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VIA E-MAIL

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On 26 February 2008, new amendments to the law “On Value Added Tax” came into force. Likewise starting from 4 March 2008, amendments to the law “On Taxes and Duties” will come into force. Please see below more detailed information regarding the expected changes.

Amendments to the law “On Taxes and Duties”

Tax and informative returns will be possible to submit only in electronic form

The amendments stipulate that starting from 1 January 2010, all taxpayers, excluding natural persons who do not perform any economic activity, must submit the tax returns and informative declarations to the State Revenue Service only in electronic form. Budget institutions and companies whose shares belong to the state or municipality, will have the obligation to submit the returns in electronic form already starting from 1 January 2009. Under the current practice, for submission of returns in electronic form, taxpayers have to conclude a separate agreement with the SRS on use of the electronic declaration system of the SRS.

Procedure for suspension or division of tax and penalty assessed as a result of tax audit has been amended

A definite term will be specified for submission of application regarding division of tax and penalty assessed as a result of tax audit into terms or their suspension for a time of 1 year - not later than 3 days before the payment deadline. Furthermore, legal entities who prepare annual reports will have to attach to the application also a balance sheet and a profit-loss statement as at the first date of the submission month. In cases if the sum to be divided exceeds 5,000 lats, the tax administration will further be allowed to require securing the mentioned sums by property owned by the taxpayer or a warranty issued by a credit institution.

Unfortunately, the SRS officials still have kept the wide possibilities to choose which merchant will be applied by the suspension or division in terms and which will be refused. Thus the state continues to expose itself to possible risk of corruption, because the SRS officials have a right, not an obligation to grant the relief. The risk would be significantly

decreased if the law e.g. stipulated criteria which the SRS would be obliged to apply in order to select – who must be granted with the relief, if requested.

Changes to determination of liability for violation of provisions of the law

Until now, the tax administration was not entitled to apply fines for repeated decrease of the tax payable, which was found when performing a tax audit in relation to the taxpayer's request to return the tax overpayment, which now will be possible going forward. A fine in the amount of 100% previously could be calculated for repeated violations only if they are found during any other audit which is not related to the return of the tax overpayment. The amendments stipulate that for the repeated decrease of the tax to be paid into the budget, a fine in the amount of 70% of the undeclared tax is determined instead of the 100% which were provided before.

Now liability will be stipulated also for ungrounded increase of the tax to be paid from the budget. The liability for such violation is determined pursuant to the same procedure as for decrease of the tax sum.

Likewise the amendments stipulate that in case the taxpayer agrees to the amount of the payments additionally calculated during the audit by paying it into the budget together with a fine in the amount of 15 percent of the tax debt, then the remaining fine will be decreased down to 65 percent for:

- performance of unregistered economic activities;
- non-submission of tax declarations and other accountancy documents within 30 days after the determined term;
- employing a person without concluding employment, company, sharecropping or transportation agreement,

Although the wording of this new provision is unclear, most likely it means that committing of such violations will further give cause to the taxpayer's obligation to pay 80 percent (15+65) of the calculated fine without regard whether such violation is committed once or repeatedly. So far, for any violation committed for the first time, the decrease of fine was stipulated in full amount, that is, the taxpayer had to pay only 15 per cent of the calculated fine, but for repeated violation – 50 or 65 per cent depending on the decreased tax to be paid into the budget.

New stamp duty

The amendments introduce a new stamp duty – for statement from experts of goods of strategic significance, import certificates, certificates of delivery control, as well as issue of their transfer, export, import and transit licences.

Amendments to the law “On Value Added Tax”

Tax calculations will be allowed to include reference to Council Directive 2006/112/EC

According to the amendments, the tax calculations for delivery of goods or provided services when applying rate of 0 percent, or in cases when the receiver of the goods or services is responsible for payment of the tax to the budget (subject to the reverse charge), will be allowed to include reference to the respective Article of Council Directive 2006/112/EC of

28 November 2006 or other reference, which indicates the treatment applicable to the mentioned delivery of goods or provided services.

Procedure, which refers to determination of liability for violation of the provisions of the VAT law, has been changed

Starting from 4 March 2008, the VAT law will not stipulate liability for several violations of the law as determined until now. Thus, the liability under the provisions of the VAT law will set in for the following violations:

- for non-declaring of calculated tax for import of fixed assets – a fine will be determined in the amount of 10% of the non-declared tax;
- for violation of prohibition to sell, lease, exchange or in any other way alienate such fixed asset at least 12 months from the moment of import – in the amount of 18%;
- for unlawful issue of tax invoice and unlawful receipt of the tax – in the amount of 100% of the unlawfully received tax (instead of the 200% provided in the law at present);
- for non-calculation and non-payment of the law when receiving intellectual services (advertising, legal, consultation, etc.) for its business purposes from a party of third country or any other EU member state, as well as for purchase of goods and services in the territory of the EU – in the amount of 10% of the unpaid tax.

Liability for other violations stipulated previously in the VAT law in future will be applied according to the provisions of the law “On Taxes and Duties”.

Other amendments

As of 1 July, the financial statements will be submitted only to the SRS

On 18 February this year, the Cabinet of Ministers approved the amendments prepared by the Ministry of Finance to the Law on Annual Accounts and the Law on Consolidated Annual Accounts. The mentioned amendments stipulate that in future the financial statements (also consolidated) will have to be submitted only to the SRS. The SRS will hand a copy in electronic form to the Register of Enterprises which in turn will publish an announcement in the newspaper "Latvijas Vēstnesis" that the information of the financial statements has been entered in the registration file of the enterprise.

Although the amendments have to be reviewed in Saeima, it has been announced that they most likely will come into force already on 1 July this year. Until the coming into force of these amendments, a copy of the financial statements has to be submitted to the SRS, as well as to the Register of Enterprises.

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