

Tax & Law Newsletter

2010 April No 04

This Newsletter reflects the most important changes in the national legislation on taxes, finance and other issues published in March. The review is based on the publications of the Official Gazette No 25–37.

VALUE ADDED TAX

Order No VA-30 of 19 March 2010 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania Amending the Order No VA-40 of 29 March 2004 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of Additional Requirements Applicable to the Accounting of Taxable Persons Subject to the Provisions of Section Four, Chapter XII of the Law on Value Added Tax of the Republic of Lithuania (Valstybės Žinios (Official Gazette), No 33-1599).

The Law amended the additional requirements applicable to the accounting of taxable persons subject to the provisions of Section Four, Chapter XII of the Law on Value Added Tax of the Republic of Lithuania regulating the special scheme for VAT taxation of investment gold.

The Order came into force on 24 March 2010.

Order No 1K-073 of 18 March 2010 of the Minister of Finance of the Republic of Lithuania on the Approval of the List of the Community Customs Territories where the Provisions of the Council Directive 2006/112/EC of 28 November 2006 on the Common System of Value Added Tax and Council Directive 2008/118/EC of 16 December 2008 Concerning the General Arrangements for Excise Duty and Repealing Directive

92/12/EEC (Valstybės Žinios (Official Gazette), No 34-1641).

The Order approved the list of the community customs territories where the provisions of the Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax and Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC.

The Order came into force on 26 March 2010.

PERSONAL INCOME TAX

Order No VA-29 of 18 March 2010 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania Amending the Order No VA-13 of 9 February 2004 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania on the Approval of the Annual Resident (Family) Property Declaration Form and the Rules for Its Completion, Submission and Adjustment (Valstybės Žinios (Official Gazette), No 33-1598).

The Order amended the rules for the completion, submission and adjustment of the annual resident (family) property declaration form FR0001 and its appendices and approved the new wording of the annual resident (family) property declaration form FR0001.

The Order came into force on 24 March 2010.

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Law No XI-691 of 18 March 2010 Amending Article 27 of the Law on Personal Income Tax of the Republic of Lithuania (Valstybės Žinios (Official Gazette), No 34-1614).

The Law on Personal Income Tax that was valid so far established that all residents who are subject to declare their property in accordance with the procedure set by the Law on Declaration of the Property of Residents should also declare their income. This provision was not applicable only to the residents who were willing to receive state-guaranteed legal aid or a monetary social assistance and who had declared their property for that purpose.

The adopted Law Amending Article 27 of the Law on Personal Income Tax set forth that apart from the above two exceptions, the residents, who submit reference property declaration of residents according to the Law on Declaration of the Property of Residents, do not have to submit obligatory income returns.

The Law came into force on 26 March 2010.

STATE SOCIAL INSURANCE

Order No V-108 of 26 February 2010 of the Director of the State Social Insurance Board under the Ministry of Social Security and Labour on the Approval of Provisional the Rules for the Specification of Data of the Inured with the State Social Insurance (Valstybės Žinios (Official Gazette), No 27-1289).

The Order approved the Provisional Rules for the Specification of Data of the Inured with the State Social Insurance.

Moreover, this Order annulled the Order No V-155 of 31 March 2008 of the Director of the State Social Insurance Board under the Ministry of Social Security and Labour on the Approval of the Rules for the Specification of Data of the Inured with the State Social Insurance (Official Gazette, 2008, No 42-1594).

The Order came into force on 7 March 2010.

Resolution No 311 of 24 March 2010 of the Government of the Republic of

Lithuania Amending the Resolution No 956 of 26 August 2009 the Government of the Republic of Lithuania Amending the Resolution No 86 of 25 January 2001 the Government of the Republic of Lithuania on the Approval of the Provisions for Sickness and Maternity Social Insurance Benefits (Valstybės Žinios (Official Gazette), No 36-1717).

The Resolution amended the Resolution No 956 of 26 August 2009 the Government of the Republic of Lithuania Amending the Resolution No 86 of 25 January 2001 of the Government of the Republic of Lithuania on the Approval of the Provisions for Sickness and Maternity Social Insurance Benefits and presented a new wording of Paragraph 3 of the former Government Resolution.

The new wording of Paragraph 3 established an extensive procedure for the implementation of the electronic system for the management of pregnancy and birth leave certificates to come into force on 1 July 2010.

The Resolution came into force on 31 March 2010.

CUSTOMS DUTIES

Order No 1B-118 of 26 February 2010 of the Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania Amending the Order No 1B-642 of 17 June 2004 of the Director General of the Customs Department on the Approval of the List of Operating Territorial Customs Posts (Valstybės Žinios (Official Gazette), No 27-1291).

The Order amended the Order No 1B-642 of 17 June 2004 of the Director of the Customs Department on the Approval of the List of Operating Territorial Customs Posts (Official Gazette, 2004, No 97-3616) and presented a new wording of the List of Operating Territorial Customs Posts.

The Order came into force on 7 March 2010.

Order No 1B-137 of 8 March 2010 of the Director General of the Customs Department under the Ministry of Finance

of the Republic of Lithuania on the Approval of the Rules for Applying Exoneration from Customs Duty (Valstybės Žinios (Official Gazette), No 29-1377).

The Order approved the Rules for Applying Exoneration from Customs Duty.

These Rules regulate performance of certain customs formalities when the customs reliefs set forth by the Council Regulation (EC) 1186/2009 setting up a Community system of reliefs from customs duty are applied.

The Order came into force on 1 April 2010.

Order No 1B-137 of 8 March 2010 of the Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania on the Approval of the Rules for Conducting a Tax Investigation (Valstybės Žinios (Official Gazette), No 29-1378).

The Order approved the Rules for Conducting a Tax Investigation.

These Rules establish the actions to be taken by customs officials when performing monitoring and control of the activities of persons in relation to release of goods into free circulation, analysis of customs documents, data and other information.

The Order came into force on 14 March 2010.

Order No 1B-154 of 15 March 2010 of Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania Amending the Order No 1B-659 of Director General of the Customs Department on the Approval of the Rules for the Application of Simplified Community and the Common Transit Procedure Performed Using the Authorized Sender and Authorized Recipient Status (Valstybės Žinios (Official Gazette), No 33-1600).

The Order amended the simplified community and the common transit procedure performed using the authorized sender and authorized recipient status.

The Order came into force on 24 March 2010.

STAMP DUTIES

Resolution No 201 of 3 March 2010 of the Government of the Republic of Lithuania Amending the Resolution No 1458 of 15 December 2000 of the Government of the Republic of Lithuania on the Approval of the Specific Rates of Stamp Duties and Rules for the Payment and Refund Thereof (Valstybės Žinios (Official Gazette), No 28-1307).

The Order amended the list of the specific stamp duties by adding a new paragraph “Ministry of Energy” with 23 new stamp duty rates specified.

The Order came into force on 10 March 2010.

Resolution No 255 of 10 March 2010 of the Government of the Republic of Lithuania Amending the Resolution No 1458 of 15 December 2000 of the Government of the Republic of Lithuania on the Approval of the Specific Rates of Stamp Duties and Rules for the Payment and Refund Thereof (Valstybės Žinios (Official Gazette), No 28-1307).

The Order amended certain rates of the stamp duties collected by the Ministry of Education and Science

The Order came into force on 19 March 2010.

TAX ADMINISTRATION

Order No 1K-052 of 2 March 2010 of the Minister of Finance of the Republic of Lithuania on Setting Penalty Rates for the Second Quarter of 2010 (Valstybės Žinios (Official Gazette), No 27-1232).

The Order set the new rate for non-payment or late payment of tax at 0.04 percent for each day of the delay. This rate applies from 1 April 2010 to 1 July 2010.

The Order came into force on 1 April 2010.

Order No 1K-053 of 2 March 2010 of the Minister of Finance of the Republic of Lithuania on Setting Interest Rate on Tax Loans for the Second Quarter of 2010 (Valstybės Žinios (Official Gazette), No 27-1233).

The Order set 0.02 percent interest rate on each day of using a tax loan. This rate applies from 1 April 2010 to 1 July 2010.

The Order came into force on 1 April 2010.

Order No VA-28/1B-162 of 18 March 2010 of the Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania and the Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania Amending the Order No V-57/1B-160 of 26 February 2003 Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania and the Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania on the List of Codes for Taxes, Stamp Duties and Other Contributions to the State Budget, Municipal Budgets and State Monetary Funds of the Republic of Lithuania (Valstybės Žinios (Official Gazette), No 33-1597).

The Order amended the list of codes for taxes, stamp duties and other contributions payable to the public accounts for budget revenues of the territorial state tax inspectorates approved by the Order No V-57/1B-160 of 26 February 2003 Head of the State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania and the Director General of the Customs Department under the Ministry of Finance of the Republic of Lithuania.

The Order came into force on 24 March 2010.

BUSINESS ACCOUNTING STANDARDS

Order No VAS-7 of 5 March 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 3 “Income Statement” (Valstybės Žinios (Official Gazette), No 29-1367).

The Order made editorial changes in the titles of the sample income statement forms presented in the Business Accounting Standard 3 and the word combinations used in the Standard.

The Order came into force on 14 March 2010.

Order No VAS-8 of 5 March 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 4 “Statement of Changes in Equity” (Valstybės Žinios (Official Gazette), No 29-1368).

The Order made editorial changes in the titles of the sample statement of changes in equity forms presented in the Business Accounting Standard 4 and the word combinations used in the Standard.

The Order came into force on 14 March 2010.

Order No VAS-9 of 5 March 2010 of the Director of the Authority of Audit and Accounting Amending the Business Accounting Standard 2 “Balance Sheet” (Valstybės Žinios (Official Gazette), No 29-1369).

The Order made editorial changes in the titles of the sample balance sheet forms presented in the Business Accounting Standard 2 and the word combinations used in the Standard.

The Order came into force on 14 March 2010.

PHARMACY

Law No XI-700 of 23 March 2010 of the Republic of Lithuania Implementing Paragraph 1 of Article 591 of the Law on Pharmacy of the Republic of Lithuania (Official Gazette (Valstybės Žinios), 2010, No 37-1751).

Implementing general requirements of the pricing of non reimbursable medicinal preparations and non reimbursable medical aid equipment the Law established a liability of the owner of a marketing right to a non reimbursable medical product or a holder of a parallel import permit thereto to declare the price of a non reimbursable medical product applied in the Republic of Lithuania by the owner of a non reimbursable medical product or a holder of a parallel import permit, not including value added tax, at the procedure settled by the Minister of Health until 10 April 2010. It also established that the declared price of a non reimbursable medicinal preparation applied by a marketing price holder or a

parallel import permit holder until 1 May 2010 in the Republic of Lithuania shall be treated as the purchase price (not including VAT) of a medicinal preparation from the marketing right holder to a non reimbursable preparation or a parallel import permit holder.

Resolution No 257 of 10 March 2010 of the Government of the Republic of Lithuania Approving Maximum Trade Mark-Ups for Retail and Wholesale of Non Reimbursable Medicinal Preparations (Official Gazette (Valstybės Žinios), 2010, No 31-1443).

The Resolution is targeted to implement general requirements on pricing of non reimbursable medicinal preparations and non reimbursable medical aid equipment, which are endorsed by Paragraph 1 of Article 591 of the Law on Pharmacy of the Republic of Lithuania.

The Resolution settled trade mark-ups on maximum wholesale price for non reimbursable medicinal preparations (for wholesale licence holders of medicinal preparations) and maximum retail mark-ups on non reimbursable medicinal preparations (in pharmacies).

Order No 1K-40 of 2 March 2010 of the State Patients Fund under the Ministry of Health of the Republic of Lithuania Approving the Procedures of Dispensing (Sale) of Reimbursable Medicines and Reimbursable Medical Aid Equipment, Required to be Held in a Pharmacy (Official Gazette (Valstybės Žinios), No 27-1299).

The Procedures of Dispensing (Sale) of Reimbursable Medicines and Reimbursable Medical Aid Equipment, Required to be Held in a Pharmacy (hereinafter – the Procedures) is prepared based on Article 67 of the Rules on Issuance of Medicine Prescriptions and on Dispensing (Sale) of Medicines to Persons, which were approved by Order No 112 of 8 March 2002 of the Minister of Health of the Republic of Lithuania on Issuance of Medicine Prescriptions and on Dispensing (Sale) of Medicines. A list of reimbursable medicines required to be held in a Pharmacy and a list of reimbursable medicinal aid equipment (hereinafter – MAE) required to be held in a Pharmacy

are attached to the Procedures (hereinafter – Lists).

The Procedure also establishes the criteria of making Lists, amendment procedure thereof, the order of dispensing (sale) of enlisted reimbursable medicines and MAE to persons in a pharmacy. All pharmacies, which have signed agreements with Territorial State Patients Funds on dispensing of reimbursable medicines and MAE to the insured with mandatory health insurance, must have in stock reimbursable medicines and reimbursable MAE, which are included in the Lists, which must be offered to a person in the manner of priority according to his prescription and if a person aggress, must be dispensed (sold) to him.

The Lists shall be updated no later than in 14 days after the amendment of amounts of mark-ups to medicines and MAEs, which are included in the Pricelist of Reimbursable Medicine Preparations and in the Pricelist of Reimbursable MAE. In case more than one medicine of the same general name and form or in case more than one MAE of the same purpose and size is included in the List, for which the patient pays an allowance of the same amount, a pharmacy must have and offer a person at least one medicine or MAE of the same type as included in the List.

PUBLIC PROCUREMENT

Law No XI-678 of 11 February 2010 Amending Articles 2, 6, 7, 8, 10, 13, 15, 18, 22, 23, 24, 31, 32, 39, 41, 54, 58, 78, 85, 89, 90, 91, 92, 93, 94, 95, 96, 97 of the Law on Public Procurement of the Republic of Lithuania, Amending and Supplementing the Annex and the Name of Chapter V, Supplementing the Law with Articles 211, 941, 951, 952 and Repealing Articles 98, 99, 100 of the Law (Official Gazette (Valstybės Žinios), No 25-1174), and Law No XI-679 of 11 February 2010 Amending and Supplementing Articles 2, 4, 7, 8, 10, 11, 16, 18, 19, 22, 23, 24, 27, 28, 30, 33, 39, 40, 43, 45, 49, 57, 62, 74, 85, 86, 89, 92 of the Law on Public Procurement of the Republic of Lithuania, Supplementing the Law with Article 151, and Amending Articles 12 and 32 of the Law (Official Gazette (Valstybės Žinios), No 25-1175).

Amendments to the Law on Public Procurement (hereinafter – LPP) are prepared in implementing the Directive 2007/66/EC of the European Parliament and of the Council of 11 December 2007, also proposals of the Sunrise Commission.

The LPP extended the competence of the Public Procurement Office (e.g., it was allowed to independently select the contracting authority for inspection, and also was granted a right to apply to court for annulment of purchase agreement and/or the application of alternative sanctions in case it established that LPP and other related legal acts were violated).

More important amendments were made in the field of dispute resolution. A model of preliminary winners list was revoked – after analysing proposals and having made a preliminary winners list of proposals the contracting authority is allowed to make a decision at once concerning the signing of an agreement. However, a postponement period was imposed, i.e. a 15-day-period after the day of posting a notice on the decision to enter into an agreement, during which a purchase agreement may not be signed. The LPP also amended terms for filing claims and actions – a supplier must file a claim or an action in 15 days after the day of posting a written notice to the supplier on an adopted decision by the contracting authority, or if there is no requirement to inform suppliers, in 10 days (in case of a simplified procurement – in 5 business days) after the announcement on the decision made. Moreover, the LPP established that a supplier for the purpose of defending his interests is allowed to not only appeal the decisions of a contracting authority and to seek compensation but also to address the court on the annulment of a purchase agreement and on the application of alternative sanctions. It is noticeable that LPP has established liabilities to suppliers on the provision of application or an action to court, to immediately inform a contracting authority in writing of this fact.

Other main amendments to LPP are related to the following: the right of suppliers to get acquainted with the proposals of other participants and the confidentiality of proposals (proposals provided by the suppliers for the tender of public procurement shall from now on be available to other tender

participants, not including the information, which is indicated as confidential by the participants); also requirements to disclose technical specifications (it was established that contracting authorities are obligated to disclose projects of technical specifications at a Central Public Procurement Information System way before the purchase of items of large amount and significance). LPP also imposed certain amendments related to social procurement: it was established that in case of simplified procurement procedures contracting authorities must appropriate a share of 5 per cent on the value of all simplified procurements (not including received budget appropriations) to sales from companies indicated in Article 91 of LPP, moreover, from now on all contracting authorities are obligated to announce their procurement related to social matters. LPP amended the definition of "procurement of low value" by indicating that procurement of low value are simplified procurements meeting one conditions of two: (i) the value of purchase of goods and services does not exceed LTL 100 thousand (not including VAT), and the value of works does not exceed LTL 500 thousand (not including VAT); or (ii) similar goods, services or works purchased are subdivided into separate parts, when each of them is considered as separate objective of a purchase agreement and which does not exceed 10 per cent of the total value of all procurement parts in purchasing similar goods and services, and does not exceed 1,5 per cent of the total value of all procurement parts in purchasing works. It is worth noticing that LLP imposed a possibility to enter into agreements with entities holding a status of an independent legal person being under the control of the contracting authority, such provisions of LPP do not apply to cases when contracting authority controls such entities as own offices or structural divisions, and the activity of such entities is targeted at the

demands of the contracting authority (not less than 90 per cent of revenue is received from this activity).

Such amendments of LPP apply to public procurement procedures launched after the date of enforcement of LPP, i.e. after 2 March 2010.

ENERGY

Order No 1-80 of 5 March 2010 of the Minister of Economy of the Republic of Lithuania Approving the Regulations on Investigation and Recordkeeping of Emergencies and Defects of Energy Equipment (Official Gazette (Valstybės Žinios), No 29-1358).

The Regulations approved by this Order regulate the process of investigation of emergencies or defects in electricity, heating, gas, oil and/or oil product equipment. The purpose of such investigation is to establish causes for such emergencies or defects, and to establish measures to avoid similar cases, and to evaluate the reliability, safety and staff actions with such energy equipment.

The Regulations settled features of emergencies, classification of reasons of emergencies and defects, also it regulates the scope and record-keeping of investigation of emergencies and defects.

The Regulations are binding to persons operating energy equipment, which produce, supply and distribute or use power or heating energy, flammable natural gas or liquefied oils gas used for fuels, also which extracts, refines oil, stores, transports, transfers oil and/or oil products.

LEGAL STATUS OF ALIENS

Order No A1-120 of 26 March 2010 of the

Minister of Social Security and Labour of the Republic of Lithuania Amending the Order No A1-500 of 14 August 2009 of the Minister of Social Security and Labour of the Republic of Lithuania on Approval of Conditions and Procedure of Issuing Work Permits to Aliens (Official Gazette (Valstybės Žinios), No 36-1735).

The Order partially amended a list of conditions based on which an alien is not required to acquire a permit to work. A requirement mentioned in the new version does not apply to the following situations: 1) when an alien registers his company, undertaking or organization on the territory of the Republic of Lithuania as the owner and is managing the company, undertaking or organization (a provision stating that such person must necessarily reside in Lithuania in order to achieve the objectives of a legal person and to engage in the activity of a legal person was repealed); 2) when an alien is the owner of a company registered in the territory of the Republic of Lithuania, the share capital of which is at least LTL 50 thousand and he must reside in the Republic of Lithuania for the purpose of achieving the objectives of the company and engaging in the activity of the company; 3) when an alien is the co-owner of the company registered in the Republic of Lithuania, the nominal value of share capital owned by him is at least LTL 50 thousand and he must reside in the Republic of Lithuania for the purpose of achieving the objectives of the company and engaging in the activity of the company; 4) is the head of the company registered in the territory of the Republic of Lithuania, the share capital of which is at least LTL 50 thousand. Other provisions established by the previous version of the law not related to the participation of an alien in the activity of a company, registered in Lithuania, remain unchanged.

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