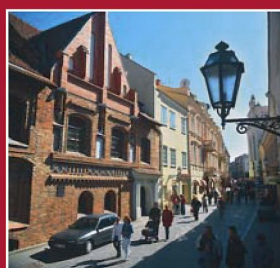
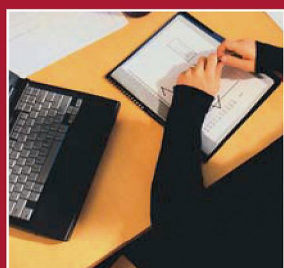




DOING BUSINESS GUIDE IN LITHUANIA



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TAXATION

1. General Principles

The law “On Tax Administration”, originally adopted in 13 April 2004, sets out the general taxation principles in Lithuania. This law sets basic concepts and regulations which must be observed in implementing the tax laws of Lithuania, the basic principles of legal regulation of taxation, the list of taxes applied in Lithuania, the functions, rights and obligations of the tax administrator, the rights and obligations of the taxpayer, the calculation and payment of taxes, the procedure of enforced recovery of taxes and related amounts as well as the procedure for the settlement of tax disputes.

The general, overriding principle used in the application of tax laws is that, in cases where matters are regulated by a special law, the special law (e.g. VAT, corporate income tax) will apply rather than the general law “On Tax Administration”.

According to the law, duties are imposed either by the state or municipalities. The state imposes duties on a number of different items. The most common state duties are:

1. Company registration duty 198 LTL for limited liability company [UAB] registration within 5 business days.
2. Amendments to the Articles of Association cost 92 LTL for registration within 5 business days. Registration of changes to the Board and other records costs 10 LTL for the change of one domain (registration within 5 business days).
3. The duty for the registration of a new branch (performing commercial activity and without legal entity status) is 50 % off the registration of type of legal entity (as for instance if UAB’s branch is registered the cost will be 198 LTL off 50 % which equals to 99 LTL) for registration within 5 business days. The registration of respective amendments duty is LTL 10 for one domain for registration within 5 business days.
4. The duty for the registration of a new representative office (not performing commercial activity and without legal entity status) of a foreign entity or organization is 200 LTL for registration within 5 business days. The registration of respective amendments duty is 10 LTL for registration of one domain within 5 business days.
5. The duty for reorganization registration is: 10 LTL for every changed domain and the registration will be made within 5 business days;
6. Regarding immigration, the state duty for a temporary residence permit is 20 LTL, document administration fee is 300 LTL. Wherewith for permanent residence permit – 150 LTL for document administration and 20 LTL for residence permit;



7. Registration of land for natural persons in the Center of Immovable property depends on the market price of the property and varies from 20 LTL for land which market price is up to 1000 LTL, to 1000 LTL state fee for the registration of land which market price exceeds 1mln LTL; for legal entities the state fee is 80 LTL for registration of land which market price is to 1000 LTL to 3050 LTL + 0,2 % of difference between the object's medium market price and 1 mln, but not more than 5000 LTL state fee for the land which market price exceeds 1 mln litas. For the registration of buildings or premises concerned, the state fee for natural persons varies from 10 LTL for building or premises which market price is up to 50 000 LTL and from 130 LTL state fee for legal persons for building or premises which market price is up to 50 000 LTL. The state fee for registration of premises or buildings cannot exceed 1000 LTL for natural persons and 5000 for legal persons.
8. Regarding the registration of trademarks: state fee for registration of trademark is 240 LTL; for every single additional class – state fee is 120 LTL. For the prolongation of the term – 240 LTL; for every single additional class of prolongation – 120 LTL.

Taxes levied by the central government are:

- 1) value added tax;
- 2) excise duties;
- 3) personal income tax;
- 4) immovable property tax;
- 5) land tax;
- 6) state natural resources tax;
- 7) petroleum and gas resources tax;
- 8) tax on environmental pollution;
- 9) consular fees;
- 10) stamp duty;
- 11) inheritance tax;
- 12) compulsory health insurance contributions;
- 13) contributions to the Guarantee Fund;
- 14) state-imposed fees and charges;
- 15) lottery and gaming tax;
- 16) fees for the registration of industrial property objects;
- 17) corporate income tax;
- 18) state social insurance contributions;
- 19) tax on a surplus amount in the sugar sector;
- 20) production charge in the sugar sector;
- 21) customs duties;
- 22) deductions from income under the Law of the Republic of Lithuania on Forestry;
- 23) tax on the use of state property by the right of trust;
- 24) social tax;
- 25) one-off tax on additional quota for white sugar production and on supplementary quota for isoglucose production.



Taxpayers are entitled to defer payment of certain taxes for a period of one month to one year. Unpaid taxes are subject to a late-payment fee at the rate of 0.05% per day behind schedule for the second quarter of the year 2009. Late payment amounts no longer increase when the late payment equals the original debt amount.

The amount of tax penalties imposed depends on the type and delay of tax non-compliance. Late filing of tax declarations results in penalties of no more than 500 LTL for the first breach. However the second breach results the increased penalty of up to 1000 LTL. If the evasion of taxes occurs – the penalty is from 2000 LTL to 4000 LTL if no criminal charges are met.

A taxpayer is allowed to make voluntary corrections to a tax declaration for a 5-year period after the payable term, if an audit by the tax administration has not been commenced. The taxpayer remains his right to apply for the voluntary corrections to tax declaration even if the audit by the tax administration was commenced, however in this case the tax authorities has the right to decline it. That results in the cancellation of any penalties pending for tax non-compliance.

All decisions of the tax authorities may be appealed to the Tax administrator, Tax Litigation Commission and Court. Decisions of tax administrator may be appealed to Tax Litigation Commission within the period of 20 days of the date the decision was received.

2. Personal Income Tax

The law “on Income Tax of Individuals”, adopted in 2002 sets out the taxation of individuals’ personal income.

Since 1st of January 2009, personal income tax rate has been reduced by 3 percentage points to 21%. This rate shall include 6% healthcare insurance tax – without it personal income tax would be 15%. Previously this tax has not been specified separately. However dividends and other profit distributions will be subjected to 20% tax rate. With a regard to unlimited civil liability enterprise all the income received by the owner in the case if taxable profits exceeds 4000LTL (1159EUR), will be subjected to 15% personal income tax rate.

Expatriate taxation

Expatriates are liable for Lithuanian taxes depending on their tax residency. Lithuanian residents are taxable for their worldwide income. Non-Lithuanian residents are liable for their income derived in Lithuania. If respective documents are presented, expatriate is not subjected to obligatory 6 % healthcare insurance tax if it is already paid in other country and 15 % on personal income tax is applicable. Wherewith Lithuanian residents are subjected to 6 % healthcare social tax and 21 % of total personal income tax is applicable.

Pursuant to the domestic legislation, an individual will be regarded as a resident of Lithuania, if:

- 1) any natural person whose permanent place of residence during the tax period is in Lithuania,*
- or*
- 2) any natural person whose place of personal, social or economic interests during the tax period is in Lithuania rather than in a foreign country, or*



3) any natural person who is present in Lithuania continuously or intermittently for 183 days or more during the tax period, or

4) any natural person who is present in Lithuania continuously or intermittently for 280 days or more during successive tax periods and stayed in Lithuania continuously or intermittently for 90 days or more during one of those tax periods.

As a general rule, persons who do not match to the above-mentioned categories are considered to be non-residents of Lithuania for tax purposes.

However individual will not be considered as Lithuanian resident even if he stays in Lithuania for 183 days during the calendar year and during the 2 year period stays in Lithuania more than 280 days in the following cases:

1. If he is only engaged in individual activity through his permanent establishment in LT;
2. If he works in LT, but receives his salary from foreign states budget;
3. If he works for foreign states diplomatic, consular or international organizations agency in LT.

Non-Lithuanian resident taxation from particular income

Non-Lithuanian resident in Lithuania pays income tax from the following income:

1. Through his permanent establishment in Lithuania received income from individual activity (Tax rate – 15% +social security tax 9% if it is not paid in other state);
2. Not through permanent establishment received income if the source of this income is in LT. (Tax rate 15%, dividends – 20%).

E101 Certificate

The E101 certificate is required in order to pay tax only in his/her home country. E101 provides that the employee is registered as socially insured person in his/her State (as for instance – Lithuania). A statement should be presented to the competent authority of the employment State, if the authority requests for it. The E101 is not provided for person who is going to change another person, whose assignment period has expired.

General rules on E101 Certificate

Every case on the application of E101 Certificate is examined individually. However some general rules can be set out for the E101 certificate.

As for instance if person is sent to another State to work for 12 month – tax is paid in home country. General rule is also applicable that a tax is paid where the person works, regardless his residence. If the person is working in two states – tax is paid where his residence is. If no residence in working states – then tax is paid where company's legal address is. If person is employed by several employers – the tax is paid where the residence country is.



Table 1. Salary taxation in Lithuania

	Lithuania (litas)	
	rate	amount
Bruto salary		10000
Non taxable income		0
Income tax	15%	1500
Obligatory healthcare	6%	600
Social security	3%	300
Unemployment fee	-	-
Net salary		7600
Employers unemployment fee	-	-
Social security	30,98%	3098
Guarantee fund payment	0,1%	10
Risk duty	-	-
Total company expenses		13108

Annual income tax declarations must be submitted by May 1 of the following year.

Taxation of the income from alienation of immovable property

As the previous legal framework for personal income tax states, income from alienation of immovable property shall not be taxed if the respective property has been in the person`s ownership for more than 3 years. Furthermore income from the sale of immovable property shall also not be taxed if a person has lived in that property for more than 2 years. However, if the person resided for less than two years in the immovable property, the income from the sale of such property shall not be taxed only in such case if the person uses the profit from the sale of this property for acquisition of a new property for living. Such acquisition shall be made within one year.

Income tax exemptions

As of 1st January 2009 most of personal income tax exemptions have been cancelled. For instance, it will no longer be possible to deduct interest for acquired real estate, acquired computers and education fees (for second higher degree) for the purposes of taxable income calculation. Exemption for loan interest on acquired real estate shall continue to apply for loans taken before 2009, however for only one property.

Calculation of non-taxable income amount

There have also been introduced a new calculation of non-taxable income amount. For persons with income not exceeding 800 LTL (232 EUR) per month non-taxable amount shall be 470 LTL (136 EUR). If income exceeds 800 LTL (232 EUR), non-taxable amount shall be decreased by 20 LTL (6 EUR) for every 100LTL (29 EUR) above the 800 LTL (232 EUR), meaning that for persons earning more than 3150 LTL (913 EUR) per month, non-taxable amount shall not be applied.

Tax treaties

Currently, Lithuania has concluded 45 *Treaties on the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital* in effect with Armenia, Azerbaijan, Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Great Britain, Greece, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Latvia, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, USA, Uzbekistan. The mentioned treaties are based on OECD/UN model agreement.

Furthermore these treaties are applied directly and do not need to be incorporated into domestic laws.

3. Social Insurance Payments (Social Tax)

As from 2009 the list of income sources taxed by social insurance tax has been extended to royalties and remuneration of sportsmen and artists. On the other hand the rates for these persons will increase gradually – they will pay reduced rates in 2009 and 2010. In 2009, in respect of royalties the employer will have to pay additional 7% to state insurance budget but the employee 1%. In 2010 - employer will have to pay additional 14% but the employee 2%. While full rates – for employers 28% but for employees 3% - shall apply only in 2011.

4. Real Estate Tax

On the 1 January 2006 a Law on Real Estate Tax has entered into force. According to it, real estate used by individuals for business or individual activities with several exceptions or disposed to the legal persons for the period longer than 1 month or term less is subject to 0.3% - 1% real estate tax calculated on the value of the real estate. The council of the municipality on the territory where buildings and structures are located determines the exact rate of the tax.



Lithuanian and foreign entities owning buildings and structures located in Lithuania are obliged to pay real estate tax as they did before the 1 January 2006. The rate of the real estate tax remains unchanged and is rated at 0.3% - 1% of the taxable value of buildings and structures.

The real estate tax return should be submitted to the State Tax Authorities within one month after the date of acquisition of the real estate. Legal entities, as opposed to individuals, should pay advance installments on a quarterly basis. Both individuals and legal entities should provide an annual real estate tax return to the State tax authorities not later than 1 February of the next year.

5. Corporate Income Tax

First of all, as of January 1st 2009 profit tax for companies has been increased from 15% to 20% ,which will generate an extra 460 million LTL (134million EUR) in revenues by 2010. Furthermore, the list of subjects to this taxation is broadened to Central Credit Union, credit unions and agricultural undertakings of which the transitional period with regard to imposition of the corporate tax will be applicable only to agricultural undertakings: 5% in 2009, 10% in 2010 and 20% in 2011. At the same time there is introduced a tax relief. It is provided that 50% of reinvested profits will not be taxable. The companies will be allowed to invest 50% of their profit into long-term assets for production of new products or services, increase of capacity, implementation of new processes and technologies and such reinvested profit will be not included in taxable income. This Governmental decision is believed to increase company productivity and competitiveness. However, investments into replacement of production assets with new similar assets will not be deemed as investment project.

Pursuant to the law “On Corporate Income Tax”, first adopted in 2001, Corporate income Tax is paid by Lithuanian and foreign entities, with an exception of budget-financed institutions, Lithuanian bank, state and municipalities, its institutions, agencies or organizations, state company “Deposit and Investment Insurance” as well as European Economic Interest Groupings.

6. Withholding Taxes

As of from the year 2009 income from the sale, other transfer into ownership or lease of property immovable by nature located in the Republic of Lithuania, dividends and other income from distributed profits, income from artistic or sports activities performed in the Republic of Lithuania and annual bonuses paid to the members of supervisory board will be taxed at the rate of 20%. However the 10% withholding tax will be applied as previously on compensations for violation of copyright or related rights, royalties and interest.

Treaties on the avoidance of double taxation on income and capital

Currently Lithuania has signed forty six treaties on the avoidance of double taxation on income and capital. The treaties are drowned to the Lithuanian tax treaty model, which is based on OECD and United Nations Model tax conventions. The essence of the treaties themselves is that they do not have to be incorporated into Lithuanian laws separately – they come into effect on the exact date indicated in the treaty, either when the treaty is signed and ratified by the Lithuanian parliament. Therefore international treaties enjoy supremacy over national Lithuanian laws unless the national law is more beneficial.



One of the first treaties on the avoidance of double taxation came into effect with Sweden, Finland, Denmark and Norway in 1994, with Poland, Germany and Latvia in 1995, with Check Republic in 1996. Few of the most recent agreements on the avoidance of double taxation are in effect since 2009 with Macedonia, since 2008 with Korea, since 2007 with Israel, Bulgaria and Luxemburg.

Lithuania has concluded agreements with Canada and United states on the avoidance of double taxation. Convention between the Government of Lithuania and the Government of Canada for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital was signed on 29th August, 1996 and came into effect 12th December 1997. Where Convention between the Government of Lithuania and the Government of the United States of America for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income was signed in Washington on January 15th, 1998, came into force on December 30th, 1999.

In accordance to the agreements on double taxation, tax on dividends, interest and royalty are more favorable.

Tax rate on dividends with a regard to various agreements on the avoidance of double taxation slightly varies. Tax rate on dividends is divided to several groups: when recipient owns more than 25% of the payer's share capital, accordingly 20% and 10 % of the payer's share capital. There are only two agreements – with Estonia and Switzerland wherewith tax rate on dividends is 5% when recipient owns more than 20 of the payer's share capital. With Bulgaria and Macedonia 0% tax rate on dividends is applied when recipient owns more than 10% of the payer's share capital. As well with Latvia 0 % rate is applicable in the cases where the recipient owns more than 25% of the payer's share capital. However these examples are more exception then the rule. Generally the tax rates varies from 10 to 15% with an exceptions of 5% tax rate on dividends when the recipient owns more than 25%, 20% or 10% of the payer's share capital (*f.e.* Armenia, Austria, Belgium, Greece Spain, Italy, Netherlands etc.).

With a regard to agreement between United States and Lithuania on the avoidance of double taxation the tax on dividends cannot exceed 5% when the recipient owns more than 10 % of the payer's share capital and 15% of the gross amount of the dividends in all other cases. In comparison with Canada on the agreement on the avoidance of double taxation the tax on dividends cannot exceed 5% when the recipient owns more than 25 % of the payer's share capital and 15% of the gross amount of the dividends in all other cases.

Tax rate on interest in the treaties with Lithuania on the avoidance of double taxation is at the rate of 10%. With a regard to agreements between Lithuania and United States as well as Lithuania and Canada the tax charged cannot exceed 10% of the gross amount of the interest. The 10% tax rate is applied in both agreements and is most common tax rate in the other agreements for the avoidance of the double taxation. The only exception is the agreement on the avoidance of double taxation with Latvia, where the 0 % tax rate on interest is foreseen.

With a regard to the agreement between Lithuania and United States on the avoidance of the double taxation, the tax rate is 5 % of the gross amount of the royalties paid for the use of industrial, commercial or scientific equipment and 10 % of the gross amount of the royalties in



all other cases. However regarding the agreement between Lithuania and Canada there is no exception for the royalties paid for the use of industrial, commercial or scientific equipment and general tax rate of 10 % of the gross amount of the royalties is applied. On the other hand, royalties paid by Lithuanian legal entity to foreign legal entity is taxed at 10 % rate to copyright, know-how, franchise, rent and selling of immovable property and violation of copyright.

The following table shows withholding tax rates applicable to dividends, interest and royalty payments to the designated countries. If the non-treaty country rate of withholding tax for a particular class of payment is lower than the rate applicable to the designated countries, the non-treaty rate is applicable. The non-treaty country rate is determined by domestic legislation.



Withholding tax rates:

State	TAX RATES									
	Dividends				Interest		3,5 *	4,6,7 *	3,5,4,6,7*	
	CIT law	According to the treaty for the avoidance of double taxation				CIT law	According to the treaty for the avoidance of double taxation	CIT law		According to the treaty for the avoidance of double taxation
A		B	C	D						
Ireland	20	5			15	10	10	10	20	Please see the treaty on the avoidance of double taxation
Armenia	20	5			15	10	10	10	20	
Austria	20	5			15	10	10	10	20	
Azerbaijan	20	5			10	10	10	10	20	
Belarus	20				10	10	10	10	20	
Belgium	20	5			15	10	10	10	20	
Bulgaria	20			0	10	10	10	10	20	
Check	20	5			15	10	10	10	20	
Denmark	20	5			15	10	10	10	20	
Britain and North Ireland	20	5			15	10	10	10	20	
Estonia	20		5		15	10	10	10	20	
Greece	20	5			15	10	10	10	20	
Georgia	20	5			15	10	10	10	20	
Iceland	20	5			15	10	10	10	20	
Spain	20	5			15	10	10	10	20	
Italy	20			5	15	10	10	10	20	
Israel	20			5	15	10	10	10	20	
USA	20			5	15	10	10	10	20	
Canada	20	5			15	10	10	10	20	
Kazakhstan	20	5			15	10	10	10	20	
China	20	5			10	10	10	10	20	
Korea	20	5			10	10	10	10	20	
Croatia	20			5	15	10	10	10	20	
Latvia	20	0			15	10	0	10	20	
Poland	20	5			15	10	10	10	20	



Luxembourg	20	5			15	10	10	10	20	Please see the treaty on the avoidance of double taxation
Malta	20	5			15	10	10	10	20	
Macedonia	20			0	10	10	10	10	20	
Moldova	20				10	10	10	10	20	
Netherlands	20	5			15	10	10	10	20	
Norway	20	5			15	10	10	10	20	
Portugal	20				10	10	10	10	20	
France	20			5	15	10	10	10	20	
Rumania	20				10	10	10	10	20	
Russia	20	5			10	10	10	10	20	
Singapore	20	5			10	10	10	10	20	
Slovakia	20				10	10	10	10	20	
Slovenia	20	5			15	10	10	10	20	
Finland	20	5			15	10	10	10	20	
Sweden	20	5			15	10	10	10	20	
Switzerland	20		5		15	10	10	10	20	
Turkey	20				10	10	10	10	20	
Ukraine	20	5			15	10	10	10	20	
Uzbekistan	20				10	10	10	10	20	
Hungary	20	5			15	10	10	10	20	
Germany	20	5			15	10	10	10	20	

A	When the receiver owns more than 25 % of payers share capital;
B	When the receiver owns more than 20 % of payers share capital;
C	When the receiver owns more than 10 % of payers share capital;
D	In all other cases.

According to CIT law, Article 4:

- * **3** Remuneration;
- 4** Income received from sold, rented or allied in other way immovable property situated in the Republic of Lithuania;
- 5** Income for compensation for the breach of authors rights;
- 6** Income for the sports and performers activity in Lithuania;
- 7** Annual payments (tandems) for the activity of Supervisory board members.

7. Tax on Dividends

Before the 1st January 2009 tax applied on dividends was at 15% rate. In order to stabilize the public finances the Parliament of Lithuania came to a conclusion to raise this tax to 20% overnight: the draft of the amendment was submitted to the Parliament on 17th December 2008 (Nr.XIP-158(2)) and was approved on 18th December 2008 (Nr.XI-74). The new law also restricted the application of certain exemptions (before those changes there were no tax on



dividends when the shareholder has been controlling more than 10% in the company for more than 12 months). Furthermore, the exemption will not be applied to dividends from companies that have enjoyed 0% rate on profits or other profit tax relief.

Moreover if company established in the Republic of Lithuania comes to the decision to divide the profit of the company to its shareholders, however that profit was exempted from corporate income tax reasoned by the incentive, it will be taxed at the rate of 20% of the proportionate part of the distributed profits.

Since any personal income by residents will be taxed by additional 6% healthcare insurance tax from 1st of January 2009 – residents-individuals shall pay 26% total tax on dividends. This additional 6% healthcare insurance tax will be not applied to non-residents. Wherewith, in respect of dividends paid to non-residents 20% withholding tax will be applied if the double tax treaty will not set differently.

Tax-free dividends

Regarding tax free dividends, Dividends paid by a Lithuanian entity to a foreign entity will not be taxed if:

1. Foreign entity controls for 12 months more than 10% of voting shares in LT entity;
2. Is not registered or organized in target territories (for instance Ecuador);
3. All the income taxed at the rate of 20% (no tax exemption like 0 %)

8. Value-added Tax

Value added tax rate has been increased from 18% to 19% since 1st January 2009. Furthermore, preferential rates (5%) for all product groups have been cancelled, except for books, regional press, organization of art, culture and sport events (for which it has been raised to 9%). The same 9% tax rate is applicable to education services. It shall be noted that in respect of compensated medicaments and heating there has been introduced a transition period. Wherewith, the preferential rate of 5% for compensated medicaments will be applied until 30 June 2009 and heating – until 31 August 2009 respectively.

Preferential VAT rate of 5% for publications (newspapers, magazines) has been cancelled and normal rate of 19% shall apply. However, subscriptions made until beginning of 2009 shall be taxed by the previously applied 5% rate.

The Law on Value Added Tax of the Republic of Lithuania is the main legal act regulating calculation, payment and declaration of value added tax.

Cases of Application of zero-rate of VAT to supplies of goods and services

There are certain conditions established for zero-rate of VAT payment.

Zero-rate of VAT is charged on the supplies of goods, provided the goods are exported by or on behalf of the supplier outside the territory of the Community.



As well zero-rate of VAT is charged on the supplies of goods when these are dispatched or transported outside the territory of the Community by or on behalf of the purchaser established outside the territory of the country, with the exception of goods transported by the purchaser himself for the equipping and provisioning of pleasure boats and private aircraft or any other means of transport for private use.

In the case of the supply of the goods to be carried in the personal luggage of travellers, zero-rate of VAT is also applicable. In this case zero-rate of VAT will be applied to goods exported by persons who have their permanent address or usually reside outside the Community territory, which they have acquired in the Republic of Lithuania and the value whereof exceeds the threshold established by the Government of the Republic of Lithuania. A foreign passenger must prove that he has his permanent address or usually resides outside the Community by presenting a document of the type specified by the Government of the Republic of Lithuania.

With a regard to transport services zero-rate of VAT will be applied to the supply of services, including transport and any ancillary services, when these services are directly related to the export of goods outside the territory of the Community. Zero-rate of VAT shall be charged on the supply of transport services, also on the supply of any services ancillary to transport where the services are directly related to the goods, which are placed under the arrangements and procedures. Moreover the issue of TIR and ATA Carnets shall be subject to zero-rate of VAT. Zero-rate of VAT is applicable to transportation of passengers on international routes, also to the transportation of passenger luggage irrespective of the type of the means of transport.

Zero-rate of VAT shall be charged on the insurance services as well as financial services when these services are directly linked to the export of goods outside the Community territory.

Zero-rate of VAT is charged on goods supplied to a VAT payer identified for VAT purposes in another Member State and dispatched from the territory of the country to another Member State, irrespective of who - whether the supplier of goods, the purchaser of goods or a third party on order from either of them - dispatches the goods.

VAT registration

The obligation to be identified for VAT purposes and calculate VAT and pay it into the budget is met by the taxable persons who are supplying goods and services within the territory of Lithuania, with the exception of cases where only such goods and/or services are supplied within the territory of the country the obligation to calculate and pay into the budget VAT on which is to be met by the purchaser established within the territory of the country.

A person who is obliged be identified for VAT purposes must file an application to be identified for VAT purposes. In derogation to this, a taxable person of the Republic of Lithuania need not file an application to be identified for VAT purposes nor calculate, VAT on supplies of goods, with the exception of new means of transport supplied to other Member States, and/or services and pay it into the budget if the total amount of consideration for supplies of goods and/or services in the performance of economic activities (during previous 12 months) has not exceeded LTL 100 000.



Calculation of VAT must commence from the month during which the above threshold was exceeded. VAT on supplies of goods and services the consideration for which amounted to the specified sum of LTL 100 000 shall not be calculated. When calculating the specified amount of LTL 100 000 no account shall be taken of:

- 1) The consideration for supply of goods and/or services the input and/import VAT on which, should not be deductible if the taxable person were a VAT payer;
- 2) Consideration for supply of capital goods used in the economic activities of the;
- 3) Payments on account;
- 4) Consideration for supply of immovable's by nature and supply of financial services where the transactions are sporadic and the taxable person does not, as a rule, engage in this type of activity.

A foreign taxable person must be identified for VAT purposes through a subdivision within the territory of the country and where there is no such subdivision, through an appointed fiscal representative in the Republic of Lithuania. The requirement to appoint a fiscal representative shall not apply to taxable persons established in other Member State who may be identified for VAT purposes directly. A foreign taxable person need not be identified for VAT purposes if, within the territory of the country, he is engaged only in the following activities:

- 1) Supply of goods and/or services on which no VAT is chargeable;
- 2) supply of goods and/or services which, under this Law, are not subject to VAT;
- 3) Supply of goods and/or services on which the zero-rate VAT would be charged

Failure to file an application to be identified for VAT purposes or refusal to be identified for VAT purposes shall not release him from the obligation to calculate the VAT on the supply of goods and/or services by him and pay it into the budget where this is obligatory pursuant.

VAT refunds

The excess of VAT amount arising for a tax period will be first of all carried forward in accordance with the procedure and within the time period laid down in the Law on Tax Administration. If after carrying forward the excess amount referred to above a portion of it is left, a certain part of it may be refunded to the VAT payer where the following conditions are met:

1) he has paid into the budget and funds all the taxes, default interest, penalties, interest for overdue tax or the payment of the above taxes, default interest, penalties has been deferred for him or he has filed an application for deferral following the procedure established by the legal acts of the Republic of Lithuania, or a tax dispute is going on in respect of the above taxes, default interest and penalties, or the VAT payer has applied, following the procedure prescribed by the Government of the Republic of Lithuania, to the Commission for Reviewing Applications of Tax Payers in Respect for Making Settlement in Shares and Property for making a settlement for these taxes, default interest and penalties in shares and property after submitting all the requisite tax returns or accounts. In cases where a tax dispute is going on in respect of the



request for refund of the excess VAT amount or its portion it shall be regarded that the VAT payer does not meet the requirements.

2) a decision to impose a penalty on the VAT payer for a deliberate violation of tax law specified in the Law on Tax Administration has not become effective or 3 years have lapsed from commission of such a violation.

The portion of the balance of the refundable excess amount of VAT specified may not exceed the amount specified in subparagraphs 1-5 below:

1) the provisional 19% VAT amount calculated on the taxable amount of goods and services in respect of which the zero-VAT rate is applicable declared in the VAT return for the tax period;

2) the provisional 19% VAT amount calculated on the taxable amount of goods and services, declared in the VAT return for the tax period;

3) the VAT amount deducted during the tax period on acquired capital assets, with the exception of the amount of import VAT subject to the procedure of inclusion into output VAT as well as the amount of input VAT for the tangible capital assets manufactured by the taxable person himself;

4) the VAT amount deducted during the tax period on acquired and/or imported materials, raw materials and/or services intended for the production of capital assets and/or on unfinished construction, with the exception of the amount of import VAT that was subject to the procedure of inclusion into output VAT.

5) the VAT amount deducted during the tax period for fuels, fertilisers, seeds, fodder, pesticides and herbicides acquired and/or imported. This subparagraph shall apply only to VAT payers whose income from supplies of agricultural products and/or services during the previous calendar year made up at least 50 per cent of all income.

The balance of the excess amount of the VAT which has not been carried forward or refunded by the end of the calendar half-year may be refunded to the VAT payer after the end of the half-year provided the VAT payer meets the conditions set above and was identified for VAT purposes no later than 3 months before the end of the calendar period.

Any mistakes made in the VAT return will be rectified when they come to light. The procedure for rectifying the mistakes shall be determined by the central tax administrator. If the amount of the input/import VAT not deducted owing to a mistake had to be deducted three years ago starting from the moment when the above circumstances came to light, the mistake may not be rectified.

Law on Tax Administration also clarifies that the tax overpayment may be refunded, provided that it was accrued not earlier than during the current calendar year and five preceding calendar years counting back from the date of crediting, where crediting is performed at the initiative of the tax administrator without a separate taxpayer's request, or, in the presence of the taxpayer's request - counting back from the date of submission of the request.

Where, before the submission of the request, the taxpayer performs an action evidencing his knowledge about the existence of a tax overpayment and seeks to recover it, the said time limit shall be calculated starting on the day on which the action was performed. In such case, the taxpayer must provide evidence supporting the performance of the said action to the tax



administrator along with the request to refund (credit) a tax overpayment. The said time limit shall not include the calendar year during which tax or judicial disputes were in process or mutual agreement procedures were applied under double taxation treaties concluded and brought into effect by the Republic of Lithuania or under the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436/EEC).

A foreign taxable person also has the right to be refunded the VAT paid in the Republic of Lithuania. The right to be refunded the VAT paid in the Republic of Lithuania is granted to foreign taxable persons established in those third countries where the VAT paid (or any equivalent tax) is refundable to taxable persons of the Republic of Lithuania. However this is not applicable to:

- 1) non-established taxable persons and who wish a refund of the VAT on goods/services intended for supply of electronic services, paid in the Republic of Lithuania;
- 2) taxable persons established in another Member State.

As well certain requirements for foreign taxable persons must be met in order to have the right to submit an application to be refunded the VAT paid in the Republic of Lithuania. Firstly, he had no subdivision in the Republic of Lithuania, or, in the event of a natural person, his normal place of residence was not in the Republic of Lithuania either; and secondly - supplied only such services and goods the tax on which must be calculated and paid by the purchaser.

The following shall be refundable to a foreign taxable person: firstly its the import VAT paid in the Republic of Lithuania which became chargeable for him for the goods imported into the territory of the European Communities and secondly - the VAT paid by this taxable person for the goods and/service including those acquired from other Member States.

9. Excise Tax

Excise payers are owners of excisable warehouses, registered and unregistered traders as well as persons manufacturing or utilizing excise-free energy products, alcohol, alcoholic drinks or tobacco for other purposes than the established one. In the case of import, the excises tax is paid by the importer, provided that the imported goods are not brought to a warehouse of excisable goods. The applicable tax base is the tax base of goods produced or imported in Lithuania.

The government has approved the proposal to raise the excise duty on ethanol from LTL 3840 to LTL 4140 per hectoliter of pure ethanol as of January 2009. As a result, the price of 500 ml of whisky at a 40 % alcohol by volume may rise by 71 cents. The excise duty on beer, intermediate products, as well as other fermented beverages (up to 8.5 %) would be raised by 10 %, and current tax exemption applied for small breweries would be lifted. With regard to Lithuania's commitment to achieve a minimum rate of excise duty on cigarettes, which has been established by the EU, and with a view to avoid steep rise in prices, the rate of excise duty on cigarettes would be raised twice in 2009.

With a view to achieving a minimum EU rate of excise duty on fuel, and with regard to the favorable situation in the oil market, the Government proposes to increase the rate of excise duty



on petrol, diesel fuel, and kerosene, as well as petroleum gas and gasiform hydrocarbons. With the endorsement of this proposal, the average retail price for A-95 petrol would rise by 44 cents, for diesel fuel, by 22 cents, and for vehicle gas, by 40 cents as of the start of 2009.

10. Lottery and Gambling Tax

As from 2009 some amendments to the Law on Lottery and Gambling Tax have been introduced. When operating lotteries, a tax rate of 5% shall be applied on the lottery and gaming tax basis. On the bingo, betting and totalisator – the tax rate of 15% shall be applied. As well some fixed taxes amounts are imposed to operating machine gaming and table games: for roulette, card or dice table for each taxable period – 6000LTL (1738EUR), as well as depending on machine type – for machine type category A -800LTL (232EUR) and for machine type category B- 300LTL (87EUR) for each taxable period.



DECLARATION OF CASH

1. General aim

The general aim of the law on declaration of cash is to prevent the money laundering according to the UN Convention Against Transnational Organized Crime and EU draft regulation of the on control of cash leaving and entering the Community.

2. Thresholds for declaration

A natural person shall declare the cash when crossing the border if its amount is equivalent to 10'000 EUR or more. The following financial means are considered as the cash: (i) banknotes and coins, (ii) checks, promissory notes, money orders and other negotiable instruments either in bearer form or in such form that title on the instrument passes upon delivery; (iii) incomplete instruments (including checks, promissory notes, money orders) signed but with the payee's name omitted.

3. Procedure of declaration

The application forms of declarations are set up by the Government. The declaration among other includes information on the origin of cash, the aim of use of the cash and the receiver of cash. The Tax Authority, which is responsible for customs affairs in Lithuania, shall control the declarations. In border crossing places without customs control points, the State Border Guard is responsible authority.

4. Penalties

The Administrative Penal Code and Criminal Code provide penalties for the breaches of the legal requirements of declaration of cash. For non declaration or untruly declaration of cash which has been brought into or moved out of the custom territory of the EU by crossing the border of Lithuania a person may be fined up to 20 000 LTL by the Tax Authority if the value does not exceed 250 minimal wages (approx. 325 00 LTL). The mentioned fine may include the confiscation of cash if the respective authorities interpret it as contraband. If the criminal liability is foreseen and the value exceeds 325 00 LTL, the penalty imposed may vary from individual fine set by Court to 8 years of imprisonment.

5. International exchange of information

The Tax Authority provides the Money Laundering Prevention Service with the received information provided in the declarations. The Money Laundering Prevention Service is entitled to submit the respective information to the competent surveillance authorities of another Member States of EU and the mentioned UN Convention.



ACCOUNTING AND AUDITING

1. General information

The law “On Financial Accounting” and the law “On Accounting and Annual Financial Statements of Legal Persons with Limited Liability” are the basic laws, which regulate bookkeeping and financial reporting in Lithuania. Both laws are based on the 4th and 7th EU directives.

In addition, the law “On Audit” was adopted by the Parliament on June, 1999.

Law on Accounting

The law “On Financial Accounting” outlines the basic principles and rules, which must be followed in accounting records, stocktaking and annual reporting. The accounting records shall be confirmed by supporting transactions documents which shall contain definite date for the parties, etc.

The law applies to all enterprises, regardless of the type of entrepreneurial transactions, which they undertake or of the property they possess. It also applies to the permanent establishments (subsidiaries, departments) of foreign-owned, as well as to all institutions and organizations which are financed from the state and municipal budgets, to all public organizations, their associations, foundations with limited number of participants, religious organizations, trade unions, individual merchants and all individuals.

Law on Financial Statements of Enterprises

The law “On Financial Statements of Enterprises” applies to all profit-seeking enterprises that are registered in Lithuania, irrespective of the type of commercial transactions they undertake or of the property they possess. In addition, the law does not apply to banks or to credit institutions and insurance companies, farming activities, which are regulated by special legal acts. In respect of financial institutions, the laws and other legal acts regulating pursuit of their activities may set forth additional requirements regarding financial reports.

Financial reports must be drawn up to give a true and fair view of an entity’s assets, equity, liabilities, income and expenditure as well as cash flows.

2. Accounting and annual financial reporting

Accounting records

According to laws, accounting records shall clearly display the transactions and financial results of a company, and it shall give a true and fair view of its financial position. The records shall be kept in such a manner as to enable any person who is qualified in accounting to clearly identify the financial position of a company as well as the business transactions made in a given period of



time, and to enable the person to ascertain both the beginning and the sequence of each transaction. The accounting principles addressed in the law “On Financial Statements of Enterprises” are those of going concern, consistency, continuity, clarity, truthfulness, comprehensiveness, the accrual method of accounting, and the historic cost principle.

The measure of value must be a monetary unit of the Republic of Lithuania, and Lithuanian must be used as the language of accounting. If a partner in the economic entity is a foreign individual or a legal entity (registered company), a second language, which has been agreed upon by the parties and is acceptable to the auditors, may be used. All the codes, abbreviations, separate letters and symbols used in accounting records shall be explained. Usually double entry system should be used for companies.

The accounting records and all the confirming documentation shall be stored in Lithuania. Each entry in the accounting ledger must be confirmed by a document justifying that entry. A justifying document shall contain: the name of the company; the number under which the company is registered with the registration authorities; the name, number and date of the document; the description and justification of the business transaction; the measures of the operation (quantity, sums) and signatures of persons responsible for the execution of the transaction and the correctness of the information presented. The additional requirements for specific documentation may be foreseen.

The information and data which shall be included in an annual report are not classified as a commercial secret of the company. All the other information included in the accounting records is considered to be a commercial secret. Company’s secret information shall be disclosed to the auditors, to the tax administration reviewing the declared taxes, as well as to the other state institutions in accordance with the procedures provided for by the legislation.

The accounting period shall cover 12 months. Usually, the beginning and the end of an accounting period concurs with the calendar year, however this period could be different if the company’s charter so provides. The companies, which form part of a group, shall have the same accounting period.

Reporting requirements

An annual report, as a whole, consists of a balance sheet, a profit and loss statement, a cash flow statement, and statement on changes in equity, explanatory notes, and other relevant information, the management report and auditor’s report and should be in accordance to the law “On Financial Accounting” and the law “On Financial Statements of Enterprises”. The annual report shall give a true and fair view of the company’s assets, and of its liabilities and financial results, and must be written in Lithuanian and the monetary unit of the Republic of Lithuania shall be used as a measure of value.

All the items in the annual report shall be valued according to the following accounting principles:

- principle of an entity: Every entity drawing up financial reports shall be considered a separate accounting unit. The assets, equity and liabilities, income and expenditure of such an entity alone shall be accounted;



- an entity's going concern principle (the period of activities of an entity is unlimited);
- periodicity: as regards the handling of accounting, activities of an entity shall be divided into financial years or the reporting periods of other duration at the end whereof financial reports shall be drawn up;
- consistent accounting methods: an accounting method may be changed only in order to give a fair view of an entity's assets, equity, liabilities, income and expenditure as well as cash flows for the reporting period;
- monetary measurement: The entire assets, equity capital, liabilities, income and expenditure as well as cash flows of an entity shall be expressed in financial reports in money terms;
- accrual-based accounting: Economic operations and economic events shall be accounted after they take place and are presented in the financial reports of those reporting periods regardless of whether cash is received or disbursed. According to the principle of accrual-based accounting, income shall be recorded in the period in which it is earned and expenditure – in the period in which it is incurred;
- comparability: the income of an entity earned over the reporting period shall be related to the expenditure incurred in order to earn the income. Financial reports must be drawn up so that users of the information of financial reports could compare the information presented therein with the information of other reporting periods and the information presented by other entities and correctly assess changes in the financial condition of an entity, performance and cash flows thereof. Financial reports must contain the information of the reporting year and at least one preceding financial year;
- principle of prudence: an entity shall select the accounting methods such as cannot unreasonably increase or unreasonably reduce the value of the entity's assets, equity and liabilities as well as income and expenditure;
- neutrality: accounting information shall be presented in an unbiased manner. Presentation thereof should not affect the decisions taken by users of the information of financial reports, and it should not be aimed at a pre-set result;
- precedence of content over form: economic operations and economic events shall be accounted according to their content and economic substance and not merely according to their legal form.

These reporting conditions may be disregarded in exceptional cases. Any such deviation shall be explained in the notes, indicating its effect on the assets, liabilities and financial results of a company.

Consolidated reporting

Consolidated reporting is regulated by the law “On Consolidated Financial Statements of Enterprises”. An entity having one or several subsidiary undertakings must draw up consolidated accounts. The accounts of a parent undertaking and all subsidiary undertakings thereof must be consolidated regardless of where the registered offices of the subsidiary undertakings are situated. An entity which is a subsidiary undertaking of a subsidiary undertaking of a group of undertakings shall be considered a subsidiary undertaking of a parent undertaking of the group of undertakings, and accounts thereof must be consolidated.

A parent undertaking shall be exempted, until 1 January 2005, from the obligation to draw up consolidated accounts where the indicators of its group of undertakings do not exceed at least



two of the following limits: 1) net turnover (without deducting intra-group sales) – LTL 5 000 000; 2) the total value of assets specified in the balance sheet (without deducting intra-group transactions) – LTL 2 500 000; 3) average number of pay-roll workers during the year – 250.

A consolidated annual report must include:

- 1) *a fair review of a group of undertakings' position, the performance and development of the group of undertakings' business, a description of the principal risks and uncertainties that it faces;*
- 2) *analysis of financial and non-financial performance of the group of undertakings, information relating to environmental and employee matters;*
- 3) *references to and additional explanations of the data presented in consolidated accounts;*
- 4) *the important events which have occurred since the end of the preceding financial year;*
- 5) *the group of undertakings' operating plans and forecasts;*
- 6) *information about activities of the group of undertakings in the field of research and development;*
- 7) *the number and nominal value of the shares of the parent undertaking owned by the undertaking, subsidiary undertakings thereof or the persons acting in their own name, but on behalf of the undertakings;*
- 8) *where the group of undertakings uses financial instruments and where this is of importance for the evaluation of the group of undertakings' assets, equity capital, liabilities, financial position and performance, the group of undertakings shall disclose financial risk management objectives, its policy for hedging major types of forecasted transactions for which hedge accounting is used, and the group of undertakings' exposure to price risk, credit risk, liquidity risk and cash flow risk.*

An entity drawing up a consolidated annual report may present its annual report and the consolidated annual report as a single report. In drawing up such a single report, it may be appropriate to give greater emphasis to those matters which are significant to a group of undertakings. The preparation of the annual report of a group of companies requires the application of the same accounting principles in all companies of the group in order to reflect their business transactions in the same manner.

Statutory audit of financial statements

In the event that the company exceeds two of the criteria listed below, the annual reports shall be audited by a certified auditor if two of the criteria below are satisfied:

1. sales exceeds 5 mln. LTL in the financial year;
2. average number of pay-roll employees in the accountable financial year is not less than 50;
3. value of the assets in the balance sheet exceeds 2.5 mln. LTL.

A certified auditor shall submit a report on the audit results in writing. The auditor's report shall specify in particular, the following:

- whether the annual report and the management report of the company or a group of companies have been prepared according the law;



- whether the annual report gives a true and fair view of the assets, liabilities and financial results of the respective company at the end of the reporting year, as well as of the profits and losses during the reporting year;
- whether the legal representatives of the company have given all the required information and explanations to the auditor.

Publication of annual reports

The approved annual financial reports and the annual report together with an auditor's report (in the cases when audit has been carried out or must be carried out according to the law) is published in the Legal Entities Register in the cases and in accordance with the procedure set forth by laws and other legal acts. The published annual financial reports and the annual report must be reproduced in the form and text on the basis of which an auditor has drawn up his report.

Other reports and submission deadlines

In Lithuania there is no unified system of reports that shall be submitted to the Tax inspectorate. Depending on the particular activities of the company itself the most common reports are the following:

- Reports that shall be submitted annually: reports on corporate income until 1st of October; report on immovable property until 1st of February; report on income tax of individuals shall be submitted both- annually (1st of February) and on the monthly basis;
- Reports that shall be submitted every half a year: report for mobile and stationary pollution shall be submitted in the period of 60 days counting from the 30th of June;
- Reports that shall be submitted on the monthly basis: report on the income tax of individuals shall be submitted every 15th or 30th day of the month; report on VAT until 25th day of every month;

The Center of Registers requires submission of the following documents:

- Documents on Financial Statements: balance, report on profit (losses), report on money transfers, report on owned capital changes, explanation letter;
- Annual report (Company's activities report);
- Audit conclusion and audit report;

The Financial documents, have to be approved by the company's shareholders within 4 months from the end of financial year and submitted to the Center of Registers within one month after the approval.



COMPETITION

1. The Law on Competition

Competition is regulated by the Law on Competition of March 23, 1999. It introduces far more strict control to ensure fair competition. The rules of Prohibited Agreements, Dominant Position, Concentration (merger control) and the Unfair Competition are provided there.

2. The Competition Council

The Competition Council is established as institution which implements the state competition policy, supervises compliance with the Law on Competition and observes competition relations in Lithuania. This institution controls the way enterprises, government and municipality institutions follow up the provisions and requirements of the Law on Competition. As well Competition Council establishes criteria of dominant position in the market, estimates a share of market of every subject. The Competition Council analyzes acts of Government and municipality institutions, investigates acts of unfair competition, and demands to change or to recall legal acts which restrict competition. However the Competition Council has the right to refuse of investigation when the proofs and arguments are irrelevant and harmless. The Court can recall decision of the Competition Council.

3. Concentration

The Competition Council passes decisions on concentration.

In case of concentration it is obligatory to get permission from the Competition Council. Concentration is merger when one or more undertakings are joined to the undertaking. Concentration is also when a new undertaking is established out of two or more undertakings. Concentration also is when one or more undertakings gain control over another undertaking by acquiring an enterprise or a part thereof, all or part of assets, shares or other securities, voting rights. Market participants who have decided to merger shall, prior to merger, submit a notification to the Competition Council. The common incomes of the participants during the previous financial year shall be more than LTL 30 million (approx. 10350000 EUR) and each of two legal entities have more than LTL 5 (approx. 1725000 EUR) of common incomes.

The Competition Council do not have the right to issue a permission on concentration when concentration results in creation of a dominant or strengthened position in the market.

4. Dominant position

Domination in the market restricts competition. Dominant position means the position of one or more undertakings in the relevant market directly facing no competition or enabling it to make unilateral decisive influence in such relevant market by effectively restricting competition. Unless proved otherwise, the undertaking with the market share of not less than 40% shall be considered to have a dominant position in relevant market. Unless proved otherwise, each of a



group of three or a smaller number of undertakings with the largest share of the relevant market, jointly holding 70% or more of the relevant market share shall be considered as having a dominant position.

5. Prohibition to abuse a Dominant position

It shall be prohibited to abuse a dominant position by carrying out actions which restrict or may restrict competition, limit without cause the possibilities of other undertakings to act in the market, or violate the interests of consumers, including:

- *Direct or indirect imposition of unfair prices or other purchase or selling conditions;*
- *Limitation of trade, production or technical development to the prejudice of consumers;*
- *Application of discriminating conditions to equivalent transactions with certain undertakings, thereby placing them at a competitive disadvantage;*
- *Making the conclusion of contract subject to acceptance by the other party of supplementary obligations which, by their commercial nature or usage, have no connection with the subject of such contract.*

Unfair Competition

Undertakings shall be prohibited performing any actions contrary to honest business practices if such acts may be detrimental to competition interests of another undertaking. The undertaking legitimate interests which are violated by actions of unfair competition shall be entitled to bring an action in court seeking:

- *Terminate of illegal actions;*
- *Recovery of the damages;*
- *Imposition of the obligation to make one or several statements of a certain content or form, denying the previously submitted incorrect information or giving explanations as to the identity of the undertaking or its goods;*
- *Seizure and destruction of the goods, their packaging or attributes, directly relating to unfair competition, unless infringements can be eliminated otherwise.*



Prohibited Agreements

The Law on Competition prohibits and proclaims null and void all agreements that have been entered into with the purpose of restricting competition or which may restrict competition. Actions, which restrict or may restrict competition, are:

- *The fixing of the price directly or indirectly;*
- *The sharing the product market on a territorial basis, according to groups of buyers, suppliers or in any other way;*
- *The fixing of the production volume for certain goods, restriction of investments or technical development;*
- *Application of discriminating conditions to equivalent transactions with individual undertakings, thereby placing them at a competitive disadvantage;*
- *Making the conclusion of contract subject to acceptance by the other party of supplementary obligations which, by their commercial nature or usage, have no connection with the subject of such contract.*

Fines

1. A fine of up to 10% of the gross annual income in the preceding business year shall be imposed by the Competition Council for:
 - *Prohibited agreements;*
 - *Abuse of dominant position;*
 - *Putting into effect of a notifiable concentration without the permission of the Competition Council, continuation of concentration within the period of its suspension, also infringement of concentration conditions or mandatory obligations established by the Competition Council.*
2. A fine of up to 3 % of the gross annual income in the preceding business year may be imposed by the Competition Council for:
 - *Actions of unfair competition.*
3. A fine of up to 1 % of the gross annual income in the preceding business year may be imposed by the Competition Council for:
 - *Not providing information required for investigation or for examination of concentration;*



- *Providing incorrect and incomplete information;*
 - *Obstructing the officers of the Competition Council from entering and checking the premises, to inspect or take possession of any documents and articles having evidential value in the investigation of the case.*
4. A fine of up to 5% of the average gross daily income may be imposed on undertakings for each day of continuation of infringement in the event of failure to satisfy obligations of the Competition Council to put an end to illegal activity; to perform actions restoring previous situation or eliminating the consequences of infringement, also for failure to timely fulfill the instructions to provide information.

In setting the amount of a fine imposed on undertakings, regard shall be had to:

- *The gravity of the infringement;*
- *Duration of the infringement;*
- *Circumstances extenuating or aggravating the liability of an undertaking;*
- *Influence of each undertaking, if the infringement has been committed by several undertakings.*

The decision of the Competition Council may be appealed to the administrative court.



IMMIGRATION AND RESIDENCY

Any European Union citizen is free to stay in the Republic of Lithuania for a period up to 3 months within half a year. If the person wishes to stay in the Republic of Lithuania longer, he or she should declare his place of residence in Lithuania. It should be noted that European Union's citizen has a right to bring their family members to Lithuania who, if coming for more than 3 months in the period of one year, have to receive a residence permit.

Residency and Work Permits

Non European Union citizens, willing to engage in certain activities in Lithuania like studies or work must apply for and receive a temporary residence permit. If a temporary residence permit on studies is issued, non-European citizen enjoys the right of possible part-time work (which according to the Labor Code is not more than 20 hours per week). Depending on the staying in Lithuania reasons, the temporary residence permit may be issued for a period not longer than 5 years through the local migration office.

Regarding the work permit, Lithuanian registered enterprise may employ a foreigner if he has a valid work permit issued by the Lithuanian Labor Exchange. However for citizens of the EU they are not required as well as for foreigners holding a permit for permanent residence, foreigners who retained their right to the citizenship of the Republic of Lithuania, foreigners of the Lithuanian origin and foreigners who married in Lithuania.

The issue of having a temporary residence permit may grant a right to have the work permit. The work permit is not required for persons who work as a head of the company registered in Lithuania.

Employment of non-Lithuanian Residents

There is a certain procedure which shall be applied in the cases of employing a foreigner. One month prior employment a Lithuanian registered enterprise must register free working place at the local labor exchange and apply for the issue of a work permit. In the cases when the established company in the republic of Lithuania is under bankruptcy the right to apply for the work permit is not possible. The procedure goes as follows: labor exchange passes a positive decision and its conclusion is submitted to the Lithuanian Labor Exchange, which passes a final decision and issues a work permit to the foreigner. The application, depending on qualification of the future foreign employee may take from one to two months. If the application is approved, work permit for a foreign employee will be valid for 2 years.

The Schengen Area

In 2007, the Council of Ministers of Justice and Internal Affairs of the European Union (EU) adopted the decision on the accession of nine new states — Lithuania, Latvia, the Czech Republic, Estonia, Poland, Malta, Slovakia, Hungary and Slovenia — to the Schengen area.



From December 21, 2007 these nine states abolished checks on persons at internal land borders and from March 30, 2008 - checks on persons at air borders within the Schengen area.

Today the Schengen area is composed of 25 states:

- 22 EU member states: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden;

- 3 non-EU states: Iceland, Norway and Switzerland. From December 12, 2008 Switzerland abolished checks on persons at internal land borders within the Schengen area and from March 29, 2009 will abolish check on persons at air borders within the Schengen area.

Citizens of the 25 states that belong to the Schengen area have equal rights to travel without visas and border control.

The EU Member States Ireland, Bulgaria, the United Kingdom, Cyprus and Romania do not belong to the Schengen group. The United Kingdom and Ireland still keep control on borders with other EU states (but they are committed to provide police and legal cooperation in criminal cases).

The Schengen group requires only one visa. This means that a person wishing to travel anywhere in the Schengen area needs to get only one visa.

Free-Visa Travelling

Citizens from the following countries may enter Lithuania without visa:

Albania (for holders of diplomatic passport only); Andorra; Argentina; Armenia (for holders of diplomatic passport only); Australia; Austria; Belgium; Brazil; Bosnia and Herzegovina (for holders of diplomatic passport only); Brunei Darussalam; Bulgaria; Canada; Chile; China (for holders of diplomatic and official passport only); Costa Rica; Croatia; Cyprus; Czech Republic; Denmark; Estonia; Finland; France; Germany; Guatemala; Greece; Honduras; Hong Kong Special Administrative Region (for holders of Hong Kong Special Administrative Region passport only); Hungary; Iceland; Ireland; Israel; Italy; Japan; Korea (South); Latvia; Liechtenstein; Luxembourg; Macau Special Administrative Region (for holders of Macau Special Administrative Region passport only); Macedonia (for holders of diplomatic passport only); Malaysia; Malta; Morocco (for holders of diplomatic passport only); Mexico; Moldova (for holders of diplomatic passport only); Monaco; Montenegro (for holders of diplomatic passport only); Netherlands; New Zealand; Nicaragua; Norway; Panama; Paraguay; Poland; Portugal; Romania; Russia (for holders of diplomatic passport only); San Marino; El Salvador; Serbia (for holders of diplomatic passport only); Singapore; Slovakia; Slovenia; Spain; Sweden; Switzerland; Turkey (for holders of diplomatic, official and special passports only); Ukraine (for holders of diplomatic and official passport only); United Kingdom; United States; Uruguay; Vatican City (Holy See); Venezuela.

Under this regime, foreigners from these countries may stay in Lithuania without visa for up to 90 days within six month period, counting from the day of entry.



INTELLECTUAL PROPERTY

1. Legal framework of intellectual property

The following legal acts are the basis for intellectual property issues in Lithuania:

- PATENT LAW OF THE REPUBLIC OF LITHUANIA
- LAW ON TRADEMARKS OF THE REPUBLIC OF LITHUANIA
- DESIGN LAW OF THE REPUBLIC OF LITHUANIA
- The law *On Copyright and Related Rights*
- REGULATION OF PATENT ATTORNEYS

- LAW ON THE LEGAL PROTECTION OF TOPOGRAPHIES OF SEMICONDUCTOR PRODUCTS OF THE REPUBLIC OF LITHUANIA

- LAW ON FEES FOR THE REGISTRATION OF INDUSTRIAL PROPERTY OBJECTS

- COMMON REGULATIONS UNDER THE MADRID AGREEMENT CONCERNING THE INTERNATIONAL REGISTRATION OF MARKS AND THE PROTOCOL RELATING TO THAT AGREEMENT

- THE PROCEDURE EP/01/2006 FOR THE FILLING OF EUROPEAN PATENT APPLICATIONS AND FOR THE EFFECTS OF EUROPEAN PATENTS IN THE REPUBLIC OF LITHUANIA, APPROVED BY DIRECTOR OF THE STATE PATENT BUREAU OF THE REPUBLIC OF LITHUANIA (Order No.3R-29 of April 24, 2006)

2. Patents

General principles

A Lithuanian “*Patent Law*” was passed on 18 January 1994. The law contains provisions relating to the patentable subject matter, the subjects of patent rights, the procedure for granting patents international applications under the Patent Co-operation Treaty, the European patent extension to Lithuania, the functions of the Lithuanian Patent Bureau, and the rights derived from patent. It also deals with the infringement of patents, the exploitation and licensing of a patent and the enforcement of patent rights.

Patentable subject matter

A patent is granted in accordance with the patent application, which is filed to the State Patent Bureau. Patents are available for any inventions in all fields of technology, provided that they are new, involve an inventive step and are capable of industrial application. Non-patentable subject matters are discoveries, scientific theories, mathematical methods, designs of products, schemes,



rules and methods of games, intellectual or economic activities, as well as programs for computers, presentations of information, the human body or its element, including the sequence or partial sequence of a gene, at the various stages of its formation and development. Also, inventions, which are methods for treatment of the human or animal body by surgery or therapy, and diagnostic and prophylactic methods practiced on the human or animal body. As well plant or animal varieties or essentially biological processes for the production of plants or animals (except microbiological processes), inventions the commercial exploitation of which would be contrary to public interests, principles of morality and humanity. Decisions to refuse granting patents may not be adopted merely because the exploitation of such inventions is prohibited by laws or other legal acts.

Generally, the patentability criteria in Lithuania correspond to those, set by the European patent convention. The Lithuanian Patent Bureau does not perform a substantive examination of a patent application; *i.e.* it does not check the conformity of the invention to the provisions of patentability. After a preliminary examination is performed, the invention is published, and third parties may turn to Vilnius County Court for the claims regarding patents. Generally, disputes are solved depending on the matter itself. Disputes regarding the patenting and the use of inventions shall be dealt with by the following institutions:

- 1) the Board of Appeals of the State Patent Bureau, in respect of all disputes relating to the patenting of an invention prior to the patent grant;
- 2) the Vilnius County Court, in respect of disputes regarding: decisions of the Appeals Division of the State Patent Bureau; assignment of a patent application or the patent ownership to a different person; invalidation of a granted patent in full or in part; infringement of a patent application for which temporary protection is granted; infringement of a granted patent; declaration of non-infringement of a patent; granting, revocation and change of conditions of the licenses; and revocation of a patent.

Exclusive rights

The exclusive rights to patents are effective from the date they are granted and expire no later than twenty years from the filing date. The exclusive rights may be ceased prior to the expiration of twenty years from the filing date by a court decision, or as a consequence of the failure to pay the patent maintenance fee.

Where the subject matter of a patent is a product, the owner of the patent shall have the exclusive right to prevent third parties not having the owner's consent from the acts of making, using, offering for sale, selling, importing or exporting that product. It also bestows upon the owner the right to use the patented process and to offer it for sale, to put it into economic circulation and to import or stock the patented product for the above-mentioned purposes, a product that is obtained with a patented process.

Fair use

The extent of exclusive rights is determined by the claims of the patent taking into account substance of the invention. The fair-use doctrine is applicable to exclusive patent rights. Exclusive rights are not extended to the use of the patented subject for non-profit purposes, scientific experiments or research as well as the testing of a patented invention and preparation



of medicine and in pharmacy in exceptional cases as prescribed by a doctor, the exploitation of patented product after the first sale and to the construction of any foreign means of transport which temporarily enters Lithuania.

The Government of Lithuania may adopt a resolution to permit a State or municipal institution, natural or legal persons to market, without the consent of the owner of a patent, a patented invention within the territory of Lithuania, if:

- 1) an invention protected by a patent is related to public needs, national security and public health protection, development of economically important sectors;
- 2) the court determines that a method of the exploitation of an invention employed by the owner of a patent or licensee is anti-competitive.

European patent extensions

A European patent, which has been extended to Lithuania, has the same effect as a domestic patent, except that the exclusive rights are terminated no later than twenty years from the date on which the Lithuanian Patent Bureau has received the application of registration of the European patent.

3. Trademarks

General principles

The legal status of trademarks in Lithuania is determined by the law “*On Trademarks*” of 10 October 2000. The law has provisions relating to the procedure for trademark registration, for the use of a trademark, the expiration of the trademark, and the applicability of international agreements.

A trademark or a service is used in order to distinguish the goods and services of one enterprise from those of another enterprise. Trademarks may consist of words, letters, numbers, first names and surnames, graphics, three-dimensional shapes, light signals or of any combination of the above-mentioned items. Trademark basically means any sign capable of distinguishing the goods or services of one person from those of other persons and capable of being represented graphically as well a service mark shall also be treated as a trademark.

Exclusive rights

A registered trademark gives the owner the exclusive right to use the trademark and to transfer the associated rights, as well as to prohibit others from using the mark and similar marks in relation to goods in respect of which the mark is registered and in relation to similar goods, if the use of this mark is likely to confuse consumers or create association. A registered trademark is valid for ten years from the date of filing of the application. After expiration of the term, registration may be renewed continuously. Well-known trademarks are protected in Lithuania without registration, however only by judicial decision on the recognition of the mark as well-known. Currently in Lithuania all the well-known trademarks are registered within State Patent Bureau.



Criteria for registration

Certain signs may not be registered as marks, namely those which reproduce the names of firms and products which are well-known in Lithuania, as well as marks which reproduce trademarks belonging to any other person and are well-known in Lithuania or similar trademarks if there is a likelihood of confusion or association, even if the trademarks are not registered in Lithuania.

The registration of a trademark is done by filing a trademark application to the Lithuanian Patent Bureau. After preliminary and substantive examination, the mark is published, and third parties are invited to submit oppositions against the registration of the mark within 3 months of the date of publication. State Patent Bureau's decision may be appealed within 6 month period to the Vilnius County Court.

Enforcement

The law sets forth the legal procedure for enforcing the trademark rights. The owner of the trademark is entitled to initiate litigation against any infringing use of the trademark by a third party and to make a claim to terminate the infringing use. The owner may also seek an indemnity for incurred losses (compensation), by demanding that the infringing packaging be changed, or he may seek the destruction of the infringing goods or the delivery of the infringed goods to the owner of the trademark.

4. Designs

Pursuant to the law “*On Designs*”, industrial designs are the external appearance of an article, which has been created as a result of an artistic design. It is interpreted that design engages the appearance of the whole or a part of a product resulting from the features of the product itself and/or its ornamentation, in particular, the lines, contours, colours, shape, texture and/or materials.

The owner of a patent has exclusive rights to industrial design. The holder of a registered design enjoys the exclusive right to use it and to allow or prevent any other persons not having his consent from making, offering for sale, selling, putting on the market, importing, exporting, stocking and using any products or their parts, if the overall impression their design produces on an informed user differs from that produced on him by the registered design. The designer of the article has moral rights of non-transferable paternity as an author of the design. The patent of design is valid for five years. Validity of the registration of a design may be renewed four times for a period of five years each, up to a total term of 25 years from the date of filing of an application.

A design patent is granted according to a patent application, which has been filed with the Lithuanian Patent Bureau. A patent may be granted for an invention, which has the individual character and is new. Non-patentable subject matters comprise the external appearance of the article only if it is predetermined by the technical functions of the article, if a design incorporates the official or traditional (abbreviated) State name of the Republic of Lithuania, armorial bearings, flag or other State heraldic objects, or any mark imitating them, also warranty signs and hallmarks, stamps, decorations or badges of awards, unless the authorization for their use in



a design has been issued according to the established procedure by an institution authorized by the Government of the Republic of Lithuania.

The Patent Office does not perform substantive examinations of patent applications and regards the conformity of the design to provisions of patentability. After a preliminary examination is performed, the design is published and the third parties are invited to submit their oppositions to the registration of the patent within three months of the publication date to the Appeal Division of State Patent Bureau. State Patent Bureau's decision may be appealed within 6 month period to the Vilnius County Court.

5. Copyrights

The law “*On Copyright and Related Rights*” of 18 May 1999 applies to copyright in literary, scientific and artistic works (copyright); the rights of performers, producers of phonograms, broadcasting organisations and producers of the first fixation of an audiovisual work (film) (related rights); the rights of makers of databases (*sui generis* rights); exercise, collective administration and enforcement of copyright and related rights, as well as the exercise and enforcement of *sui generis* rights.

The subject matter of copyright shall include original literary, scientific and artistic works which are the result of creative activities of an author, whatever may be the objective form of their expression. The subject matter of copyright shall comprises the following:

- 1) *books, brochures, articles, diaries, and other literary works, whatever may be the form of their expression, including an electronic form, as well as computer programmes;*
- 2) *speeches, lectures, sermons and other oral works;*
- 3) *written and verbal works of science (scientific lectures, studies, monographs, deductions, scientific projects and documented project material, as well as other works relative to science);*
- 4) *dramatic, dramatico-musical, pantomime, choreographic and other works intended to be performed on the stage, theatrical productions, as well as scenarios and shooting scripts;*
- 5) *musical works with or without accompanying words;*
- 6) *audiovisual works (motion pictures, television films, television broadcasts, video films, diafilms and other works expressed by cinematographic means), radiophonic works;*
- 7) *works of sculpture, painting and graphic art, monumental decorative art, other works of fine art and works of scenery;*
- 8) *photographic works and other works created by a process analogous to photography;*
- 9) *works of architecture (projects, designs, sketches and models of buildings and other construction works, as well as completed buildings and other construction works);*
- 10) *works of applied art;*
- 11) *illustrations, maps, charts, projects of gardens and parks, sketches and three-dimensional works relative to geography, topography and exact sciences;*
- 12) *derivative works created on the basis of other literary, scientific or artistic works (translations, dramatisations, adaptations, annotations, reviews, essays, musical arrangements, static and interactive Internet homepages, and other derivative works);*
- 13) *collections of works or compilations of data, databases (in machine readable form or other form), which, by reason of the selection or arrangement of their contents constitute of author's intellectual creations;*



14) unofficial translations of legal acts, official documents of administrative, legal or regulative nature;

Copyright does not apply to: ideas, procedures, processes, systems, methods of operation, concepts, principles, discoveries or mere data; legal acts, official documents texts of administrative, legal or regulative nature (decisions, rulings, regulations, norms, territorial planning and other official documents), as well as their official translations; official State symbols and insignia (flags, coat-of-arms, anthems, banknote designs, and other State symbols and insignia) the protection of which is regulated by other legal acts; officially registered drafts of legal acts; regular information reports on events; folklore works.

Rights of author

The author of a work, independently of his economic rights, has inalienable moral rights. Generally, moral rights to divulgation, paternity, integrity, to respect as well as the right to correct the work are recognized. Copyrights bestow exclusive rights to the author and enable him to use the work and to derive profit from it.

Duration

A copyright is in force throughout the author's life and for 70 years after the author's decease irrespective of the date when the work is lawfully made available to the public.

Fair use

Copyrights are restricted by fair use provisions. Fair use is allowed when it is a reproduction for non-commercial teaching and scientific research purposes of short published works or a short extract of a published work, by way of illustration, in writings, sound or visual recordings, provided that this is related to study programmes and does not exceed the extent justified by the purpose; reproduction for non-commercial educational, teaching and scientific research purposes of lawfully published works in the form intended for people having hearing or visual impairment, to the extent required by the specific disability, with the exception of works specifically created for this purpose; use for the purpose of research or private study of the works kept in publicly accessible libraries, educational establishments, museums or archives, by communication or making them available to the public by dedicated terminals on the premises of the said institutions.

Related rights

The law specifies that related rights includes the performance of a work, including direct (live) performance and its sound or visual fixation, a phonogram, the first fixation of an audiovisual work (film), radio and (or) television broadcast of a broadcasting organisation. Neighboring rights are effective for 50 years after they have been first performed or produced. The rights with respect to producers of sound recordings are effective for 50 years after the first sound recording is released. The rights of broadcasting organizations are effective for 50 years after the first broadcast by that organization.



COMPANY REGISTRATION

1. General information

The most common form of a business presence in Lithuania is a limited liability company [UAB]. The minimum share capital required to establish a limited liability company is LTL 10000 (EUR 2899) which shall be paid before a company registration with the Commercial register. As an alternative, a share capital (except the minimum share capital of LTL 10000 (EUR 2899)) may be invested in – kind by different assets.

Besides, a branch engaging in business may be registered in Lithuania. Ordinary the permanent branch will be regarded as a part of a head office and will not have a separate legal entity status.

2. A private limited liability company registration checklist

- The articles of association of the company are drawn up. If the founder of the company is a single person, the act of establishment of the company must be drawn up;
- The founders may submit to the Register of Legal Entities an application (form JAR-5) for temporary inclusion of the name into the Register;
- The articles of association of the company entitle to opening an accumulation account of the company in the bank;
- An initial contribution for the subscribed shares is paid. Initial contributions may only be paid in cash. The amount of the initial contributions must be at least LTL 10,000; each shareholder must pay at least 1/4 of the aggregate amount of the nominal value of the subscribed shares and the total share premium of the subscribed shares;
- Prior to the signature of the articles of association of the company, the valuation of the contribution in kind intended for partial payment for shares must be made by an independent property valuer;
- The constituent meeting is convened which must approve the founder's report of the limited liability company and elect the members of bodies of the company elected by the general meeting of shareholders. If the supervisory board is elected, it must elect the board, if any, or the manager of the company if the board is not formed before registration of the company. The elected board must elect the manager of the company.
- The statutes are drawn up and signed;
- The company is deemed to have been established upon registration thereof with the Register of Legal Entities.

Before the application for registration of the private limited liability company is submitted to the Administrator of the Register, the civil law notary must verify the correctness of the particulars entered into the application, the compliance of the statutes with the statutory requirements and the fact that the private limited liability company is eligible for registration.



3. Public limited Liability Company

- The articles of association of the company are drawn up. If the founder of the company is a single person, the act of establishment of the company must be drawn up;
- The founders may submit to the Register of Legal Entities an application (form JAR-5) for temporary inclusion of the name into the Register;
- The articles of association of the company entitle to opening an accumulation account of the company in the bank;
- An initial contribution for the subscribed shares is paid. Initial contributions may only be paid in cash. The amount of the initial contributions must be at least LTL 150,000; each shareholder must pay at least 1/4 of the aggregate amount of the nominal value of the subscribed shares and the total share premium of the subscribed shares;
- Prior to the signature of the articles of association of the company, the valuation of the contribution in kind intended for partial payment for shares must be made by an independent property valuer;
- The constituent meeting is convened which must approve the founder's report of the public limited liability company and elect the members of bodies of the company elected by the general meeting of shareholders. If the supervisory board is elected, it must elect the board, if any, or the manager of the company if the board is not formed before registration of the company. The elected board must elect the manager of the company.
- The statutes of the company are drawn up and signed;;
- The company is deemed to have been established upon registration thereof with the Register of Legal Entities.

Before the application for registration of the public limited liability company is submitted to the Administrator of the Register, the civil law notary must verify the correctness of the particulars entered into the application, the compliance of the statutes with the statutory requirements and the fact that the public limited liability company is eligible for registration.

4. Branches or representative offices of foreign legal entities

- The body of the legal entity must adopt the decision to establish a branch or a representative office according to its establishment documents;
- The regulations of the branch or the representative office are drawn up;
- The management bodies of the branch or the representative office are appointed;
- The branch or the representative office is deemed to have been established upon registration thereof with the Register of Legal Entities.

Before the application for registration of the branch or the representative office of foreign legal entities is submitted to the Administrator of the Register, the civil law notary must verify the correctness of the particulars entered into the application, the compliance of the statutes with the statutory requirements and the fact that the branch or the representative office of foreign legal entities is eligible for registration.



5. Signing rights

In accordance with articles of association of relevant entity all members of the board have joint, individual or mixed representation rights (sole or quantitative representation). For example, if the board consists of three members, one member may represent a company individually, but other two jointly. The Register of companies will not accept for registration signature rights if the board has two members and the articles of associations will specify that the first member represents the board individually, but the second - jointly.

6. Procuration

According to the Commercial law a company or its authorized representative is entitled to issue the power of attorney (procuracy)- the commercial authorization, assigning to the procurator the rights on behalf of the company to enter into transactions and perform other legal activities related to the business. Procuracy has to be registered with the Commercial register.

Representation rights

An authorized person (procurator) may alienate, pledge or encumber with property rights a real property only if rights have been specially assigned to him to be checked at the procuracy registration application. The information will be recorded in the data base of the Commercial register and is accessible by any third party.

Rights to perform all procedural activities in court proceedings

A procurator may perform all procedural activities in court proceedings (bringing a claim, agreeing on settlement, appealing judgments etc.).

Representation jointly with one or more board members

The Commercial Law foresees that the company's Articles of Association may provide the representation rights of the procurator jointly with one or more board members. Now such restriction is recorded also in the data base of the Commercial register. However, the forms of procuracy registration are not amended similarly and the marking in forms that a procurator represents a company jointly with 1 or more board members is not accepted. If a company wishes that this information will be recorded in the Commercial register and publicly accessible than the application must enclose Articles of Association setting the representation rights of the procurator jointly with 1 or more board members or other documents, e.g. a procuracy itself marking this restriction.

Representation jointly with another procurator (joint-procuration)

A procuracy may be issued jointly for several individuals. On the basis of such joint-procuracy the procurators may represent the company only jointly. The grant of the joint-procuration shall be marked in the application for procuration.



7. Bankruptcy

Insolvency of an enterprise means the state of an enterprise when it fails to settle with the creditor/creditors after the lapse of three months from the deadline prescribed by laws, other legal acts as well as by the agreements between a creditor and the enterprise for the discharge of the liabilities of the enterprise, or upon expiry of the said time period after the creditor/creditors demands/demand the discharge of the liabilities where the deadline has not been set in the agreement, and the overdue liabilities/debts are in excess of over a half of the value of the assets on the enterprise's balance.

Bankruptcy means the state of an insolvent enterprise where bankruptcy proceedings have been instituted in court or the creditors are performing extrajudicial bankruptcy procedures in the enterprise.

Cases for filing the petition for bankruptcy

The creditor/creditors, the owner/owners, the head of the enterprise administration may file a petition for bankruptcy with the court if at least one of the following conditions is present:

1. the enterprise fails to pay wages and other employment-related amounts when due;
2. the enterprise fails to pay, when due, for the goods received, work performed/ services provided, defaults in the repayment of credits and does not fulfill other liabilities assumed under contracts;
3. the enterprise fails to pay, when due, taxes, other compulsory contributions prescribed by law and/or the awarded sums;
4. the enterprise has made a public announcement or notified the creditor /creditors in any other manner of its inability or lack of intent to discharge its liabilities;
5. the enterprise has no assets or income from which debts could be recovered and therefore the bailiff has returned the writs of execution to the creditor.

The court or the judge shall within one month from the day of receipt of the petition make a decision to institute bankruptcy proceedings or to refuse to grant the petition. Where a petition for restructuring is received during the investigation of the petition for bankruptcy and the court decision to institute bankruptcy proceedings has not yet been issued, the investigation of the petition for bankruptcy shall be postponed pending the court order to initiate restructuring proceedings or to refuse to grant the petition for restructuring.

Bankruptcy proceedings shall be instituted if the court establishes the presence of at least one of the following conditions:

1. the enterprise is insolvent or the enterprise is three months late in paying the employees' wages;
2. the enterprise has made a public announcement or in any other manner notified the creditor/creditors of its inability to effect settlement with the creditor/creditors and/or of its lack of intent to discharge its liabilities.



Upon making a decision to institute bankruptcy proceedings, the court or the judge, in accordance with the law, must give forthwith a written notification to the register of legal persons, the enterprise, the Bank of Lithuania, the creditors, all persons who are keeping in custody or using or managing the enterprise assets on any other grounds, also the Ministry of Finance, the tax administrators, compulsory social insurance and compulsory health insurance administrators, credit institutions and insurance companies servicing the enterprise, the founder of the state-owned, municipal enterprise in bankruptcy or the institution representing the enterprise, also the Securities Commission, the courts, the pre-trial investigation institutions, the public prosecutor's department.



REORGANIZATIONS IN LITHUANIA

1. Mergers

Merger is one of the types of corporate reorganizations. Reorganization is the process which terminates the legal person without liquidation. It should be noted that reorganizations should not be confused with corporate restructurings. Restructuring is a change in the legal form of the entity whereby the legal entity in its new form becomes the successor of all rights and responsibilities of the restructured entity.

There are 3 main legal acts that govern mergers in Lithuania:

- Civil code sets out the basic principles and definitions on mergers;
- Law on Companies sets out the procedures for merger implementation;
- Law on Competition sets out requirements for merger control and filing requirements.

The basis for the mergers is set out in the civil code of the Republic of Lithuania. Chapter VIII deals with reorganizations and liquidation. Merger is one of the two types of reorganizations, with the other being split up of the legal entity. Civil code foresees two kinds of mergers:

- Addition is a type of merger when one or more legal entities are added to another legal entity which takes over all rights and responsibilities of the reorganized entities;
- Combination is a type of merger when two or more legal entities are merged into new legal entity which takes all right and responsibilities of reorganized entities.

Decision to reorganize the company (including merger) can be taken by the participants of legal entity (i.e. owners, shareholders) by majority set out in the articles of association but no less than 2/3 of all participants in shareholders meeting. In a merger when one legal entity is added to another (addition), decision to reorganize the company can also be taken by the governing bodies of the entity to which the other entity is added.

Prior to the merger, governing bodies of the companies participating in reorganization must prepare conditions for a merger. Conditions of a merger must contain details on the entities participating in reorganization, type of reorganization, timeframe for carrying out a merger and when the new entity takes rights and responsibilities of the reorganized companies. Conditions of the merger should be evaluated by independent expert. In addition to conditions of reorganization, merged companies must prepare reports explaining goals of the merger, conditions of the merger, timeframe and economic grounds. However, under simplified reorganization procedure, evaluation by independent expert and merger reports are not required. Simplified reorganization (i.e. merger) procedure can be applied when the entity is added to the entity that is the sole participant (i.e. shareholder) of the reorganized entity.

Implications for Companies

Law on Companies further details reorganization procedures for joint stock companies. It identifies that decision on a merger must be taken by general shareholders meeting, outlines the requirements for preparing merger conditions and other procedures. For companies report on verification of merger conditions must be prepared by the audit company unless all shareholders agree that such report is not needed. Report of conditions of the merger must be prepared no later than 30 days prior to shareholders meeting which will decide on the merger. In addition to conditions of a merger new set of bylaws must be prepared. Conditions of a merger and their



evaluation report must be submitted to state registry upon announcement of a merger. Conditions of the merger must be announced in the newspaper no less than 30 days prior to the shareholders meeting. A new set of articles of association for company continuing after the merger also has to be submitted to registry.

In addition to above documents, the boards of the companies participating in a merger must prepare a report outlining goals of a merger, explaining its conditions, timeframe, legal and economic grounds (especially share swap ratios and share distribution after the merger). Again, such report is not needed if all shareholders agree to that. For closed joint stock companies it is needed only if shareholders with more than 1/10 of votes ask for it.

General shareholders meeting which is convened no earlier than 30 days after announcement of the merger decides on the merger and its conditions. Decision has to be taken by no less than 2/3 of votes participating in the meeting. Decision of the shareholders meeting must then be submitted to state registry.

Certain simplifying conditions exist when the company is merged with another company that controls 100% or 90% of its shares.

Merger is complete when state registry registers all the new companies after the merger and their articles of association. The company is registered after its shareholders meeting elects all required governing bodies.

Merger Control

Mergers are subject to competition control in Lithuania, since Law on Competition defines mergers, when at least one of the merged companies ceases to exist, as concentration. This law further outlines procedures for concentration control for which mergers are subject to.

Competition council is the body responsible for merger control in Lithuania. According to Law on Competition council must be informed of a merger if aggregate turnover of the merged companies exceeds 30 million litas (app. 8.7 million EUR) and if turnover of each of the companies is more than 5 million litas (1.45 million EUR). In certain cases Competition council might request merger filing even for companies below those thresholds during 12 months after the merger, if it deems that such merger might limit competition.

If notification is required, all parties participating in merger should submit notification to competition council and receive approval. Notification document should include registration information of the merged companies, reasons for and description of the method of concentration, financial accounts of the companies, their sales and evaluation of market shares in certain markets, information on competitors and other descriptive information.

Receipt of notification must be announced by Competition council in Official Gazette of the State including type of concentration and parties involved.

Competition council must evaluate merger notification and issue its opinion not later than 4 months after filing. However, no later than one month after receipt of merger filing council must either issue approval of the merger or decide that it will further evaluate it and inform the parties respectively.

After evaluating the merger filing, Competition council must issue one of the following decisions:

- Approve the merger as described in notification;
- Approve the merger with certain conditions and obligations for the companies or their controlling bodies;
- To refuse to grant permission for merger.



Failure to get the Competition council's approval prior to completing the merger may result in a fine of up to 10 percent of the turnover of the participating companies.

Decisions of the Competition council may be challenged in administrative court no later than 20 days after receipt of decision or its publication in Official Gazette.

Very limited precedents exist of merger court cases. Since 1996 only 4 cases were started in the court against council decisions in mergers. However in 3 cases the plaintiffs withdrew their appeals before the hearings started. The Competition council has only once disapproved the merger – in 2007 it objected the intention of several road construction companies to form a consortium.

2. VAT

If the companies are merged and the acquirer overtakes all obligations of the acquired company, the VAT for the transfer of the property is not calculated. However the property itself must be shown in the accounting or in transfer of assets act where in both situations zero-VAT is applicable.



LABOR LAW

Protection of employees

Labor Code of the republic of Lithuania provides certain principles regarding employees and employers rights and principles.

Labor relations are deemed to be governed by certain principles. Among freedom of association, freedom of choice of employment, state aid to persons in realising the right to employment or equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities we can also find provision of safe and healthy working conditions, fair remuneration for work, prohibition of all forms of forced and compulsory labour. The Labor code also engages stability of labour relations, uniformity of labour laws and their differentiation on the basis of and psychophysical qualities of the employees as one of the main principles.

The Labor Code underlines the freedom of collective bargaining for the purpose of reconciliation of interests of the employees, the employers and the state as well as liability of the parties to the collective bargaining agreement for their obligations. Labour Code also engages the State, which is expected to support the exercise of the labor rights.

The labour rights may be in exceptional cases restricted only by law or court judgement, if such restrictions are necessary in order to protect public order, the principles of public morals, public health, property, rights and legal interests.

Overtime

Labor Code of the Republic of Lithuania sets the principles for the overtime.

The basic principle is that the working time may not exceed 40 hours per week as well as a daily period of work must not exceed 8 working hours. Exceptions may be established by laws, Government resolutions and collective agreements. Therefore maximum working time, including overtime, must not exceed 48 hours per 7 working days.

The duration of working time of specific categories of employees (of health care, care (custody), child care institutions, specialised communications services and specialised accident containment services, as well as other services which work in etc.) as well as of watchmen in premises may be up to 24 hours per day. The duration of working time of such employees must not exceed 48 hours per seven-day period, and the rest period between working days must not be shorter than 24 hours. The list of such jobs shall be approved by the Government.



For employees employed in more than one undertaking or in one undertaking but under two or more employment contracts, the working day (including breaks to rest and to eat) may not be longer than 12 hours. Overtime work cannot be assigned: to persons under 18 years of age; to persons who are studying in secondary and vocational schools without interrupting work - on study days; when factors in the working environment exceed the permitted levels, as well as in other cases established by laws and collective agreement. Pregnant women, women who have recently given birth, women who breastfeed, employees who are taking care of children under three years of age, are solely raising a child under fourteen years of age or a disabled child under sixteen years of age, as well as disabled persons may be assigned to do overtime work only with their consent. Moreover, disabled people may be assigned to overtime work provided that this is not forbidden by the conclusions of the commission which established invalidity. The pay for overtime and night work shall be at least one and a half of the hourly pay/monthly wages established for the employee.

Accident insurance

To retain united mandatory installment mandatory rate of statutory social insurance payments for social insurance against accident at working place and professional disease in three different amounts depending to the particular group.

Social insurance payment rate is 30,7%, to which certain percentage shall be added depending on the risk group. Group III – newly established companies or those in which no accidents or professional diseases accrued in the past pay 30, 98%. As well, depending on the quantity of accidents the group II of 31,1% (less accidents) and group I 31,7 (higher level of accidents) are to be noted. Insurer pays for the insured every month.

Requirements of work protection

The employer must ensure normal working conditions for the employees so that they could meet the work requirements. Such conditions are as follows: adequate condition of the machinery, equipment and devices; timely provision of technical documentation; adequate quality of materials and tools necessary for the performance of work and their timely supply; supply of electricity, gas and any other kind of energy necessary for the industrial processes; safe and non-hazardous working conditions (compliance with safety regulations and requirements, adequate lighting, heating, ventilation, control of noise, irradiation, vibration and other harmful factors having an adverse effect upon the employees' health, etc.) adequate conditions, following the procedure prescribed by regulatory acts, for the improvement of qualifications and work skills; provision of other conditions necessary for the performance of specific types of work.

In the event of non-conformity with the normal working conditions, the pay for work under such conditions will be higher than the pay rate applicable under the normal working conditions. Specific pay rates shall be defined in collective agreements and contracts of employment.



BANKING AND FINANCE

Minority shareholders

Buyouts are regulated by Law on Securities in Lithuania, which identifies 3 types of buyout procedures for public companies – voluntary offer, mandatory offer and ‘squeeze-out’ procedure. Official offer procedures apply to securities issued by public companies registered in Lithuania.

Mandatory buyout

An official buyout offer becomes mandatory to the shareholder when he directly or indirectly, or in conjunction with other parties acting together acquires 40 percent of the voting rights of the company. A mandatory buyout requirement also arises when a decision to exclude the company’s shares from trading is taken (‘delisting’).

Voluntary buyout

A voluntary tender offer can be launched by any party willing to acquire all or part of the shares of the targets. If 40 percent of shares have been acquired in such an offering, the abovementioned obligation to make mandatory bid no longer applies.

Obligation to sell the shares (‘Squeeze-out’)

A person directly or by a voluntary buyout offer acquiring 95 % or more of all the shares (major shareholder) is entitled demand that other minority shareholders sell their shares to the major shareholder and the minority shareholders are obliged to do so. If the 95% of shares have been acquired in a mandatory or voluntary offer, the price paid for the shares in a squeeze-out has to be equal to the price paid during mandatory or voluntary offer. In other case, the buyer has to offer a fair price for the shares. Upon receiving the request of the majority shareholder to buy-out the remaining shareholders, the company has to promptly notify the each shareholder, Securities Commission and market operator of the request. Minority shareholders then have 90 days to sell their shares to the majority shareholder.

Circular and Timing

In any share buyout case the offerer shall submit a circular regarding the share buyout bid to the Securities Commission. The circular shall include the offered purchase regulations (term, price etc.) and, in case of voluntary offer – the minimal and maximal number of shares offered to be purchased. The purchase regulations shall be similar for all shareholders having the same category shares. The Commission shall review the prospectus within 7 days. A share buyout bid shall be valid for a period of 14 to 70 days, starting on the 4th working day after the Securities Commission has approved the circular. There are significant differences in all of the above mentioned buyout cases depending whether a shareholder accepts or rejects a buyout bid. If mandatory or voluntary buyout bid has been made, a person can choose to accept the bid and sell his or her shares or to reject it. However, if ‘squeeze out’ bid has been made, a person on



mandatory base shall sell the shares. If a shareholder does not accept a final share buyout bid by the expiration date, the offerer has the right to apply to the court with evidence that funds have been transferred to the minority shareholders requiring that the respective entries be made of the transfer of the shares to the majority shareholders.



DATA PROTECTION

According to the “Law on Legal Protection of Personal Data” any individual, entity or institution carrying out personal data processing (personal data processing comprise any operation carried out regarding personal data which is information related to an identifiable individual- including data collection, registration, recording, storing, arrangement, transformation, utilization, transfer, transmission and dissemination, blockage or erasure), and establishing systems for personal data processing, shall register such system in the State Data Protection Inspection. This regulation applies also to cases, when the personal data (for example name, ID number) are collected for the bookkeeping and personal accounting, except, if the data are not collected electronically, but on paper. If the system is not registered, a penalty up to 1000 LTL may be imposed for the first breach of law and for the second breach of law – up to 2000LTL.



EUROPEAN UNION FUNDS

General Information

Assistance from European Union Structural Funds and Cohesion Fund is provided to Lithuania in the programming period of 2007-2013. There are only two structural funds in 2007-2013 programming period: European regional development fund and European social fund.

In 2006, Government of the Republic of Lithuania approved projects of four Operational Programs:

1. Operational Program for the Development of Human Resources for 2007–2013;
2. Operational Program for the Economical Growth for 2007–2013
(Description of structural assistance areas Ministry of Economy is responsible for),
3. Operational Program for Promotion of Cohesion for 2007–2013
(Description of structural assistance areas Ministry of Economy is responsible for),
4. Technical assistance Operational Program for 2007–2013.

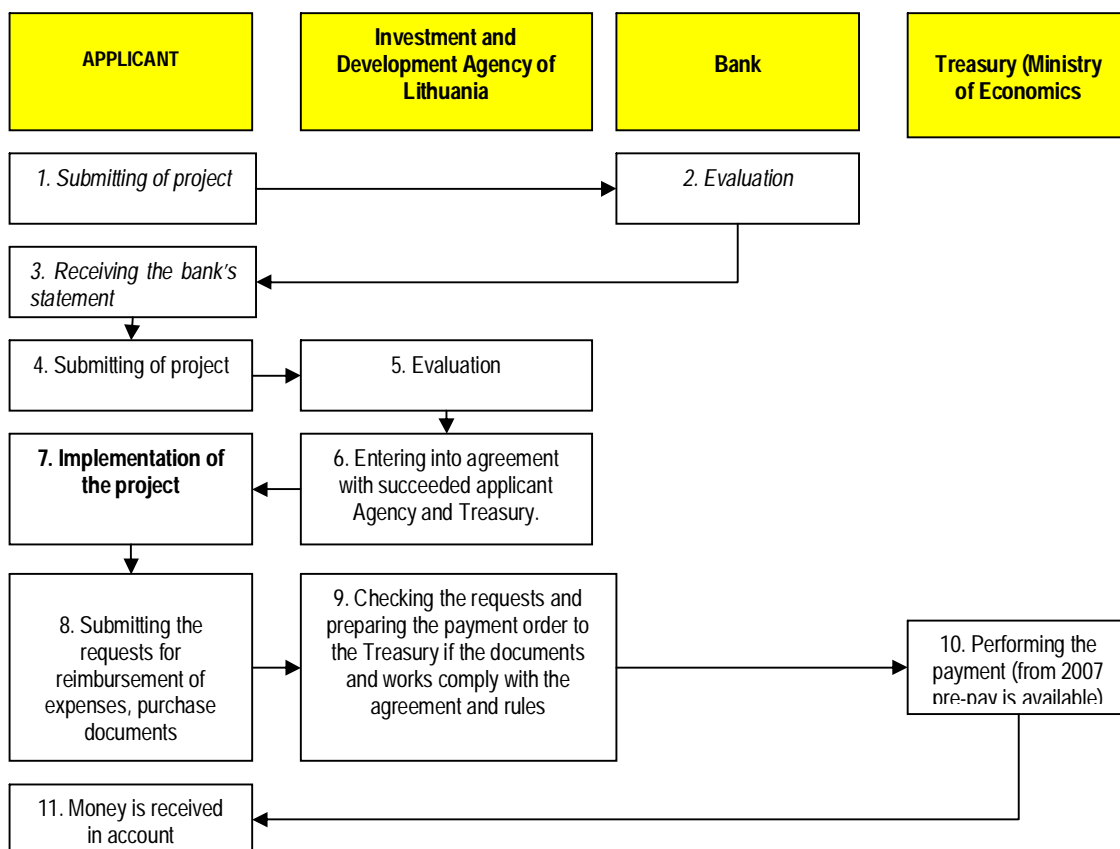
The investment areas during 2007-2013 are focused on business, including research & development, business environment, tourism and energy sectors.

Non-Structural funds instruments

European Agricultural Guidance and Guarantee Fund, Guidance Section, and the Financial Instrument for Fisheries Guidance were integrated into the instruments under the Common agricultural policy and the Common fisheries policy; therefore these instruments are not structural funds anymore in programming period of 2007-2013.

Project cycle

Enclosed is the scheme of a project cycle for those state support programs co-financed by European Regional Development Fund (ERDF), which are administrated by the Investment and Development Agency of Lithuania. EU funding co-finances only part of the project. The rest of financing should be provided by the company. If a company needs a loan from bank, first a company has to consider its project with a bank, if not, the project cycle starts from 4th step.



Current Programs

Currently in Lithuania there are available 8 different measures on Operational programs for the Economical Growth for 2007–2013 (Support to business and improvement of environment for business). Depending on every measure maximum assistance amount under measure, varies from 15 million LTL to 0.2 million LTL. Every single measure provides specific requirements, applicants, institutions involved, financing plans and other documents required for particular measure plan.

An application depending on the particular measure includes several documents concerning the information on the Applicant Company, financial situation and activities planned within the project.

The documents that may be executed in the standard form are following: estimate of project expenses and financial resources, information on planned finances (for the next 4 years from the end of the project), business plan; statement from bank (if a loan will be extended); power of attorney; project leader’s CV; attestation on compliance with work safety norms (if a project relates to work safety). Moreover, the following documents has to be enclosed: annual report or operating report (if an annual report does not comply to financial criteria or the applicant is



newly established), statement on average number of employees (for newly established), procurement documents for works, services and supplies within the project, registration certificate, extract from the Register of companies, certified copy of articles association, tax clearance certificate, scheme of concern (if applicant is part of the group of company), the Land Book printout on the property where construction or installation of machinery will be performed, conclusion from the Environmental authority (if the aim of the project is compliance with environmental standards), assessment of working environment (if the aim of the project is provision of with work safety).