

Tax & Law Newsletter

2010 March No 03

This Newsletter reflects the most important changes in the national legislation on taxes, finance and other issues published in February. The review is based on the publications of the Official Gazette No 13–23.

VALUE ADDED TAX

Order No VA-14 of 4 February 2010 of the Head of the State Tax Inspectorate Amending the Order No 339 of 25 November 2002 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Applications of Foreign Taxable Persons for a Refund of Value Added Tax paid in the Republic of Lithuania (Official Gazette (Valstybės Žinios), No 18–855).

The Order amended the procedure for the applications of foreign taxable persons for a refund of the value added tax paid in the Republic of Lithuania. Its major change is use of goods and services category codes in the applications for a VAT refund of a taxable person established in another EU Member State.

The category codes specified in the Council Directive 2008/9/EC of 12 February 2008 laying down detailed rules for the refund of value added tax, provided for in Directive 2006/112/EC, to taxable persons not established in the Member State of refund but established in another Member State (OJ 2008 L 44, p. 23), and additional codes established according to the Commission Regulation 1174/2009 of 30 November 2009 laying down rules for the implementation of Articles 34a and 37 of Council Regulation (EC) No 1798/2003 as regards refunds of value added tax under Council Directive 2008/9/EC (OJ 2009 L 314, p. 50).

The Order came into force on 12 February 2010.

Resolution No 109 of 10 February 2010 of the Government of the Republic of Lithuania Amending the Resolution No 861 of 12 June 2002 of the Government of the Republic of Lithuania on the Implementation of the Law on Value Added Tax of the Republic of Lithuania (Official Gazette (Valstybės Žinios), No 19–871).

The Resolution annulled the list of VAT-free postal services. From now on, only the postal services provided for in Article 25 of the Value Added Tax of the republic of Lithuania shall not be subject to VAT:

1. VAT shall not be charged on universal postal services supplied by the universal postal services supplier as defined in the Postal Law of the Republic of Lithuania as well as on the goods supplied in direct relation to these services.
2. The provisions of this Article shall not be applicable to the postal services provided by universal postal services suppliers and related goods, the provision terms and conditions of which were negotiated individually.

The Resolution came into force on 14 February 2010.

PERSONAL INCOME TAX

Order No VA-9 of 26 January 2010 of the Head of the State Tax Inspectorate

CONTENTS

Value added tax

Personal income tax

State social insurance

Compulsory health insurance

Excise tax

Tax administration

Business accounting standards

Company law

Energy

Pharmacy

Amending the Order No VA-7 of 15 January 2004 of the of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for the Completion and Submission of Form FR0572 for the Monthly Income Tax Return on Income of A Class and Its Appendices FR0572A, FR0572U (Official Gazette (Valstybės Žinios), No 13–666).

The Order amended the Rules for the Completion and Submission of Form FR0572 for the Monthly Income Tax Return on Income of A class and Its Appendices FR0572A, FR0572U and approved the updated list of income type codes for A class disbursements. The compulsory health insurance contributions shall not be declared in the return of A class income paid in 2010 and subsequent periods.

The Order came into force on 3 February 2010.

STATE SOCIAL INSURANCE

Resolution No 124 of 10 February 2010 of the Government of the Republic of Lithuania Amending the Resolution No 647 of 14 June 2005 of the Government of the Republic of Lithuania on the Approval of the Rules for the Formation and Implementation of the State Social Insurance Fund Budget of the Republic of Lithuania (Official Gazette (Valstybės Žinios), No 19–886).

The Resolution amended the rules for the contributions to the State Social Insurance Fund budget, which set forth that social insurance contributions shall be paid by the owners of individual companies, full members of partnerships and their partners once a month (the term set forth in the previous wording of the Resolution was once per quarter). There is no longer an obligation for persons engaged in individual activity to pay quarterly State Social Insurance contributions. The new wording of the Resolution sets forth that persons engaged in individual activity, as defined in the Law on Personal Income Tax of the Republic of Lithuania, except for persons

holding business certificates, have the right to calculate and pay social insurance contributions in advance once a month not later than by the last day of the current month, and health insurance contributions – according to the terms provided for in the Law on health Insurance of the Republic of Lithuania. The social insurance and health insurance contributions of the persons engaged in individual activity shall be payable until the deadline for submission of the annual income tax return to the State Tax Inspectorate.

This Resolution also changed the social insurance payment procedure for farmers and their partners and owners of inactive individual companies and full members of inactive partnerships.

The Resolution came into force on 14 February 2010.

COMPULSORY HEALTH INSURANCE

Order No VA-7 of 20 January 2010 of the Head of the State Tax Inspectorate Amending the Order No VA-90 of 21 December 2005 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for the Completion and Issue of a Certificate on the Calculated and Paid Contributions, Deducted and Paid to the Budget Income Tax and Compulsory Health Insurance Contributions (Official Gazette (Valstybės Žinios), No 13–665).

The order approved the new Rules for the Completion and Issue of a Certificate on the Calculated and Paid Contributions, Deducted and Paid to the Budget Income Tax and Compulsory Health Insurance Contributions. The certificate shall be completed and issued by a Lithuanian entity that paid the contributions, a Lithuanian permanent resident, a foreign person engaged in operations through a permanent establishment in Lithuania, a non-permanent resident of Lithuania engaged in individual activity via a permanent establishment in Lithuania (hereinafter, a tax deducting person).

A tax deducting person shall enter into the certificate the data on payments attributable to A class personal income in accordance with the tax payment procedure. The tax deducting person can also enter data on payments attributable to B class personal income in accordance with the tax payment procedure upon the resident's request.

The Order came into force on 3 February 2010.

EXCISE TAXES

Order No VA-15 of 5 February of the Head of the State Tax Inspectorate Amending the Order No VA-106 of 26 May 2004 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for the Completion and Submission of Excise Tax Declaration Forms FR0630, FR0630A (Official Gazette (Valstybės Žinios), No 17-815).

The order approved the new wording of the excise tax declaration forms FR0630 and FR0630A and the appendices to these forms: FR0630B appendix form “Calculation of raw materials of biological origin in energy product mixtures and of excise taxes”; FR0630C appendix form “Calculation of cigarettes combined excise tax rate and excise taxes”; FR0630D appendix form “Calculation of excise taxes on excisable goods by tariff groups; FR0630E appendix form “Calculation of electricity excise taxes”; FR0630F appendix form “Calculation of excise taxes on natural gas”; FR0630G appendix form “Calculation of excise taxes on coal”; FR0630K appendix form “Calculation of excise taxes of another person”; FR0630L appendix form “Calculation of excise taxes on coke and/or lignite”; FR0630M appendix form “Inventory report on excisable goods with the excise taxes paid”; FR0630N appendix form “Inventory report on excisable goods”; FR0630R appendix form “Calculation of excise taxes of a registered person”; FR0630S appendix form “Calculation of excise taxes of a warehouse of excisable goods”; FR0630V appendix form “Report on the average amount of goods stored (intended to be stored) at a time per day”.

Moreover, this Order approved the new rules for the completion of the forms FR0630 and FR0630A.

The Order came into force on 10 February 2010.

TAX ADMINISTRATION

Order No VA-10 of 27 January 2010 of the Head of the State Tax Inspectorate Amending the Order No VA-147 of 29 July 2004 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for Disclosure of Non-Confidential Information on a Tax Payer to Third Persons (Official Gazette (Valstybės Žinios), No 13–667).

The Order amended the Rules for Disclosure of Non-Confidential Information on a Tax Payer to Third Persons. The major change is publishing the information on a business certificate holder on the website of the State Tax inspectorate www.vmi.lt and restriction of disclosure of information on a tax-payer to third persons.

The Order came into force on 3 February 2010.

Order No VA-11 of 27 January 2010 of the Head of the State Tax Inspectorate Amending the Order No 86 of 29 March 2002 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Forms for an Agreement on Takeover of Tax Arrears, an Application for a Consent to a Takeover of Tax Arrears and a Decision on Takeover of Tax Arrears (Official Gazette (Valstybės Žinios), No 13–668).

The order amended the rules for the approval of the forms for an agreement on takeover of tax arrears, an application for consent to a takeover of tax arrears and a decision on takeover of tax arrears and approved the new wording of the agreement.

The Order came into force on 3 February 2010.

Order No VA-12 of 27 January 2010 of the Head of the State Tax Inspectorate Amending the Order No 236 of 3 October 2001 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Forms for a Tax Loan Agreement and a Questionnaire for Natural Persons (Official Gazette (Valstybės Žinios), No 13–669).

The Order amended the rules for the forms for a tax loan agreement and a questionnaire for natural persons and approved the new wording for a tax loan agreement.

The Order came into force on 3 February 2010.

Order No VA-13/1B-50 of 28 January 2010 of the Head of the State Tax Inspectorate and the General Director of the Customs Department Amending the Order No 57/1B-160 of 26 February 2003 of the of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania and the General Director of the Customs Department under the Ministry of Finance of the Republic of Lithuania on the list of Codes for Taxes, levies and Other Contributions to the State Budget, Municipal Budgets and State Monetary Funds of the Republic of Lithuania (Official Gazette (Valstybės Žinios), No 13–670).

The Order changed the codes for the contributions to the the state budget, municipal budgets and state monetary funds of the Republic of Lithuania.

The Order came into force on 3 February 2010.

Order No VA-23 of 19 February 2010 of the Head of the State Tax Inspectorate Amending the Order No VA-6 of 30 January 2006 of the of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for Paying Tax and related Amounts on Behalf of a Taxpayer and Annulment of Orders of the Head of the State Tax Inspectorate under

the Ministry of Finance of the Republic of Lithuania (Official Gazette (Valstybės Žinios), No, 23–1108).

The Order amended the form PRC902 for an application and consent to accept the paid amount and presented its new wording.

The Order came into force on 26 February 2010.

BUSINESS ACCOUNTING STANDARDS

Order No VAS-1 of 10 February 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 3 “Income Statement” (Official Gazette (Valstybės Žinios), No 20–964).

The Order Amended Paragraph 2 of the Business Accounting Standard 3 providing for the procedure of income statement preparation, revenue and expenses classification, the sample income statement forms. The amendments were made with respect to the draft Business Accounting Standard 39 “Accounting and financial statements of collective investment undertakings and pension funds”, which is being prepared at the moment”.

The term “costs” was recognised as void.

The Order came into force on 19 February 2010.

Order No VAS-2 of 10 February 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 4 “Statement of Changes in Equity” (Official Gazette (Valstybės Žinios), No 20–965).

The Order amended Paragraph 2 of the Business Accounting Standard 4 providing for the procedure of the preparation of the statement of changes in equity and presenting sample forms for the statements, except for the consolidated statements of changes in equity and statements of changes in equity of companies operating in certain specific fields, which are presented in the standards dedicated to the accounting of these companies.

Moreover Paragraph 5 of the Business Accounting Standard 4, which establishes the obligatory data in the statement of changes in equity, was amended.

The Order came into force on 19 February 2010.

Order No VAS-3 of 10 February 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 2 “Balance sheet” (Official Gazette (Valstybės Žinios), No 20–966).

The order amended Paragraph 2 of the Business Accounting Standard 2 which provides for the procedure for balance sheet preparation and sample forms except for the consolidated balance sheets and balance sheets of companies operating in certain specific fields, which are presented in the standards dedicated to the accounting of these companies.

Additional line 1.1.5. “Non-current tangible assets for sale” was inserted in the sample balance sheet forms presented in the Business Accounting Standard 2.

Moreover, the terms “balance sheet date” and “annual financial statements” were recognized as void.

The Order came into force on 19 February 2010.

Order No VAS-5 of 19 February 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 12 “Non-current tangible assets” (Official Gazette (Valstybės Žinios), No 23–1116).

The Order amended the Business Accounting Standard 12, which sets forth that this Standard shall be extended with Paragraph 103 on the calculation of depreciation of non-current assets by the prospective method.

The Order came into force on 26 February 2010.

Order No VAS-6 of 22 February 2010 of

the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 41 “Splitting up of entities” (Official Gazette (Valstybės Žinios), No 23–1117).

The order approved the Business Accounting Standard 41, which provides for splitting up of entities. The objective of this Standard is to provide for the procedure for accounting and presentation of the economic operations and economic events of splitting up and separation of entities in the financial statements.

The Order came into force on 26 February 2010.

COMPANY LAW

Law No XI-666 of 21 January 2010 Amending the Law on Budgetary Institutions (Official Gazette (Valstybės Žinios) No 15–699).

The purpose of this Law – pursuant to the provisions of the Civil Code and the Law on Budget Structure, to specify the establishment, reorganization of institutions financed from the state budget of the Republic of Lithuania and from municipal budgets, also the establishment and termination of subsidiaries of budgetary institutions, the peculiarities of closing (liquidation and reorganization), also the management and operation of budgetary institutions, unless settled otherwise by other laws defining management of budgetary institutions and regulating their activity.

Budgetary institution is defined as a public legal person of limited civil liability performing public or municipal functions and financed from the appropriations of the state or municipal budgets, also from the budgets of the State Social Insurance Fund, Compulsory Health Insurance Fund and other state monetary funds. The State is the owner of a budgetary institution. Pursuant to the provisions of the Law, budgetary institutions are only responsible with own funds and in case of lack of funds the liabilities shall be covered from public or municipal funds. Therefore, the liabilities

of a budgetary institution may not be ensured with other assets of the state (or municipality).

Considering the fact that a budgetary institution does not hold any property on the right of ownership, it is not allowed to do the following: to participate in other legal persons, establish representative offices and to ensure the implementation of liabilities of other persons. However, a budgetary institution may implement the rights and liabilities of the state or municipality as of the participant of a legal person, if this right would be vested to it by the Government or the Municipal Board.

The Law presented in detail the reorganization of a budgetary institution – the beginning and the end of all procedures of reorganization (initiation, announcement on a foreseen reorganization, preparation of reorganization terms and conditions, making the decision to reorganize) were established. Also the contents of reorganizing terms and conditions was regulated. Cases were settled when a budgetary institution may be reorganized or participate in a reorganization.

Also the liquidation procedures were regulated, i.e. it was settled who and when is allowed to make a decision on the liquidation of a budgetary institution, who appoints a liquidator or a liquidating commission, establishes their competence, the data that has to be indicated in the notice on the liquidation of a budgetary institution, and when does a budgetary institution is given the status “in liquidation”.

The Law comes into force on 1 April 2010.

Order No IR-28 of 1 February 2010 of the Minister of Justice of the Republic of Lithuania Approving Electronic Financial Statements Provided to the Manager of the Register of Legal Persons (Official Gazette (Valstybės Žinios) No 15–733).

The Order approved electronic financial statements provided to the manager of the Register of Legal Persons, which must be followed in applying financial statements

to the manager of the Register of Legal Persons in electronic form.

Resolution No 1K-1 of 4 February 2010 of the Securities Commission of the Republic of Lithuania Amending the Resolution No 1K-18 of 21 August 2008 of the Securities Commission of the Republic of Lithuania on the Requirements to Audit Committees (Official Gazette (Valstybės Žinios) No 17–827).

The requirements to audit committees shall apply to audit committees that are organized inside public companies of the Republic of Lithuania (not including banks and the Central Credit Union), which are listed in regulated securities market of the Republic of Lithuania and/or any other Member State. The Resolution established that the audit committee of subsidiary companies and of those the financial statements of which are consolidated, is organized by the parent company. It was also established that in case there exists a supervisory board in the company, the internal rules of an audit committee shall be approved by the supervisory board. In case there is no supervisory board, the audit committee must include one member elected by the general meeting of the shareholders, the inner rules of the audit committee shall be approved by the general shareholders' meeting.

ENERGY

Order No 1-38 of 11 February 2010 of the Minister of Energy of the Republic of Lithuania Approving the Rules of Electricity Supply and Use (Official Gazette (Valstybės Žinios) No 20–957).

The Rules of Electricity Supply and Use approved by the Order of the Minister of Energy of the Republic of Lithuania shall from now on be binding not only to transmission system and distribution network operators, public electricity suppliers but also to independent suppliers. The Law on Electricity defines an independent supplier as a person holding a respective licence to perform this activity and supplying electricity to free users (i.e. persons holding a right to freely

choose a supplier at the procedure settled in this Law). The relationship between users and independent suppliers are settled by the electricity sales-purchase agreements entered between them as far as such relationship are not regulated by these Rules, Specifications of Provisions of Standard Electricity Sales-Purchase Agreements with Home Users and by Specifications of Provisions of Standard Electricity Transmission Service Provision Agreements with Home Users.

A user may submit his application to enter into an agreement with the supplier and operator in writing or by electronic means after his identity has been verified. By signing an agreement the user confirms that the building to which according to the agreement the electricity will be transmitted, belongs to him on the right of ownership or any other right of legitimate administration and he has a right to sign the agreement.

An exception was established: if the building of the user being situated in a single geographical area and being independently connected to distribution or transmission networks, can only receive electricity from a single supplier – several suppliers may in cooperation supply electricity to that building if the relationship between the electricity suppliers concerning the balancing responsibility to such user are properly regulated in agreements with the transmission system operator or a balancing energy supplier to whom this building of a user is attributed.

While entering into agreements with users an independent supplier must additionally meet the following requirements: 1) by providing a proposal to a particular user for the signing of the electricity purchase-sales agreement must inter alia provide the user with information on the offered terms and conditions of electricity supply 2) to properly inform the user about the offered terms and conditions of an electricity purchase-sales agreement, guarantees of credibility of electricity supply, principles of establishment and calculation of electricity price and to provide the user with all other necessary information which would help

him make the decision on choosing a supplier 3) indicate the term of validity of such proposal 4) the agreement must include the date of coming into force and the term of agreement validity, the procedure of agreement termination prior to the term of its expiry, procedure and periodicity of making electricity use schedules, electricity price or the formula of its calculation, also the procedure and terms of payment and other essential agreement provision 5) independent suppliers enter into agreements with home users based on the Specifications of Provisions of Standard Electricity Sales-Purchase Agreements with Home Users, which is approved by the Minister of Energy. In providing the user with information on the offered services, quality, price of the services, electricity procurement credibility criteria, etc. an independent supplier is responsible for the correctness of such information.

Order No 1-43 of 19 February 2010 of the Minister of Energy of the Republic of Lithuania Approving the Specifications of Provisions of Standard Electricity Sales-Purchase Agreements with Home Users (Official Gazette (Valstybės Žinios) No 23–1092).

The Specifications of Provisions of Standard Electricity Sales-Purchase Agreements with Home Users settles the following: the manner of entering into electricity purchase-sales agreements, their enforcement, termination, the procedure and conditions of electricity supply, the procedure of electricity price establishment, the procedure of home user's payment for electricity, rights, duties and responsibility for non-performance of liabilities of the parties, the procedure of hearing claims or applications and dispute resolution, the term of agreement validity, terms and conditions of amendment or termination of the agreement.

The Specification is binding to all public and independent electricity suppliers and home users of electricity. In case a user did not enter into any electricity purchase-sales agreement with the supplier in writing, but is being supplied electricity (the case defined in Paragraph 1 of Article

6.384 of the Civil Code of the Republic of Lithuania), their relationships are subject to the provisions of general agreement established by this Specification, the provisions of the Rules of Electricity Supply and Use and other laws.

A Supplier, pursuant to this Specification, shall prepare an agreement, which must include the provisions defined in the Specification. Apart from the provisions established by the Specification, another provisions discussed separately between the parties might be included. Such provisions may not conflict with the Civil Code of the Republic of Lithuania, the Law on Energy of the Republic of Lithuania, the Law on Electricity of the Republic of Lithuania, the Rules of Electricity Supply and Use and other legal acts. The parties of the agreement shall not establish such agreement provisions, which might worsen the status of the user in comparison to that defined in the laws of the Republic of Lithuania and other legal acts.

PHARMACY

Law No XI-664 of 20 January 2010 Amending the Name of Chapter Twelve of the Law on Pharmacy of the Republic of Lithuania and Supplementing the Law with Article 59-1 (Official Gazette (Valstybės Žinios) No 13–624).

The Name of Chapter Twelve of the Law on Pharmacy of the Republic of Lithuania was amended and stated in the following manner: Pricing of Medical Products and Medical Aid Equipment.

The Law was supplemented with Article 59-1, which established general require-

ments for pricing of non reimbursable medical products and non reimbursable medical aid equipment, in particular: (i) the owner of a marketing right to a non reimbursable medical product or a holder of a parallel import permit thereto or a representative thereof must declare the price of a non reimbursable medical product applied in the Republic of Lithuania by the owner of marketing right to a non reimbursable medical product or a holder of a parallel import permit, not including value added tax, to the Ministry of Health and to provide prices of a medical product, which are declared for reference countries, established by the Government, (ii) a holder of a wholesale licence in selling non reimbursable medical products may not apply higher sales mark-ups than that established by the Government, (iii) a pharmacy in selling non reimbursable medical products may not apply higher sales mark-ups than that established by the Government, (iv) the retail price of a non reimbursable medical product may not exceed the price declared by the owner of a marketing right to a non reimbursable medical product or a holder of a parallel import permit thereto plus sales mark-ups to wholesale and retail established by the Government and value added tax, (v) non reimbursable prescription medical aid equipment sold at a market price.

It must be noted that established requirements on non reimbursable medical products shall not apply to non reimbursable nominal prescription medical products.

Such amended regulation shall come into force on 1 April 2010, not including an injunction to apply a higher sales mark-up than that established by the Government

to non reimbursable medical products by a wholesale licence holder.

The Government and the Ministry of Health have been imposed a liability to prepare and approve legal acts necessary for an implementation of a new regulation until 31 March 2010.

Order No V-56 of 22 January 2010 of the Minister of Health of the Republic of Lithuania Approving the Rules on Granting Marketing Rights to Medical Products, Procedures of Simplified Registration of Homeopathic Medical Products, Procedures of Simplified Registration of Traditional Herbal Medical Products, Procedures of Granting Marketing Right to Medical Products by Applying Mutual Recognition and Decentralised Procedures, Standards and Protocols that Apply to Analytic, Pharmacotoxicological and Clinical Trials of Medical Products, Specifications of Requirements to Labelling of Medical Products Packages and Package Leaflets, List of Ancillary Substances, which Must be Indicated on a Package of a Medical Product and in a Package Leaflet, Procedures of Transfer of Medical Product Marketing Right to Another Person (Official Gazette (Valstybės Žinios) No 13–661).

The Order approved a list of registration procedure of homeopathic medical products, which settles criteria that apply to homeopathic medical products that might be registered following a specific registration procedure, pre-clinic and clinic trial requirements, procedure of document supply for application to receive a marketing right following a specific registration procedure in the Republic of Lithuania, and the requirements to pharmacovigilance.

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