

Lithuanian tax and legal news summary (3/23/17)

This article explores some of the latest changes in Lithuanian tax legislation.

Personal income tax and social insurance tax: it is now easier to obtain a certificate of income gained and tax paid in Lithuania

The tax authority has simplified the procedure for taking out a certificate of income gained and tax paid in Lithuania. From 1 March 2017 an individual is allowed to apply for a certificate through the Mano VMI system. The certificate should be posted to the individual within five business days if hard copy is necessary.

Corporate income tax: revised relief for FEZ companies

Parliament has agreed to amend the Free Economic Zones (FEZ) Act in order to improve the FEZ rules and make Lithuania more attractive to investors.

It is also proposed to amend the Corporate Income Tax (CIT) Act in order to set up new procedures for claiming CIT relief. According to the proposals, FEZ-registered companies that meet certain criteria will be released from CIT payment for the first ten years of trading (currently six) and will be allowed to pay CIT at the standard rate reduced by 50 percent for the next six years (currently ten).

The proposals also abolish the list of activities that are permitted or forbidden in FEZs. The existing list restricts the availability of CIT relief as investors whose activities are not permitted cannot enjoy FEZ benefits. These amendments will be debated again in Parliament.

Refusal to perform a contract is not necessarily an infringement by the CEO

A company's CEO may be protected from civil liability under the business decision-making rule. The CEO faces civil liability for a decision that contradicts his fiduciary duties and/or for misuse of his powers, rather than for business failure. If the company refuses to perform a contract because the CEO decides that such a strategy best suits the company's interests or because it is objectively impossible to perform the contract, this does not put the CEO in breach of his statutory and/or fiduciary duties to the company.

The right to deduct VAT on formal transactions is denied if a supply of goods did not take place

A dispute arose over whether an agent had the right to deduct input VAT when the buyer received goods directly from the seller. The agent paid to the seller by bank transfer only after the buyer took over the goods. The court ruled that a supply of goods did not take place, i.e. title to the goods did not pass to the agent as a transfer of title in fact occurs when the buyer becomes entitled to dispose of the goods. As a result, the exercise of the agent's right to deduct input VAT is limited.

Proposal to lay down clear rules for granting seasonal job permits to foreign nationals

Proposals for amending the Legal Status of Aliens Act lay down rules for issuing permits to foreign nationals working as seasonal employees in Lithuania. Such a permit may be granted if –

- the seasonal job is included in the list approved by the Minister of Social Security and Labour;
- there is no suitable employee in Lithuania to do that job;
- the foreign national's principal place of residence is outside Lithuania;
- the foreign national will be working under an employment contract that may be concluded only directly with the employer; and
- the foreign national will own or rent a suitable dwelling in Lithuania.

The proposed amendments also lay down requirements for allowing a foreign national to work in Lithuania if such a specialist is not available in Lithuania and the foreign national meets the host employer's qualification requirements. It would be possible to take out a permit for a foreign national to work in Lithuania only if the employer undertakes to employ the foreign national for a minimum of six months and provides documentary evidence of their qualification and at least one year's qualifying work experience in the last two years.

Government Resolution No. 96 came into force on 11 February 2017. The resolution lists professions that require high professional qualifications and lack specialists in Lithuania.