paid by other European Union or European Economic Area country residents, but excluding dividends paid by Latvian companies that are exempt from Latvian CIT or use other tax reductions provided by other laws in the year the dividend is declared or in the prior year.

Lottery and gambling winnings

Commencing 2009 it is proposed to withhold tax from the lottery and gaming winnings won by a non resident if the winnings or their value exceeds LVL 500. This will not apply to winnings received from goods or services lotteries.

Special tax regime for seaman

Currently the law on PIT provides special rules for the taxation of salary income earned seaman working on a vessel that is registered underneath the Latvian flag. From 1 January 2009 it is proposed to apply these rules to all Latvian seamen, regardless of the flag underneath which their ship is registered.

In addition, the maximum amount of a seaman's monthly salary that will be subject to wages tax and social security will for officers, be 2.5 times the Latvian minimal monthly wage and for other seaman 1.5 the Latvian minimal monthly wage.

Exemption of income from rural tourism and agricultural production

Under the draft law, from 2009, income earned from rural tourism and agricultural production will be exempt from taxation if it does not exceed LVL 4000 (currently LVL 3000) per annum..

Filing of declaration in respect of foreign earned income

Persons who earn foreign sourced income from a country which does not have the same tax year as Latvia, or who will only be officially of the income they have earned after 15 March of the following year, can file their Latvian tax declaration within two months of the tax declaration filing date applicable in the country the income was earned.

Economic activity expenses

From the income earned by an individual in undertaking economic activity, expenses can be claimed expenses for purchased raw materials, materials, partially fabricated items and manufactured items held in inventory whose value does not exceed LVL 300. Currently, this limit is LVL 100.



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Additional information also available on the www.db.lv website, in the blog of 28 October 2008, written by Partner Janis Taukacs - Que Sera, Sera, or postills to the draft amendments of taxation law.