Corporate Income Tax Act to be amended (1) (1/32/19)

In late June 2019 the Meeting of State Secretaries debated proposals for amending the Corporate Income Tax (CIT) Act. We will be commenting about the proposed amendments in two articles.

The rationale

These amendments are being proposed to adopt the rules of the Anti-Tax Avoidance Directive 2016/1164 relating to exit tax and hybrid mismatches. The proposals provide for amending the wording of the CIT Act and adding new rules to clarify the CIT treatment of prepayments to suppliers of goods or services, procedures for correcting irregularities detected on a tax audit, methods for determining the acquisition cost of an executive luxury vehicle and a non-Latvian resident's income from the sale or lease of real estate in Latvia, provisions for bad debts etc.

Exit tax

To complete the adoption of the directive's provisions, the CIT Act is to include new rules on the tax treatment of assets a taxpayer moves abroad free of charge. The tax base is to exclude any assets a taxpayer moves to a foreign country free of charge and makes them available for a period of up to 12 months –

1. for financing securities;
2. as collateral;
3. to meet capital adequacy (so-called prudential capital) requirements;
4. for liquidity management.

Interest charges

Section 10 of the CIT Act is to include a clause providing that where interest charges exceed 3 million euros in the financial year, the excess interest rule will not apply to interest paid on a loan from an EU resident for financing long-term public infrastructure projects.

Hybrid mismatches

The CIT Act is to have a new section (7.1) laying down the tax treatment of transactions that create hybrid mismatches.[1] These rules will apply to related-party transactions and a taxpayer's participation in structured events.

Prepayments to suppliers of goods or services

If a supply does not begin within 12 months after a prepayment, guarantee or deposit was paid for it, the payment should be included in the tax base for the last month of the financial year. However, if the supply takes place within 36 months after the prepayment, guarantee or deposit, the taxpayer may adjust the CIT return to reduce the tax base accordingly.

(to be completed next week)

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[1] Double deduction of expenses, charges or losses or deduction without their inclusion in income resulting from different tax rules in two or more countries