



Tax, Legal and Accounting newsletter

March, 2018

Please enjoy the March edition of the Newsletter

Kind regards,
KPMG in Lithuania

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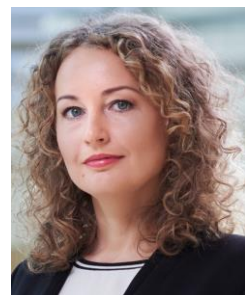
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Value added tax (VAT)

The Lithuanian tax authorities cannot reduce the interest payable on VAT refunds, which were delayed due to the circumstances caused not by the taxable person

On 28 February 2018, the European Court of Justice (ECJ) ruled on Case [C-387/16](#) between Nidera BV and the Lithuanian tax authorities. The dispute arose in regard to the interest payable on VAT overpayment which was not refunded to the company in due time. In requesting this ruling the Supreme Administrative Court of Lithuania sought to determine, if courts and other state institutions have the discretion to reduce interest payable by the tax authorities, when the interest amounts might not be reasonable and fair (as outlined in the Article 8 (3) of the

Lithuanian Law on Tax Administration).

According to the ruling of the ECJ, it is precluded to reduce the amount of interest payable on VAT overpayments which have not been repaid in due time because of circumstances caused not by the taxable person.



ECJ cases concerning the revision of the VAT deduction related to creditors and the intended pursuit of economic activities

On 22 February 2018, the ECJ ruled on Case [C-396/16](#) regarding the adjustment of VAT deduction, related to an agreement with creditors to reduce the obligation of a company. According to the ruling, decrease in obligations due to the final agreement with the creditors means that the company is required to adjust the deduction of input VAT, as the basis, on which the deductible amount was calculated, has changed.

On 28 February 2018, ECJ also ruled on Case [C-672/16](#) regarding the adjustment of VAT deduction related to the unsuccessful pursuit of economic activities. The Portuguese Tax and Customs Authority treated a building as no longer being used for the VAT taxable transactions, after this building was not rented for more than 2 years, regardless of the effort by the company to rent it. The company was ordered to reduce the deductible VAT of the acquisition of this building accordingly. In its ruling the ECJ noted, that according to the EU VAT Directive such provisions of the national law are precluded, thus the deductible VAT does not have to be adjusted.



Excise Duties

Renting a tax warehouse is not permissible in Lithuania

According to the Lithuanian tax authorities, the owner of a warehouse for storage of excise goods (a tax warehouse) has not only the rights outlined in the Lithuanian Law on Excise Duty, but specific obligations as well. These obligations cannot be fully ensured by a warehouse rent agreement. Therefore, the owner of a tax warehouse is not permitted to rent the tax warehouse (or a part of it) to other parties.



Personal Income Tax

Preliminary annual PIT returns

Tax authorities have announced the preliminary annual PIT returns for 2017. We would like to remind, that the deadline for the submission of the annual PIT returns for 2017 is **2 May 2018**.



New annual PIT return form

Starting from 2018, new annual company's PIT return form GPM312 (hereinafter – the Return) applies instead of previously applicable forms FR0573 and FR0471. New rules on completing and filing the Return came into effect as of 1 March 2018. The Return must be filed with the tax authorities by 15 February of the following calendar year.

The Return and its annexes L and U must be filed if:

- any payments considered as A class income were made to residents and non-residents during the year. Form is submitted by:
 - Lithuanian entities;
 - foreign entities operating through permanent establishments in Lithuania;
 - residents of the Republic of Lithuania;
 - Non-residents of the Republic of Lithuania, who carry out individual activities through permanent establishments in Lithuania.
- any payments considered as B class income were made to residents and non-residents during the year. Form is submitted by:
 - Lithuanian entities;
 - foreign entities operating through permanent establishments in Lithuania;
 - Non-residents of the Republic of Lithuania, who carry out individual activities through permanent establishments in Lithuania.

The aforementioned form must be submitted when declaring income paid in 2018 and subsequent years. The old form will have to be submitted when adjusting data for 2017 and previous years.



Social Insurance

Changes in the deadlines for reporting to the social security authorities

As of 27 February 2018, an insurer (a company) must notify the social security authorities no later than the next working day about:

- the end of an insurance period of an employee;
- the non-insurance periods;
- granting/ termination of the 14 days pregnancy and childbirth leave;
- granting/ termination of the parental leave;
- granting/ termination of the child care leave;
- priests and monks, insured by the insurers – traditional or other religious communities;
- beginning / end of the state social insurance, after the reorganization of the insurer (the company).



Transfer pricing and BEPS

Aggressive tax planning structures

On 7 March 2018, the European Commission released a final report (available [here](#)) which analyses economic evidence of the relevance of aggressive tax planning structures for all EU Member States.

The report states all EU Member States that appear to be exposed to aggressive tax planning structures and how those may affect their tax base. The aggressive planning structures are grouped into three main areas: via *interest payments*, *royalty payments* and *strategic transfer pricing*.



Singapore has expanded transfer pricing rules

In February 2018, due to new transfer pricing documentation rules in Singapore, recent legislative changes concerning transfer pricing were introduced:

- The arm's length principle is aligned with the OECD standard. The tax authority may make adjustments to related-party transactions if such transactions would not be entered into by unrelated parties under comparable circumstances
- The form of related-party dealings can be disregarded if inconsistent with the substance of the transaction or there is a lack of commercial rationality.
- A 5% "surcharge" is to be applied to the amount of transfer pricing adjustments made by the tax authority.
- Taxpayers must prepare and maintain transfer pricing and may be subject to penalties for failing to submit the documentation within 30 days of a request from the tax authority.



OECD adopts tax disclosure rules for advisors

On 9 March 2018, the OECD has issued new model disclosure rules (available [here](#)) that require lawyers, accountants, financial advisors, banks and other service providers to inform the tax authorities of any schemes they put in place for their clients to avoid reporting under the OECD/G20 Common Reporting Standard (CRS) or prevent the identification of the beneficial owners of entities or trusts.



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