

Rödl & Partner

NEWSLETTER LITHUANIA

TAXES IN LITHUANIA 2019

Issue
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Information for investors and entrepreneurs in
Lithuania

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Law on Tax Administration

DATA PRIVACY OF THE TAXPAYER

Since 1 January 2019, along with other changes of the Law on Tax Administration of Lithuania, the Tax Authorities are granted with the mandate to use and publish information of the taxpayers. In more detail, information regarding the compliance and reliability of taxpayers (legal entities or individuals) is no longer disclosed and shall be available to other taxpayers.

CRITERIA OF A RELIABLE TAXPAYER

The Law on Tax Administration has been supplemented by Article 40¹, which sets the criteria of a reliable taxpayer. A taxpayer shall be recognized as reliable if the following conditions are met:

1. Within 3 years, the taxpayer has not received any fines or penalties caused by underpayments of taxes of less than 15,000 euros which have been imposed
 - for keeping transactions off the books,
 - for illegal payments related to employment;
 - for VAT or CIT reporting leading to underpayment of taxes;
 - for using funds of the Company for private purposes;
 - for using the grants or subsidies for non-related purposes.
2. Within 3 years, the entity was not convicted for illegal work.
3. Within 3 years, the entity was not convicted of fraud, unjust enrichment, criminal economic or business activities or a criminal activity in the financial system.
4. Within 1 year, the entity was not subject to administrative liability leading to a penalty of 1,500 euros or more.

Non-compliance with the new criteria of reliable taxpayers may have the following consequences:

1. Information that the entity does not comply with the criteria of the reliable taxpayer will be published on the website of the tax authority;
2. Longer limitation periods will be applicable to entities that do not comply with the criteria of reliable taxpayers;
3. Entities that do not comply with the criteria of reliable taxpayers will be not eligible to participate in public tenders;
4. Entities will not be allowed to apply for the status of a beneficiary (allowing to receive financial support tax free).



It is important to note that the provisions of this article apply only in cases of violations of the law occurred since 2019.

TAX REFUND AND SETTLEMENT

Since 1 January 2019, amendments of Article 87 of the Law on Tax Administration are in force implementing the right of the taxpayer to late payment interest when the tax administrator does not refund the outstanding tax as well as the amount of the late payment interest and the starting and ending moment of its calculation.

In particular, a tax refund can only be done if it is incurred no earlier than the limitation period for calculating and recalculating taxes.

Furthermore, when the taxpayer's tax return is under investigation, the refund of the overpaid tax is suspended until the decision of the tax authority. Nevertheless, this does not stop the calculation of the interest for the taxpayer. Until 2019, interests for the benefit of the taxpayer have not been calculated for the investigation period.

The rules for calculating late payment interests paid to the taxpayer also change. Before 2019, the late payment interests are equal to the interest paid by the taxpayer for the outstanding charges which was 0.03 per cent of the outstanding amount for each day. Since 2019, the interest rate is equivalent to the interest rate on the State Treasury bill. These bills were last issued in 2015 and their interest rate was 0.05 per cent per annum.

Therefore, if you have not been refunded taxes of 1,000 euros in time, under the old rules, you would receive almost 100 euros per year in late payment interests. Under the changed rules, the annual amount of these interests will be only 50 cents.

FINES FOR THE TAX VIOLATIONS

1. If in case of a tax audit or tax investigation, the tax authority finds that the taxpayer has unlawfully reduced the tax due (e.g., when the taxpayer did not declare the tax or unlawfully applied the tax rate and unlawfully reduced the tax), he is charged the outstanding tax amount and is charged a fine between 10 and 50 per cent for the amount of the outstanding tax, unless otherwise provided by the relevant tax law.
2. If the outstanding tax amount is calculated because the taxpayer cannot justify the origin of the funds (e.g., an individual cannot substantiate the funds that he/she used for purchasing real estate), the taxpayer is charged the outstanding tax amount and between 50 and 100 per cent of the missing tax amount.
3. The amount of the fine calculated is doubled for a taxpayer who has been fined less than five years ago for a breach of the same tax law.

TAX AMNESTY

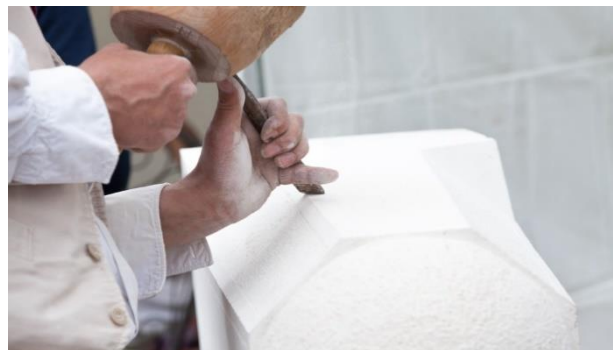
The tax amnesty, which allows taxpayers to declare income that has not been declared or declared incorrectly by taxpayers, has now been implemented in Article 139 of the Law on Tax Administration.

In the case taxpayers did not declare in due time and did not pay taxes for the tax period ending no later than 2018, will declare submit a corresponding tax return by July 1, 2019 and will pay an outstanding tax within 20 days. They will be exempt from late payment interests and fines. Also, they will not be included in the list of unreliable taxpayers.

It should be noted that the amount of tax due could be settled within two years.

Before deciding whether to use a tax amnesty, the taxpayers are highly advised to assess whether the actions that led to the non-payment of taxes are not considered as criminal offences. It is still not clear if the tax amnesty cover criminal offences as well.

The amendment to Article 139 of the Law on Tax Administration came into force on January 2, 2019.



For more information about the changes of the Law on Tax Administration, please follow the link [here](#).

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Corporate income tax

CHANGES OF THE RULES FOR THE PREPARATION OF TRANSFER PRICING DOCUMENTATIONS

On 31 December 2018, the Minister of Finance of the Republic of Lithuania has signed Order No. 1K-470 changing 9 April 2004 Order Nr. 1K-123 "On the Rules Implementing Article 40 (2) of the

Law on Corporate Income Tax of the Republic of Lithuania and Article 15 (2) of the Law on Personal Income Tax of the Republic of Lithuania" (hereinafter – the Rules).

According to the newly established rules, the following major changes will apply to transactions between related parties:

- Transfer pricing documentations must be completed by the 15th day of the sixth month before the next tax period in which the controlled transaction took place.
- The master file must be prepared by Lithuanian entities and foreign entities operating in Lithuania through a permanent establishment whose income (attributable to the permanent establishment) in the taxable period preceding the taxable period during which the controlled transactions have been carried out exceeded 15,000,000 euros if they belong to an international group of Companies.
- Local file is mandatory if the company's operating income over the previous tax period in which the controlled transactions were carried out exceeded 3,000,000 euros (including foreign entities operating in Lithuania through a permanent establishment) and all financial, credit and insurance companies (regardless of their size or income).
- Transfer pricing documentation is not mandatory if the controlled transactions (together or separately according to the type of transaction) did not exceed 90,000 euros in the previous tax period.
- Updates to transfer pricing files can be done every three years, except for financial transaction data updates - they must be carried out annually.
- Transfer pricing documentation must be submitted to the tax administrator within 30

– days of the date of receipt of the order. This documentation may also be provided in a language other than the state language, but the tax administrator may require that the documents be translated into the official language, setting a time limit for the submission of the translated documents.

– According to the Rules it is recommended that the Transaction Pricing Guidelines of the Organization for Economic Cooperation and Development are used by multinationals and tax authorities to the extent that their provisions do not conflict with the provisions of the Rules

For more information about the changes of transfer pricing regulations, please follow the link [here](#).

TAX RELIEF OF SMALL ENTERPRISES

Entities whose annual average numbers of listed employees do not exceed 10 and the taxable income does not exceed 300,000 euros are taxed at a rate of 0 per cent for the first tax period and 5 per cent for the next tax periods. Since 1 January 2019, this benefit also applies to non-profit entities.

Before 2019, the 5 per cent Corporate Income Tax (hereinafter – CIT) rate did not apply to entities whose shareholders or their family members actually owned (held more than 50 per cent of the shares, units or shares) other entities. From 2019, the tax relief is not been limited if the turnover of entities controlled by one person or his/her family will not exceed 300,000 euros and the total number of employees is not greater than 10.

CIT CHANGES FOR NON-PROFIT ORGANIZATIONS

From 2019, non-profit organizations are exempt from CIT if their profits are used to finance public interest activities in the course of the current and two successive years.

As a result, non-profit organizations however are deprived from the tax free regime when the taxable profit corresponding to 7,250

euros was not subject to tax if their commercial income does not exceed 300,000 euros.

OTHER CHANGES OF CIT

1. The conditions for the application of research and experimental development are clarified and applicable from 2019;
2. Some concepts used in the Law on CIT are clarified, e.g. group of entities (Article 2 (7)), permanent establishment (Article 2 (22)), etc.
3. A general measure to tackle aggressive tax planning that restricts access to CIT benefits and tax exemptions has been introduced. This applies if the tax authority determines that the tax benefits have been or one of the key goals of the company's business scheme.
4. New rule for the limitation of interest deduction is introduced from 2019, according to which the deductible interest may not exceed 30 per cent EBITDA of the entity. This limitation does not apply when, among other conditions, the entity's interest income exceeds interest expenses and/or when the amount of interest expenses over interest income does not exceed 3,000,000 euros. This limitation applies in conjunction with the "thin capitalization" rule.
5. Income tax relief for movie production has been extended until the end of 2023.
6. The amendment of Article 39 of the CIT Law extends the scope of application of the rules on taxation of positive income (income receivable from controlled foreign entities) to include permanent establishments of Lithuanian units abroad. Positive income will be deemed to be taxable in Lithuania if these conditions are met:
 - The foreign entity's passive income exceeds 1/3 of the taxable income of that controlled foreign entity, and
 - The actual tax on profits from foreign affiliates is less than 50 per cent of the profit tax calculated according to the Lithuanian CIT rules.

For more information, please follow the link [here](#).

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Personal Income Tax

EMPLOYMENT RELATED INCOME

Income derived from employment of an individual in 2019 and subsequent years (excluding sickness, maternity, paternity, childcare and long-term employment benefits) is subject to a Personal Income Tax (hereinafter – PIT) rate of 20 per cent or 27 per cent, depending on the employment related income.

Income	PIT rate
Employment related income, that is lower than: - - 120 AMS (2019) - - 84 AMS (2020) - - 60 AMS (2021). (excluding wages calculated for 2018 or previous years).	20 %
Employment related income, exceeding: - 120 AMS (2019) - 84 AMS (2020) - 60 AMS (2021). (excluding wages calculated for 2018 or previous years)	27 %
Employment related income earned and calculated in 2018 and paid off in 2019 or later.	15 %

The average monthly salary (AMS) for insured persons in 2019 has been already determined. This amount is important both for calculating the ceiling for state social insurance contributions and for the progressive PIT rate. In 2019, 120 AMS are equal to 136,344 euros.

Please find more information about the tax reform in Lithuania from 2019 in our special publication [here](#).

CHANGE OF SALARIES

As a part of tax reform in Lithuania, starting from 2019 the employer must recalculate the gross salary of the employee and increase it by multiplying current gross salary by the coefficient of 1,289. Due to the decreased employer tax rates, the increase of salary will not affect the employment costs for the employer.

Furthermore, the new minimum monthly wage (MMS) amounts 555 euros gross (400 euros in 2018), with a minimum hourly rate of 3.39 euros gross (2.45 euros before the change).

AMOUNT OF NON-TAXABLE INCOME

From 2019, the maximum non-taxable income amount applicable to the employees (except of employees with limited working capacity) will be 300 euros and will be applied to the employees receiving a minimum wage that will be applicable from 2019. From 2020, the maximum non-taxable income will reach 400 euros – 500 euros from 2021.

The personal untaxable income all other employees will be calculated according to the following formula:

$$\text{Monthly non-taxable income} = 300 \text{ euros} - 0,15 \times (\text{employment related income} - \text{the amount of minimum wage})$$

Employees with limited working capacities as well seniors are entitled to a untaxable income allowance higher than the maximum non-taxable income amount indicated above.

The scope of the monthly non-taxable income increases from 1,160 euros (2018) to 2,555 euros. For individuals whose gross salary is 2,555 euros or more, the monthly amount of non-taxable income does not apply.

PAYMENTS TO MEMBERS OF THE BOARD

From 1 January 2019, payments to members of the board of companies are subject to a 20 per cent PIT rate and when the individual income reaches 120 AMS (136,344 euros), they will be subject to 27 per cent PIT. The income of the individual includes salaries, bonuses, royalties received from the employer, etc.

However, in 2019, there will be no Sodra payments paid by employers. All Sodra contributions will be deducted from payments to members of the board:

7. If a person receiving a payment as a member of the board does not accrue to an additional pension, 15.70 per cent of the will be deducted for Sodra contributions;
8. If the recipient of payment for being a member of the board started accruing for an additional pension in 2019, his contributions to Sodra should be 17.50 per cent (15.70 per cent + 1.80 per cent);
9. When the recipient of the payment for being a member of the board has long been a participant of pension accumulation and its additional contribution is 3 per cent, the deductible amount will be 18.70 per cent (15.70 + 3).

Payments to members of the board are included in the calculation of Sodra contributions ceiling, which is 120 AMS. When more than 120 AMS income is received from the same entity, Sodra contributions should no longer be calculated. Sodra should inform the employer about the latter change.

OTHER INCOME

On 1 January 2019, the tax rate for income not related to employment changed:

Annual income	PIT rate
Non-employment income (from sources other than individual activity) less than 120 AMS	15 %
Non-employment income (from sources other than individual activity) more than 120 AMS	20 %
Income from individual activity	15 %

PERSONAL INCOME TAX INCENTIVES

Lithuanian individuals will be allowed to reduce their taxable income by deducting the amount of additional pension contributions to pension funds. The deductible amount cannot not be higher than 3 per cent of the income of the resident from which the Sodra contributions are calculated.

Moreover, a provision allowing individuals to reduce their taxable income by up to 2,000 euros come into force. Individuals are allowed to deduct from its income during the tax period expenses for:

- construction or repair services except renovation (modernization) of multi-apartment residential buildings;
- car repair services;
- childcare services.

It is important to mention that the benefits will only apply if these works will be performed and provided by a taxpayer registered in the Republic of Lithuania.

For more information, please follow the link [here](#).

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Social and health insurance contributions

SOCIAL AND HEALTH INSURANCE CONTRIBUTION RATES FOR EMPLOYED INDIVIDUALS

As of 1 January 2019, the new rates of social insurance contributions (hereinafter – SIC) and health insurance contributions (hereinafter – HIC) came into force.

Employee's taxes deducted from the salary indicated in the employment agreement are:

- 19,50 per cent social insurance contributions, including health insurance contributions of 6,98 per cent;

Employer's taxes calculated on top of the gross salary are:

- 1.79 per cent social insurance contributions including 0.32 per cent for the guarantee fund and long-term unemployment fund.

SOCIAL AND HEALTH INSURANCE CONTRIBUTION RATES FOR SELF-EMPLOYED INDIVIDUALS

Some changes are also applicable for self-employed individuals (e.g. freelancers, advocates, etc.).

Self-employed individuals shall also pay SIC and HIC, however the rates and the tax base depends on the type of income.

The following rates shall apply based on the type of income:

Income	SIC rate	Tax base
Individual activity related income	19.5 %	90 % of annual income
Income from intellectual property or sports	20.95 %	100 % of annual income
Other income not from intellectual property and sports	19.5 per cent	50 % of annual income
Business permit holder	15.7 per cent	MMS (555 euros)

Please note that the above mentioned rates do not include any payments to pension funds (calculation optional).

Furthermore, it is important that the SIC shall not be calculated if the income of an individual reaches 43 AMS (approx. 48,856 euros) per year.

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Value added tax

SINGLE AND MULTI PURPOSE VOUCHERS

Article 2 of the Law on Value Added Tax of the Republic of Lithuania (hereinafter - VAT) has been supplemented with the following definitions:

- Voucher means an instrument that imposes an obligation to accept it as a consideration for the supply of goods or services or a part of such remuneration, and which identifies the goods or services to be supplied or the identity of potential suppliers or providers in the documents setting out and imposing its terms of use;
- Single-purpose voucher (SPV) – a voucher where the place of supply of the goods or services concerned and the VAT due on those goods or services is known at the time of issue of the voucher;
- Multi-purpose voucher (MPV) – a voucher, which is not single purpose voucher, i.e. the place of supply of the goods or services associated with it and/or the VAT due at the time of issue of the voucher is not known.

From 1 January 2019, the transfer of a SPV by a taxable person in its own name must be subject to VAT, regardless of when the SPV is used.

From 2019, when determining the type of coupon, it is important to assess not only whether the goods/services are clearly defined, but also whether the exact amount of VAT shall be calculated for a goods or services supplied.

As a result, in case of a sale of MPV where the place of supply of the goods/services in question and/or the VAT due on the goods/services at issue is unknown, the supply will not be subject to VAT. The taxable moment will occur when the coupon is actually used to purchase specific goods/services.

DISTRIBUTION OF VOUCHERS

When a MPV is transferred by a taxable person on behalf of another taxable person, the moment of supply of goods/services shall be considered as the moment of the supply of MPV. This means that where MPV is sold through a distributor (dealer),

the sale to the buyer by the distributor should be considered as the moment of supply of the goods/services.

Accordingly, the distributor (e.g. disclosed agent) must provide the taxable person who issued the MPV with all the information on the sale of the MPV, that would allow such entity to accordingly report and pay the VAT on such supply.

Above mentioned VAT changes apply for vouchers issued from 2019.

For more information, please follow the link [here](#).

VAT RATES

The standard VAT rate remains unchanged, but periodicals since January 1, 2019 was taxed at a preferential VAT rate of 5 per cent (was 9 per cent) and firewood for residential houses at 9 per cent VAT (21 per cent).

REPORTING PERIOD – CALENDAR QUARTER

From 1 July 2019, VAT payers will be allowed to choose a 3-month tax period. This right will be available to those VAT payers (other than natural persons) whose income from economic activity in the previous calendar year did not exceed 300,000 euro.

VAT DEDUCTION OF REPRESENTATION EXPENSES

From 2019, it will be possible to deduct VAT from 50 per cent of the representative costs (i.e. the additional limit of 2 per cent of the annual turnover set for CIT calculation is no longer applicable for VAT).

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Excise duties

CHANGES OF THE LAW ON EXCISE DUTIES

Amendments to the Law on Excise Duties were introduced on June 28, 2018 stating that:

- heated tobacco and electronic cigarette liquids are excisable goods;
- the rules regarding the taxation of heated tobacco and electronic cigarette liquids were implemented;
- certain rules were set for the entities supplying heated tobacco products and electronic cigarette liquids
- Accordingly, by March 1, 2021 provides for a transitional period to increase the rates of excise duty on cigarettes, cigars and cigarillos, smoking tobacco and tobacco products.

For more information, please follow the link [here](#).

Excise duties	From March 1, 2019	From March 1, 2020	From March 1, 2021
Cigarettes	62.25 euros (was 59 euros)	65.7 euros	69.40 euros
Minimum excise duty rate applicable for 1,000 combined cigarettes	102 euros (was 96 euros)	108.50 euros	115.50 euros
Cigars and cigarillos per kilogram of product	42 euros (was 37 euros)	48 euros	55 euros
For smoking tobacco per kilogram of product	68.60 euros (was 60.24 euros)	78.50 euros	90 euros
Heated tobacco per kilogram	68.60 euros	78.50 euros	90 euros
Electronic cigarette liquids per ml	0.12 euros	0.12 euros	0.12 euros

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Other news

REGARDING MULTIRATERAL CONVENTION

From 1 January 2019, the Multilateral Convention, which implements measures related to tax treaties to prevent tax base erosion and profit shifting, has entered into force (hereinafter - Multilateral Convention). In this way, Lithuania is committed to replace the bilateral double taxation treaties (DTC) in order to bring it into line with the Organization for Economic Cooperation and Development (OECD) and the G20 Base Erosion and Profit Shifting (BEPS) project recommendations on

measures to combat aggressive tax planning, abuse of contracts, etc.

The Multilateral Convention affects the application of bilateral treaties concluded by Lithuania with Austria, Israel, United Kingdom, Poland, France, Serbia, Slovakia, Slovenia, Sweden (list of countries may expand depending on the entry into force of the Multilateral Convention in other countries and the positions of those countries on individual Multilateral Agreements).

For more information, please follow the link [here](#).

REGARDING THE TREATY ON AVOIDANCE OF DOUBLE TAXATION WITH JAPAN

Lithuania has signed its 55th treaty on avoidance of double taxation (hereinafter – double tax treaty or DTT). This is a DTT with Japan which has come into force on January 1, 2019.

The main provisions of the DTT with Japan are the following:

- royalties and many types of interest payments are exempt
- the time period for the calculation of permanent establishments has been extended to 12 months.

Most importantly, the provisions of this new treaty will apply not only to Lithuanian and Japanese entities (companies and residents), but will also adjust the provisions of other double taxation treaties already applying with other countries.

The reason for this is the status of the most favored nation regime, which Lithuania has granted to the 13 OECD members certain aspects

of taxation when signing the double taxation treaty. These agreements provide that if, after the date of signing, Lithuania grants other countries with more favorable treatments for certain aspects of taxation in a contract concluded with any other OECD member state (e.g the application of a lower tax rate, recognition of a permanent establishment for a longer period, etc.), then the regime will automatically apply to the first contract.

REGARDING THE INTRASTAT REPORTING

Intrastat reporting thresholds remain unchanged. Director General of Statistics Lithuania approved in 2019 applicable Intrastat reporting limits:

- Intrastat reports of arriving goods shall be submitted when the value of goods delivered from EU Member States in the previous calendar year is 250,000 euros or more;
- Intrastat reports on dispatches shall be submitted when the value of goods sent to EU Member States in the previous calendar year is 150,000 euros or more.

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