Regulatory changes enabling tax authority's reorganisation 3/17/24

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In late 2023 the Ministry of Finance (MOF) drew up an informational report on plans to improve the operations of the State Revenue Service (SRS). The report suggested appropriate measures, including changes to the SRS organisational structure and revising the types of subordination. The guidelines and the goal of the reform are consistent with the SRS long-term strategy, which provides for improving its operations to become a more efficient tax and customs authority with the emphasis on encouraging cooperation with taxpayers.

Key directions of change

To achieve the SRS reorganisation goals, the reform involves the following steps:

- The MOF will draft new laws and by 1 June 2024 submit them to the Cabinet of Ministers, providing for removal of the functions and tasks of SRS law enforcement agencies from the functions and tasks of the SRS.
- In collaboration with the Ministry of Justice, the MOF will by 1 June present draft amendments to the Criminal Procedure Act that redefine investigation authorities and their institutional scope.
- Law enforcement agencies – the Tax and Customs Board and the Internal Security Board – will be separated from the SRS.
- It will be determined that the Minister of Finance is to implement the SRS subordination through the MOF.

To carry out the reform, on 3 April 2024 the MOF announced several bills prepared for public consultation, including draft amendments to the Taxes and Duties Act to replace the current SRS Act from 1 January 2026. The new SRS Act will govern only the most important rules relating to the SRS operations but the SRS authorisation for its employees and the distribution of functions in the SRS competence will be handled through the SRS regulations. At the same time, the Taxes and Duties Act will take over the SRS Act's provisions relating to general tax administration.

In collaboration with a working group, the MOF has prepared a bill that includes several amendments to the Taxes and Duties Act to transfer provisions from the SRS Act before the new rules are adopted.

This article explores the proposed changes and the SRS current status in improving the rules on how it operates and administers taxes.

Improving the Taxes and Duties Act

The bill includes several amendments to the SRS Act's current provisions and provides for the transfer of general tax administration provisions to the Taxes and Duties Act. The provisions to be moved include certain aspects governing:

- Rights and duties of SRS officials and employees
- How taxpayers are registered and accounted for
- Procedures for completing tax returns
- Tax audits and reviews, adding a taxpayer's address to the list of risk addresses, etc.

At the same time, any provisions the lawmaker believes are duplicated in other laws will not be passed into the new SRS Act or moved to the Taxes and Duties Act.

For example, section 10 of the SRS Act currently lays down the right of SRS officers, after showing their ID and a higher official's authorisation, to visit areas and facilities owned or used by individuals or entities for tax control purposes.

A new clause to be inserted in the SRS Act drops the requirement for presenting a higher official's authorisation, and the term 'tax control' is replaced with 'administration activity' to include an officer's right to visit areas and facilities for the purpose of obtaining information before tax controls are carried out. They will also have the right to visit private sites and inspect vehicles there.

The new SRS Act will accommodate provisions for meeting the requirements of EU law and international agreements ratified by Parliament, such as administrative cooperation in taxation, assistance in tax recovery, joint international tax reviews, information sharing and other tax administration competences in this area. The Act is to make it clear that the SRS is the competent authority that coordinates and performs tax administration tasks in accordance with EU laws and international agreements, as well as providing information and assistance to other countries' tax authorities (or competent authorities).

Amendments will also be made to the rules on how SRS orders are carried out. For example, the bill does not provide for the transfer of the SRS Act's section 22(4), which requires financial or credit institutions to carry out SRS orders relating to partial or complete suspension of payments made by individuals and entities. The Credit Institutions Act already requires credit institutions to carry out such orders without the option of challenge or appeal, so this provision will not go into the new Act.

The bill provides for making some editorial and terminology amendments to ensure the new SRS Act concisely determines only key aspects of the SRS operations, creating clarity, uniformity and consistency with other laws, and to ensure the new Act's provisions do not overlap with applicable other laws.

The outcome of public consultation

The information available on the public consultation suggests that one opinion has been received. This comes from the Latvian Confederation of Employers ('LDDK') and implies that the proposed solutions – the bill with amendments – has not caused the public to think about making proposals or objections.

LDDK's objection relates to the provision that gives SRS officials the right to visit taxpayers' places of business. LDDK sees the risk of SRS officers being granted the right to visit any facilities and areas without appropriate justification and authorisation, based on a potential breach of the Food and Veterinary Service's rules and other rules.

LDDK has asked the lawmaker, in implementing the rights mentioned in this provision, to evaluate the proportionality of a possible restriction of the fundamental rights of individuals and to make modifications that will prevent SRS officials, as they exercise their newly acquired rights, from violating the rights and rules of other persons concerned.

According to the MOF report, the public consultation period officially ended on 18 April and the MOF is to present the final bill to the Cabinet of Ministers by 1 June. If the Cabinet endorses the bill and Parliament adopts it as scheduled, the amendments will come into force on 1 January 2026.

However, with so much time to go before the deadline, we cannot rule out the possibility that there will be more consultation during the passage of the bills and appropriate changes will be made before the bills are finally approved and adopted.

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