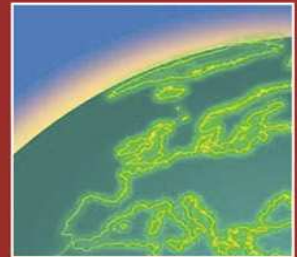




# DOING BUSINESS GUIDE IN LATVIA

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BY THE  
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## TAXATION

### 1. General Principles

The law “On Taxes and Duties”, originally adopted in February 1995, sets out the general taxation principles in Latvia.

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 Taxes and Duties”.

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 LVL 100 for limited liability company [SIA] registration within 3 business days; LVL 300 - company registration within one business day, plus publication LVL 24 in official newspaper. If company has only one shareholder, company is registered within 1 business day with state duty LVL 100. LVL 250 for joint stock company [AS] registration within 1 business days plus publication LVL 24.
2. Amendments to the Articles of Association cost LVL 10 for registration within 3 business days, LVL 30 for registration within 1 business days. Registration of changes to the Board and other records costs LVL 10 (registration within 3 business days) and LVL 30 (registration within 1 business days), plus publication LVL 8.
3. The duty for the registration of a new branch (performing commercial activity and without legal entity status) is LVL 20 for registration within 3 business days, LVL 60- within one business day, plus publication LVL 16. The registration of respective amendments duty is LVL 10 for registration within 3 business days, LVL 30 within one business day, plus publication LVL 8.
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 LVL 20 for registration within 12 business days, LVL 40- within 4 business days, LVL 60 within 2 business days. The registration of respective amendments duty is LVL 10 for registration within 12 business days, LVL 20- within 4 business days,



LVL 30 within one business day. The registration of respective amendments duty is LVL 10, for registration within 4 business days – LVL 20; and within 1 business day – LVL 30.

5. The duty for reorganization registration is: 1) the registration of draft agreement is LVL 10 within 3 business days, LVL 30 for registration within 1 business day, plus publication LVL 8; 2) if the result of the reorganization of a new company has been established, then each new SIA (limited liability company) cost LVL 100, but each new AS (joint stock company) LVL 250 for registration within 3 business days, plus LVL 20 for registration, plus publication LVL 8 and for each new company LVL 24.
6. Regarding immigration, the state duty for a residence permit is LVL 70, if permit is prepared in 30 days, LVL 120 if permit is prepared in 10 working days and LVL 170 if permit is prepared in 5 working days. State fee for receiving work permit is LVL 35 per month. There is no state duty for EU citizens.
7. Registration of the transfer of real estate and property ownership in the Land Register, with a sales agreement for legal persons, is subject to duty at 2% of the value of the property, with a cap of LVL 30 000, but, where the transfer is a gift, the duty is 3% of the value of the property, with a cap of LVL 50 000).
8. Fitting one trademark for one class of goods or services– LVL 60, registration LVL 65.

Taxes levied by the central government are:

1. Corporate income tax, including withholding taxes
2. Gambling and lottery tax
3. Value-added tax
4. Social insurance
5. Personal income tax
6. Real estate tax
7. Natural resources tax
8. Excise tax
9. Customs duties
10. Car and motorcycle tax
11. Electricity tax

Taxpayers are entitled to defer payment of certain taxes for a period of three months to one year subject to prior approval by the tax authorities. Unpaid taxes are subject to a late-payment fee at the rate of 0.05% per day behind schedule. 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 result in penalties of no more than LVL 50 if filed less than 15 days after the due date, no more than LVL 200 if filed less than 30 days late, and no more



than LVL 500 if filed more than 30 days late. The initial penalty is 30% if the assessed deficiency is less than 15 % of the total tax owed. The rate jumps to 50% if the deficiency exceeds 15% of the tax owed. If the taxpayer has a similar deficiency within the next three years, a 100% penalty will apply. The rate skyrockets to 150% for additional violations.

A taxpayer is allowed to make voluntary corrections to a tax declaration for a 3-year period after the payable term, if an audit by the tax administration has not been commenced. That results in the cancellation of any penalties pending for tax non-compliance.

All decisions of the tax authorities may be appealed to the Director of the State Revenue Service within 30 days of the date the decision was received.

In 2003 a state insolvency risk duty was introduced. This duty is Ls 3 per employee for 2008.

## **2. Personal Income Tax**

The law “On Personal Income Tax”, adopted in 1993, sets out taxation of individuals' personal income.

Expatriates are liable for Latvian taxes depending on their tax residency. Latvian residents are taxable for their worldwide income. Non-Latvian residents are liable for their income derived in Latvia.

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

- *the permanent place of residence of that person is Latvia; or*
- *the person resides in Latvia for 183 days or longer in any given 12-month period commencing or finishing during the taxation year; or*
- *the person is a citizen of the Republic of Latvia employed abroad by the Latvian government*

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

An individual, who has not been considered to be a resident during the year prior to that when taxation is due, is considered to be a resident from the date they entered Latvia during the taxation year.

An individual, who is not considered to be a resident during a post-taxation year, is not considered to have been a resident for that period of the taxation year after the date that they left Latvia, provided that during that period the person had closer ties with another country than with Latvia.

Closer ties with another country may be demonstrated by ownership of property in that country, contributions to that country's social security system, or the fact that the expatriate's family is residing abroad.



An actual presence test is used to ascertain how many days an individual has been in Latvia. When the test is applied, the following days are included in the calculation as full days: days of partial presence (less than 24 hours), days of entry and departure, Saturdays and Sundays, public holidays, days of annual leave, and periods of illness, except when the illness has prevented the departure of the person.

On the other hand, certain periods are not included when determining residency. These are periods of less than 24 hours spent in transit in the course of a trip between two points outside Latvia.

### *Taxation of Latvian residents*

Latvian residents are liable to personal income tax that is withheld at source and remitted to the tax authorities at a flat rate of 23%. Until January 1, 2009 personal income tax was 25%.

The taxable income of residents is computed as in Table 1, below.

Table 1. **Taxation of Latvian residents**

<b>Gross income</b>	<b>1'000</b>
Less: personal allowance	90
Less: allowance for dependants	63
Less: (on a monthly basis) social security tax of 9%	90
Less: (on an annual basis) deductible expenses incurred in the course of obtaining intellectual property rights	
Less: (on an annual basis) deductible expenses for health care and education (maximum 300 LVL (EUR 425) per person and LVL 300 (EUR 425) per dependent)	
Less: (annually) – donations to qualifying organizations	
Less: contributions to private pension funds and insurance premium (20% of gross income)	
<b>Equals: taxable income</b>	<b>757</b>
Times: tax rate of 23%	174,11
Gross income less social tax and personal income tax	
<b>Equals: income after taxes</b>	<b>735,89</b>

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



### ***Exempt income***

Certain individual income is exempt from income tax in Latvia. A brief summary of exempt items is specified below:

- *dividends paid by Latvian or EU, EEZ member state companies;*
- *income from deposits in banks registered in Latvia or EU, EEZ member states;*
- *lottery wins, the amount of which does not exceed the expenses incurred on them, subject to a maximum of Ls 500;*
- *income from the sale of personal property, which has been held for a period more than 12 months starting from the day the property is registered in the Land Register,*
- *compensation paid by an employer to an individual (final consumer), provided the individual purchases a certain amount of goods from that company;*
- *insurance monies received – except compensation payments for life, health or accident insurance if premiums were paid by employers – upon expiration or breach of agreements;*
- *income derived from Latvian state or municipality treasury bills;*
- *certain business travel expenses;*
- *a number of government benefits;*
- *sale of investment certificates.*

### ***Taxation of self employed persons***

Until 1<sup>st</sup> January 2008 there were differences in taxation between an individual who are engaged in a business activity and taxation of companies. It was a discrimination of two different types of taxpayers who were both doing the same activity but were taxed at the different levels – an individual at 25% rate but company at 15% rate. Since 1<sup>st</sup> January 2008 the law provides that an individual who is engaged in a business activity may choose to pay a fixed income tax. The rate of such tax depends from the amount of income gained by this taxpayer.

In other cases the tax rate for individuals who are engaged in a business activity is set at 15%.

There are few exemptions for this taxation system. For example, if individual is economically dependent from the person to whom services are provided, received remuneration will be considered as salary and 23% personal income tax will be payable.



### ***Taxation of non-residents***

Personal income tax paid abroad may be credited against tax payable in Latvia, but not more than 23% of the income taxed abroad. To credit foreign paid tax, statements from foreign tax authorities must be submitted to the Latvian tax authorities. Allowances and deductions are not permitted for non-residents.

Expatriates who have received remuneration abroad and stayed in Latvia for more than 183 days within any 12 month period starting or ending within a year, or who have received Latvian residence permit, must fill a Latvian individual income tax declaration, except where tax treaty exemptions are applicable.

Below are some guidelines on how to become fully taxable in Latvia and obtain personal tax exemptions in home countries.

#### ***Norwegian expatriates***

Individuals may become non-taxable in Norway if they stay abroad for 1 year and submit proof of foreign tax paid, or if they stay outside Norway for 4 years.

#### ***Swedish expatriates***

If Swedish residents stay out of Sweden for more than 6 months, and are not in Sweden for more than 36 days, their income may be exempt from tax in Sweden.

#### ***Austrian expatriates***

Only individuals having their residence or their habitual place of abode within Austria are taxable on their world-wide income. Residence will be assumed to be at the place where the tax subject is staying if circumstances lead to the opinion that they will continue to keep and use this home. The habitual place of abode is assumed to be in Austria, if a person is not staying in Austria just temporarily (a stay of less than 6 months).

### ***Taxation of capital gains***

The sale of shares has not been a taxable transaction for personal income tax purposes in Latvia since 2002. Sale of share of company where 50% of assets are Latvian real estate is taxable the same as sale of real estate (23% personal income tax). The 50% threshold applies to a current or previous year and is measured by the balance sheet value at the beginning of the tax year.

### ***Pension funds***

Payments to EU/EEZ based pension funds and insurance companies, not exceeding 20 % of annual taxable income (counted jointly with health insurance payments) is exempt income.



### ***Foreign tax credits***

Personal income tax paid on investment instruments within EU or territories with which EU has agreements regarding saving income, is creditable without limitation in Latvia.

### ***Tax treaties***

Currently, Latvia has *Conventions for avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital* in effect with Armenia, Austria, Azerbaijan, USA, Moldova, the Czech Republic, Denmark, Estonia, Iceland, Canada, Croatia, Germany, Ireland, Uzbekistan, Lithuania, Macedonia, the Netherlands, Norway, Poland, Finland, France, Sweden, UK, Slovenia, Belarus, China, Ukraine, Malta, Slovakia, Singapore, Switzerland, Kazakhstan, Romania, Belgium, Bulgaria, Spain, Turkey, Hungary, Portugal, Georgia, Greece, Israel, Luxemburg, Serbia, Italy and Kirgiztan.

Personal income tax paid in the above-mentioned countries by Latvian residents may be offset against individual income tax payable in Latvia and vice versa, or in the case of Lithuania, exemptions may be applicable.

## **3. Social Insurance Payments (Social Tax)**

The law “On State Social Insurance”, originally passed in 1998, sets out the application of mandatory statutory social insurance payments to salaries received by employees. Social insurance payments are made to the social insurance budget, entitling the contributor to general sickness, pension, maternity and other social benefits.

Social insurance payments are levied on resident employers, employees of Latvian companies, resident employees employed by non-residents, resident expatriates assigned to work in Latvia, and self-employed individuals.

### ***Taxable income***

Taxable income, which is subject to social tax, is any income derived from work under contract in Latvia and is subject to personal income tax.

### ***Tax rates***

An employer has to withhold social tax on a monthly basis at the rate of 24.09% of gross income. The total tax payable is 33.09%, so the employee must contribute 9%.

Expatriates employed by non-resident employers are subject to social taxes of 31.13%. The self-employed rate for social insurance payments is 30.48%.

Until the end of 2008 maximum subject to social tax was set LVL 29'600. Starting from 2009 until December 31, 2013, maximum taxable amount will not be applicable.



### *Social tax and EU-general principle rates*

The social tax shall be paid in a Member State (State), where a person is working, even if he/she resides in another EU Member State or the registered office of the employer is situated in another Member State.

#### *Person has been posted to another State up to 12 months*

If a person has been posted to another EU Member State until 12 months, then the social tax may be paid in the Member State from which he/she has been posted.

The provisions for the posted employee:

- when going to another Member State he/she should be registered as socially insured person in his/her Member State (in Latvia, if Latvian person is going to work in another Member State);

- the work abroad should be short-term (12 months with possibility to prolong);

- he/she should be posted by an assignment of the employer from his/her Member State (Latvian, if a Latvian person is going to another Member State);

- during whole posting period the direct link with the employer, who has posted the employee, should be maintained.

E101 certificate shall be arranged.

#### *E101 certificate*

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

#### *Secondment exceeding 1 year*

If the duration of the work to be performed due to the unforeseen reason exceeds the initially expected and becomes longer than 12 months, then the exemption may be applied and a person may remain insured in his/her State for the following 12 months. Usually the exemption is not applied for the period exceeding 5 years. The competent authorities (Social Agencies) of both states shall agree on the exemption application. In such case the employer an employee shall request the E101 certificate in due time.

#### *Person working in 2 States*

If a person is working in 2 States, than he/she pays the social tax in the State where he/she resides. If the person's permanent residence is not located in any of the territories of States, where he/she is working, than the person should be insured according to the laws of the state, where the registered office of the company is located. If a person is employed by several employers, whose businesses are located in several States, then the person should be socially insured in the State of permanent residence.

Also, in this case E101 form should be arranged.



If the situation arises where a company is registered in one State, but the social tax for the employee should be paid in another State, then the company shall be registered in that State where the social tax for the employee should be paid. The company may be registered by itself or through the employee.

#### ***Administration***

The administration of social insurance premiums is the responsibility of the tax authority (State Revenue Service), which determines reporting dates to each company.

Employees must be registered by the 5<sup>th</sup> day of the following month after an employment contract has been concluded. Resident employers have to submit statements of social insurance contributions by the date set by the tax authority.

#### **4. Real Estate Tax**

According to the law “On Real Estate Tax”, passed in 1997, taxable entities are individuals, legal entities and non-residents that own or have rights to Latvian real estate, including land.

Starting from January 1, 2008 the real estate tax rate is 1%, depending on the cadastral value (general value set by state authority) of the taxable property. In addition to that the law provides with a restriction which settles that if there are no changes in the usage of such property the amount of the real estate tax in 2008, 2009, and 2010 must not exceed not more than 25% of the amount of real estate tax calculated in the previous tax period. Such restriction is due to the fact that the State Land Service has made an update for a basis of real estate cadastral value in 2007 which substantially raised tax burden of real estate tax payers.

Since 1<sup>st</sup> January 2011 the real estate tax rate will be 0,4% from the property’s cadastral value. Municipalities will have the rights to increase the tax rate up to 1%. The abovementioned restriction will not apply anymore.

#### **5. Corporate Income Tax**



Table 2. **Corporate income tax at a glance**

Corporate income tax rate (%)	15
Withholding tax (%) <sup>(a)</sup>	
<i>Dividends</i>	10
<i>Interest to related parties</i>	10
<i>Management (consultancy) fees</i>	10
<i>Royalties</i>	15 or 5
<i>Payments to low-tax countries</i>	15
<i>Sale of Latvian real estate</i>	2
Net operating losses (years)	
<i>Carry back</i>	0
<i>Carry forward</i>	5-8

<sup>(a)</sup> These taxes apply to payments to non-residents.

### ***Administration***

The tax year is generally the calendar year, but it may differ if so stipulated by a company's charter.

The annual income declaration has to be submitted within 30 days of the annual shareholders' meeting, but not later than four months after the year-end.

Tax report has to be submitted to the tax authority not later than seven month after the year end company exceeds two of criteria below:

- balance sheet - LVL 1.000.000;
- net turnover - LVL 2.4.00.000;
- average number of employees in the reporting year – 250.

Companies have to pay tax advance installments by the 15<sup>th</sup> day of each month. In general, for the period from the first month of the taxation period up to and including the month that the annual report is filed, but not later than four months after the taxation year ends, monthly advance installments are equal to 1/12th of the annual tax calculated for the year two years prior to the current tax year, adjusted for coefficient.

For the remaining months, the monthly advance payments are each equal to 1/8th of the following: the tax calculated for the preceding year, adjusted for inflation and reduced by the advance tax payments made in accordance with the above procedure.

Any outstanding tax has to be paid within 15 days of the due date for the annual income declaration.

The loss carry forward period starting from January 1, 2009 has been gradually extended to eight years: 2008 – 6 years, 2009 – 7 years, starting from 2010 – 8 years.



### ***Taxable income***

Pursuant to the law “On Corporate Income Tax”, first adopted in 1995, companies registered in Latvia are subject to tax on their world-wide income. Non-resident companies without a permanent establishment in Latvia are subject to tax on their revenue in Latvia.

Non-resident companies operating through a permanent establishment in Latvia are subject for taxation for revenue gained by that permanent establishment, as well as revenue independently obtained abroad by the permanent establishment.

If a non-resident company engages directly in business activities that are similar to the business activities performed by its permanent establishment in Latvia, income derived from the non-resident company’s activities is included in the taxable income of the permanent establishment. Resident companies are those that are established or registered, or required to be established or registered, in accordance with the law. All other companies are considered to be non-resident companies.

### ***Tax rates***

Enterprises are subject to corporate income tax at a rate of 15%.

### ***Interest deductions***

Commencing with tax year 2003 new rules were stipulated for interest deductions. Deductible interest for corporate income tax is the smallest of the following: a) interest calculated by multiplying 1.2 times the average short term credit interest rate set by the Central statistical bureau within the last month of the taxation year (rate in December 2008 was set at 16.8% for lats); or b) proportionally ratio of difference of debt against 4 times of equity within the first month of the taxation year. Calculations of equity must exclude amounts in long-term investment re-evaluation reserve and other reserves. The above does not apply to loans from Latvian banks or EU, EEZ registered banks and as well as to Latvian residents. Interest accrued before 2003 may be carried forward for up to five years in amounts of 20% of interest accrued. It is not allowed to carry forward interest.

A comparative table of the applicable rates for the years 2004-2008 is shown below.



**Table 3**

**Average rates for short term loans in LVL**

	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
2004	6.6	7.0	7.9	7.5	7.5	5.5	7.0	7.5	7.9	7.8	7.6	7.6
2005	7.4	7.5	7.3	6.4	5.8	5.7	5.5	5.5	5.4	5.5	5.6	5.7
2006	6.5	6.9	6.6	6.8	7.3	7.0	7.4	7.8	8.1	8.3	7.5	7.3
2007	6.7	7.8	8.5	11.1	11.4	11.3	10.9	11.1	12.8	13.2	13.7	12.6
2008	10.5	11.9	12.9	8.8	13.2	9.2	11.1	10.5	10	13.9	13.5	16.8
2009	17.0											

**Average rates for short term loans in EUR**

	I	II	III	IV	V	VI	VII	VIII	IX	X	XI	XII
2004	5.4	5.2	5.3	5.9	6.3	5.2	5.4	4.6	5.2	4.9	4.8	5.1
2005	4.9	4.9	4.7	4.7	4.4	4.3	4.3	4.1	4.4	4.3	4.4	4.5
2006	4.6	4.6	4.6	4.7	4.7	4.9	5.0	5.1	5.2	5.5	5.3	5.6
2007	5.7	5.9	5.8	6.2	6.1	6.2	6.3	6.5	6.9	6.7	6.7	7.1
2008	6.6	6.6	7.0	7.3	7.2	7.3	7.3	7.2	7.7	7.8	7.5	6.8
2009	6.2											

***Capital gains***

Resident companies and non-resident companies operating through a permanent establishment in Latvia have to include capital gains on securities or shares in their taxable income.

For non-resident companies without a permanent establishment in Latvia, a final withholding tax is imposed on proceeds from the sale of Latvian real estate, at a rate of 2%. As sale of real estate will be considered sale of shares of company where 50% of assets are Latvian real estate. The 50% threshold applies to a current or previous year and is measured by the balance sheet value at the beginning of the tax year.



### ***Pension and insurance fee***

Employer's payments for pensions on behalf of employee as well as insurance amounts for life insurance in case there is a tax debt on the last day of the financial year are non-deductible costs.

### ***Bad debts***

Bad debts are allowed to be written off for corporate tax purposes also for debtors in the EU countries. Upon a start of bankruptcy procedure it is allowed to use half of the debt for writing-off. The surplus may be written off after the completion of the bankruptcy.

### ***List of low tax countries adopted in Latvia***

Payments to low tax countries are ordinarily subject to 15% withholding tax. The list of low tax countries is as follows: Antilles (Netherlands), Andorra, Anguilla, Antigua & Barbuda, Aruba (The Netherlands), Bahamas, Bahrain, Barbados, Belize, Bermuda, British Virgin Islands, Brunei Darussalam, Cayman Islands, Cook Islands (New Zealand), Costa Rica, Dominican Republic, Ecuador, Gibraltar, Grenada, Guam, Guatemala, Guernsey, Hong Kong (Sjangan), Isle of Man, Jamaica, Jersey, Jordan, Jisbuty, Kampione, Kenya, Kuwait, Labuana (Malaysia), Lebanon, Liechtenstein, Liberia, Maldives, Macao, Madeira (Portugal), Mauritius, Marshall Islands, Monaco, Montserrat, Nauru, New Caledonia, Niue (New Zealand), Olderne, Panama, Qatar, San Marino, Seychelles, St. Helens, St. Kitts and Nevis, St. Maria Island (Portugal), St. Pierre and Michel (France), Samoa, Santome and Prinsipi Republic, St. Lucia, St. Vincent and Grenada, Tahiti (French Polynesia), Tonga, Turks and Caicos Islands, United Arab Emirates, Uruguay East Republic, Vanuatu, Venezuela, Virgin Islands (USA) and Zanzibar Islands (Tanzania).

### ***Foreign tax relief***

Corporate income tax may be reduced by the amount of corporate income tax paid in foreign countries. The reduction may not exceed the amount of tax calculated in Latvia on the income gained abroad.

### ***Determination of taxable income***

Taxable income is the profit or loss reported in a company's profit or loss statement, prepared in accordance with the law "On the Annual Report of Companies" and subject to the adjustments specified below:

#### ***I. Profits (losses) shown in profit and loss statement:***

- plus: losses from the maintenance of community infrastructure
- plus: expenses not directly related to entrepreneurial activity
- equals: adjustable taxable income (loss)

#### ***II. Increases in adjustable taxable income:***



- *total cost of depreciation of fixed assets and written-off intangible assets shown in the annual report*
- *total of penalties arising from contracts*
- *outstanding losses resulting from embezzlement and theft*
- *payments to non-residents if no withholding tax is paid, including:*
  - *fees for management and consultancy services*
  - *interest*
  - *royalties for intellectual property*
  - *royalties for usage of property located in Latvia*
  - *payments to low tax countries*
- *40% of representation expenses*
- *reserves for bad debts (does not apply to credit institutions)*
- *losses on sales of securities, except losses from securities which are in public circulation*
- *capital expenditure costs*
- *expenses related to securities which are in public circulation*
- *expenditure which a tonnage tax payer has incurred in obtaining income from the utilization of ships for international carriage and associated activities*
- *the amount of depreciation of fixed assets and the value of written-off intangible investments specified in the annual report of the company if these fixed assets and intangible investments were utilized to gain income from the utilization of ships in international carriage and associated activities*
- *borrowings*
- *cost reserves and accruals*
- *total of payments for above-limit usage of natural resources and environmental pollution*
- *decrease in the total of the costs incurred in the re-valuing of balance sheet items, except for amounts related to changes in foreign currency exchange rates*
- *interest in excess of admissible amounts (thin capitalization)*
- *compensation for losses transferred within a group*
- *compensation payments received and not re-invested within 12 months for forced loss of land, buildings, parts thereof and other constructions*
- *loss arising from the sale of fixed assets to associated companies or individuals related to the company*
- *differences in the value of goods (production, services)*
- *differences between transaction values and market values*
- *certain costs of improvement and reconstruction*
- *decreases in equity of subsidiaries*
- *income from participation in non-resident companies or companies with tax rebates, if increases in participation and differences in dividends do not appear in reserves*
- *insurance premiums paid to non-resident insurance companies for services that can be provided by Latvian insurance companies or EU*
- *certain dividends received from non-residents*



- *decrease in value because of revaluation of assets and transferring of liabilities of a company to be transferred, or acquired or divided*
- *decrease in value because of revaluation of transferred shares*
- *sums counted in reserve for purchase of passenger buses*

*III. Decreases in adjustable taxable income:*

- *total of depreciation of fixed assets and intangible investments according to the tax laws*
- *real estate tax*
- *total of duties and taxes on gambling and lotteries*
- *amount of agricultural subsidies*
- *total of bad debts, if the debtor has been declared bankrupt by the courts*
- *increases in the total costs incurred as a result of re-valuing balance sheet items, except for amounts related to changes in foreign currency exchange rates*
- *decreases in reserves for bad debts compared to the previous tax period*
- *compensation received for forced loss of land, buildings, parts thereof and other constructions*
- *dividends received*
- *compensation received for transfers of losses within groups*
- *interest deductions carried forward (acquired up to December 31, 2002)*
- *by tonnage tax payer income from the utilization of ships in international carriage*
- *income from securities which are in public circulation*
- *income from bad will in cases of privatization*
- *income from the difference between the face value of privatization vouchers and the selling price of privatized property acquired with the said vouchers*
- *late payment fees for taxes which are subsequently decreased*
- *value of PCs and other electronic equipment donated to educational establishments*
- *participation increase in the equity of subsidiaries*
- *increase in value because of revaluation of assets and liabilities of a company to be transferred, or acquired or divided*
- *increase of value because of revaluation of transferred shares*
- *equals: TAXABLE INCOME*
- *losses carried forward, adjusted taxable income, group relief, losses from sales of securities in certain cases*
- *equals: ADJUSTED TAXABLE INCOME*

*IV. Tax relief:*

- *corporate income tax paid in foreign countries, but not more than 15 per cent of the foreign source income*
- *tax relief for agricultural companies*
- *85% of qualifying donations*



- *amounts transferred to qualifying foundations or programs*

Starting from January 1, 2009 it is allowed to reduce taxable income for the amount which is calculated by multiplying undistributed profit in the pre-taxation period with an average interest rate of the taxation period settled by the Bank of Latvia for credits issued to non-financial companies.

### ***Permanent establishments***

There are two methods for determining the taxable income of a branch. According to the first method, taxable income is determined based on information specified in a corporate income tax declaration which, along with a balance sheet and a profit or loss statement, have to be submitted to the tax authorities within four months of the end of the taxation period (year).

Non-deductible expenses for corporate income tax purposes applicable to branches comprise payments to a head office for royalties, any services such as consultancy, management, etc. and interest payments (exceptions apply to branches of banks). Deductible costs comprise head office costs supported by documents relating to the branch office.

The taxable income of permanent establishment may be reduced by costs borne by the parent company, if those expenses are actually connected to the permanent establishment.

Expenses related to the acquisition of intellectual property, interest payments and administration costs that are deductible are subject to the appropriate withholding taxes.

Where the branch office has been active for less than 12 months, a simplified method may be used to calculate taxable income. According to this method, costs are 80% of income. A payer may, upon agreement with a branch office, withhold tax on behalf of the branch. If there are not more than three payers and an agreement is concluded among the payers on withholding of the tax, neither a profit or loss statement nor a balance sheet need to be submitted to tax authorities.

The simple method of calculation may not be applied to branches of entities residing in low tax countries, a list of which is shown above.

### ***Depreciation for tax purposes***

Tax depreciation for fixed assets is calculated using the double-declining balance depreciation method. To promote investment in fixed assets, the law determines increased depreciation rates. Double depreciation rates range from 15% to 70%: for oil extraction tankers – 15%, technical equipment, machinery – 20%, office equipment – 70%, certain other assets – 40%. The depreciation rate for buildings and constructions is 10%. There is an exemption for representative cars. As representative car is considered car, which value exceeds LVL 25'424 (without VAT). Depreciation and expenses related to representative cars are not deductible.



Before calculating depreciation for new technology equipment in taxable period when equipment is bought, value is increased by the coefficient mentioned below:

Year	Coefficient
2008	1,3
2009	1,5
2010	1,5
2011	1,5
2012	1,5
2013	1,5

The acquisition costs of patents, licenses and trademarks are amortized according to the straight-line method for five years, but concessions are amortized during ten years. Patents, licenses and trademarks issued for a term of less than five years, can be written off within the term of their validity for tax purposes. Research and development costs can be written off for tax purposes the same year that they are incurred. Amortization is not allowed for trade secrets and goodwill.

Starting from January 1, 2009 new rule about investment into assets were introduced. Taxable income may be reduced by such income which is gained from alienation of the asset if within 12 month before or after the alienation date a functionally similar asset is acquired. This tax relief will not be applied to art works, antiques, jewelers, cars, water vehicles, aircrafts, motorcycles etc.

### ***Group relief***

Companies within corporate income tax group are allowed to transfer loss to profitable group companies in this way leveling tax burden. To qualify for group relief, the parent have to own at least 90% of subsidiaries and the parent-subsidiary relationship have to exist for the entire financial year. Companies within corporate income tax group are allowed to transfer loss to profitable group companies in this way leveling tax burden. Head company or the sub-company for group purposes may be located in EU countries, if this company is not recognized as non – EU tax resident based on double tax treaty. Starting from the beginning of year 2006 it is allowed to transfer losses between companies located in Latvia, EU, EEZ. Before it was allowed to transfer losses only between Latvian resident companies.

## **6. Withholding Taxes**

The following table shows withholding tax rates applicable to dividend, 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.



**Table 4. Withholding tax rates**

	Dividends %	Interest %	Royalties %
Armenia	5/15 <sup>(a)</sup>	10	10
Austria	5/10 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Azerbaijan	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Belarus	10	10	10
Belgium	5/15 <sup>(b)</sup>	10	5/10 <sup>(d)</sup>
Bulgaria	5/10 <sup>(b)</sup>	5	5/7 <sup>(k)</sup>
Canada	5/15 <sup>(b)</sup>	10	10
China	5/10 <sup>(a)</sup>	10	10
Czech Republic	5/15 <sup>(a)</sup>	10	10
Croatia	5/10 <sup>(a)</sup>	10	10
Denmark	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Estonia	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Finland	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
France	5/10 <sup>(h)</sup>	10	5/10 <sup>(d)</sup>
Germany	5/10 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Georgia	5/10 <sup>(l)</sup>	10	10
Greece	5/10 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Hungary	5/10 <sup>(b)</sup>	10	5/10 <sup>(d)</sup>
Iceland	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Ireland	5/15 <sup>(b)</sup>	10	5/10 <sup>(d)</sup>
Israel	5/15 <sup>(h)</sup>	5/10	5
Italy	5/15 <sup>(h)</sup>	10	5/10 <sup>(d)</sup>
Kazakhstan	5/15 <sup>(a)</sup>	10	10
Kirgizstan	5/10 <sup>(a)</sup>	5/10	5
Lithuania	0/15 <sup>(c)</sup>	0	0
Luxemburg*	5/10 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Moldova	10	10	10
Malta	5/10 <sup>(a)</sup>	10	10
Macedonia	5/10 <sup>(g)</sup>	5	5/10 <sup>(o)</sup>
Norway	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Poland	5/15 <sup>(a)</sup>	10	10
Portugal	10	10	10
Romania	10	10	10
Serbia	5/10 <sup>(a)</sup>	10	5/10
Singapore	5/10 <sup>(a)</sup>	10	7.5
Slovenia	5/15 <sup>(a)</sup>	10	10
Slovakia	10	10	10
Spain	5/10 <sup>(b)</sup>	10	5/10 <sup>(d)</sup>
Sweden	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Switzerland	5/15 <sup>(j)</sup>	10	5/10 <sup>(d)</sup>
The Netherlands	5/15 <sup>(a)</sup>	10	5/10 <sup>(d)</sup>
Turkey	10	10	5/10 <sup>(d)</sup>



UK	5/15 <sup>(b)</sup>	10	5/10 <sup>(d)</sup>
Ukraine	5/15 <sup>(a)</sup>	10	10
USA	5/15 <sup>(g)</sup>	10	5/10 <sup>(d)</sup>
Uzbekistan	10	10	10
Non-treaty country	10	0/5/10 <sup>(f)</sup>	5/15 <sup>(e)</sup>

- (a) 5% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25% of the capital of the company paying the dividends.
- (b) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25% of the shareholders' votes of the company paying the dividends.
- (c) 0% if the recipient of the dividends is a company other than a partnership that holds shares representing at least 25% of the capital and the shareholders' votes of the company paying the dividends.
- (d) 5% of the gross amount of royalties paid for the use of industrial, commercial or scientific equipment.
- (e) 5% rate applies to royalties for intellectual property, except royalties for copyright or neighboring rights on works of art or literature, including films and audio recordings, to which 15% applies.
- (f) 5% rate applies to interest paid by a Latvia-registered bank to related parties. 10% is applicable to interest paid to related party.
- (g) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10 per cent of the shareholders' votes of the company paying the dividends.
- (h) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 10% of the capital of the company paying the dividends.
- (i) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 20% of the capital of the company paying the dividends.
- (k) 5% rate applies to royalties for intellectual property, except royalties for copyright or neighboring rights on films and radio and TV broadcasts of films or recordings, for use or rights to use the patents, trade marks, designs or module, plans, secret formula or processes, to which 7% applies
- (l) 5% of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends and investment is at least 75 000 USD
- (m) 5% rate applies if interest is paid for a loan issued by the State Bank
- (n) 5% rate applies to any copyright of literary, artistic or scientific work including cinematographic films, sound or image reproduction for audio or TV broadcasting, except patent, trade mark, design or model, plan secret formula and process, right to use industrial, commercial or scientific equipment, to which 10% applies
- (o) 10% rate applies to any copyright of cinematographic films and films or tapes for radio or TV broadcasting



### ***Consultancy fees***

As consultancy fees (subject to 10% withholding tax) is considered all consulting and management services provided to a company, not just services provided to a company's management. To avoid withholding double taxes, treaty benefits may be utilized for payments to tax treaty countries.

### ***Payments for sale of real estate***

According to the law "On Corporate Income Tax", a withholding tax of 2% on non-residents' income from the disposal of real estate shall be applied. As sale of real estate is considered sale of shares of company where 50% of assets are Latvian real estate. The 50% threshold applies to a current or previous year and is measured by the balance sheet value at the beginning of the taxation year. The rules determine that in cases where the tax of 2% is not withheld on payments, the payable amount does not become a non-deductible expense for corporate income tax purposes. The general rule is that, where payments are made to non-residents, there is an option to withhold tax on consultancy (10%), interest to related parties (10%) and royalty fees (5% or 15%). If the withholding tax is not paid by the 15<sup>th</sup> of the following month, the full amount payable becomes a non-deductible expense for corporate income tax purposes.

### ***Dividends to EU***

According to the law "On Corporate Income Tax", withholding tax on dividend payments to residents of EU, EEZ member states is not applicable, if dividend payer has a residence certificate that dividend receiver is company mentioned in the enclosed table No.4.

### ***Partnerships***

Income from partnerships is taxed with 15% withholding tax rate upon payment to non-resident.

### ***Intellectual property***

Royalty payments by Latvian resident to EU resident are exempt from withholding tax from July 1, 2013, if the EU resident is a related party.

To qualify for related party status, EU company shall be payer of the taxes mentioned in the enclosed table No.5 plus at least 25% capital or voting rights are established by one company in the second company or any third company owns at least 25% in the first and second company. Until June 30, 2005, royalty and copyright withholding tax rate was 15%; now it is decreased to 10% (from July 1, 2005 until June 30, 2009) and 5% (from June 30, 2009 until June 30, 2013).



### Payments to non-residents

If withholding tax is not levied at the rates mentioned below:

- Consulting fee – 10%
- Interest to related party – 10%
- Interest by Latvian bank to related party – 15%
- Royalty – 5/15%
- Use of property fee – 5%

the payment becomes corporate income tax non-deductible cost. This is not true if exemption applies.

**Table No.5**

Country	Type of company	Type of tax
1. Austria	<i>“Aktiengesellschaft”, “Gesellschaft mit beschränkter Haftung”, “Versicherungsvereine auf Gegenseitigkeit”, “Erwerbs- und Wirtschaftsgenossenschaften”, “Betriebe gewerblicher Art von Körperschaften des öffentlichen Rechts”, “Sparkassen”;</i>	Körperschaftsteuer
2. Belgium	<i>“société anonyme”/“naamloze vennootschap”, “société en commandite par actions”/“commanditaire vennootschap op aandelen”, “société privée à responsabilité limitée”/“besloten vennootschap met beperkte aansprakelijkheid”, “société coopérative à responsabilité limitée”/“coöperatieve vennootschap met beperkte aansprakelijkheid”, “société coopérative à responsabilité illimitée”/“coöperatieve vennootschap met onbeperkte aansprakelijkheid”, “société en nom collectif”/“vennootschap onder firma”, “société en commandite simple”/“gewone commanditaire vennootschap”;</i>	Impôt des sociétés/ vennootschapsbelasting
3. Czech Republic	<i>“akciová společnost”, “společnost s ručením omezeným”, “veřejná obchodní společnost”, “komanditní společnost”, “družstvo”;</i>	Daň z příjmů právnických osob
4. Denmark	<i>“aktieselskab” un “anpartsselskab”;</i>	Selskabsskat
5. France	<i>“société anonyme”, “société en commandite par actions”, “société à responsabilité limitée”, “sociétés par actions simplifiées”, “sociétés d’assurances mutuelles”, “caisses d’épargne et de prévoyance”, “sociétés civiles”, “coopératives”, “unions de coopératives”;</i>	Impôt sur les sociétés
6. Greece	<i>“εὐνόμη εταιρεία”, “εταιρεία περιορισμένης εὐθύνης (Ε.Π.Ε.)”;</i>	Φόρος εισοδήματος νομικών προσώπων
7. Estonia	<i>“täisühing”, “usaldusühing”, “osühing”, “aktsiaselts”, “tulundusühistu”;</i>	Tulumaks
8. Italy	<i>“società per azioni”, “società in accomandita per azioni”, “società a responsabilità limitata”, “società cooperative”, “società di mutua assicurazione”;</i>	Imposta sul reddito delle persone giuridiche
9. Cyprus	<i>“company in accordance with the Companies Law”, “Public Corporate Body as well as any other Body which is considered as a company in accordance with the Income tax Laws”;</i>	Corporation tax Φόρος εισοδήματος



10. Luxembourg	<b>"société anonyme"</b> , "société en commandite par actions", "société à responsabilité limitée", "société coopérative", "société coopérative organisée comme une société anonyme", "association d'assurances mutuelles", "association d'épargne-pension", "entreprise de nature commerciale, industrielle ou minière de l'Etat, des communes, des syndicats de communes, des établissements publics et des autres personnes morales de droit public";	Impôt sur le revenu des collectivités
11. Malta	<b>"Kumpaniji ta' Responsabilita' Limitata"</b> , "Soċjetajiet in akkomandita li l-kapital tagħhom maqsum f'azzjonijiet";	Taxxa fuq l-income
12. The Netherlands	<b>"naamloze vennootschap"</b> , "besloten vennootschap met beperkte aansprakelijkheid", "Open commanditaire vennootschap", "Coöperatie", "onderlinge waarborgmaatschappij", "Fonds voor gemene rekening", "vereniging op coöperatieve grondslag", "vereniging welke op onderlinge grondslag als verzekeraar of kredietinstelling optreedt";	Vennootschapsbelasting
13. Poland	<b>"spółka akcyjna"</b> , "spółka z ograniczoną odpowiedzialnością";	Podatek dochodowy od osóbprawnych
14. Finland	<b>"osakeyhtiö/aktiebolag"</b> , "osuuskunta/andelslag", "säästöpankki/sparbank" and "vakuutusyhtiö/försäkringsbolag";	Yhteisöjen tulovero/inkomstskatten för samfund
15. Spain	<b>"sociedad anónima"</b> , "sociedad comanditaria por acciones", "sociedad de responsabilidad limitada";	Impuesto sobre sociedades
16. Hungary	<b>"közkereseti társaság"</b> , "betéti társaság", "közös vállalat", "korlátolt felelősségű társaság", "részvénytársaság", "egyesülés", "közhasznú társaság", "szövetkezet";	Társasági adó
17. Germany	<b>"Aktiengesellschaft"</b> , "Kommanditgesellschaft auf Aktien", "Gesellschaft mit beschränkter Haftung", "Versicherungsverein auf Gegenseitigkeit", "Erwerbs- und Wirtschaftsgenossenschaft", "Betriebe gewerblicher Art von juristischen Personen des öffentlichen Rechts";	Körperschaftsteuer
18. Sweden	<b>"aktiebolag"</b> , "försäkringsaktiebolag", "ekonomiska föreningar", "sparbanker", "ömsesidiga försäkringsbolag"	Statlig inkomstskatt
20. UK	Company registered in UK	Corporation tax
21. Bulgaria	"събирателното дружество", "командитното дружество", "дружеството с ограничена отговорност", "акционерното дружество", "командитното дружество с акции", "кооперации", "кооперативни съюзи", "държавни предприятия"	корпоративен данък
22. Ireland	"public company limited by shares or by guarantee", "private company limited by shares or by guarantee", "building society"	Corporation tax
23. Lithuania	Company registered in Lithuania	Pelno mokestis
24. Portugal	Company registered in Portugal	Imposto sobre o rendimento da pessoas colectivas
25. Rumania	"societăți pe acțiuni", "societăți în comandită pe acțiuni", "societăți cu răspundere limitată"	impozit pe profit, impozitul pe veniturile obținute din România de nerezidenți
26. Slovakia	"akciová spoločnosť", "spoločnosť s ručením obmedzeným", "komanditná spoločnosť", "verejná obchodná spoločnosť", "družstvo"	aň z príjmov právnických osôb
27. Slovenia	"delniška družba", "komanditna delniška družba", "komanditna družba", "družba z omejeno odgovornostjo", "družba z neomejeno odgovornostjo"	Davek od dobička pravnih oseb



## **7. Value-added Tax**

According to the law “On Value-Added Tax”, adopted in March 1995, VAT has to be charged on any supply of goods or services, on the import of goods, as well as on self - consumption. Until December 31, 2008 VAT rates were 18%, 5% and 0%. Starting from January 1, 2009 VAT rate are 21%, 10%, 0%.

The supply of goods is the transfer of their ownership to another entity so entitling the latter to dispose of the transferred possession. The first sale after completion of the construction of a building is also regarded as the supply of goods.

The supply of services is a transaction based on activities carried out by an entity for a consideration. They include the activities of self-employed individuals, the transfer (sale) of any obligations, rights or intangible assets, obligations to refrain from activities or to accept any activity, as well as the lease of goods. Personal (self)-consumption is the supply of one's own goods and services to an entrepreneur, his family members, employees or other persons free of charge.

### ***VAT rate***

General VAT rate is 21%. The reduced VAT rate 10% applies to supplies to medicaments and medical devices, to supplies of specialized products intended for infants, to inland public transport services ( carriage of passengers and luggage in trams, trolley buses, city, district and long-distance busses, and inland and international trains, as well as inland flights), to supply of heating to inhabitants, to supply of electricity to inhabitants, to supply of natural gas to inhabitants, except for natural gas for motor vehicles.

### ***Input and output VAT***

The VAT system is based on the principle that the tax burden should be borne by the final consumer and is neutral to businesses. VAT taxpayers are entitled to deduct the tax paid on their supplies (input VAT) from the tax which they charge their customers (output VAT), if those incoming supplies ensure the entrepreneurial activity of the taxpayer.

The tax sums for the received goods or services set in the invoices may be deducted after the reception of the goods or services and the invoice or after the advance payment of the tax set in the invoice. Input VAT may be deducted on accrual bases without a payment of invoices for both goods and services.

Entities whose sales, excluding exempted sales, exceed Ls 10 000 within a 12-month period are obliged, within the following 30 days, to register as VAT payers with the tax authority.

VAT payer has rights to deduct VAT which was paid before VAT registration certificate was received. There are few exceptions for deducting VAT for company recently registered as the VAT payer. It is not allowed to deduct administration expenses (office rent, telecommunication expenses, fuel, transport rent), if goods are bought more than 12 month before registration as the VAT payer or services are received 3 month before registration as the VAT payer.



### ***Mandatory VAT registration***

The law stipulates occasions when EU companies have to register as VAT payers in Latvia:

- If an EU-registered VAT payer supplies goods to a Latvian entity not registered as a VAT payer and that supply exceeds LVL 24 000 (EUR 34 150) within a 12 month period
- Regardless of amount, if a recipient is non VAT registered person and the excised goods are to be supplied or goods are to be installed in Latvia
- If the services provided are related to culture, art, education, science, sport or real estate – regardless of the amount
- If the provided services relate to warehousing, transportation of goods or relate to movable property (such as repair, assessment, maintenance), except leasing services

### ***Real estate***

If a real estate (or any part thereof) is sold or put into operation within 10 years of the date of purchase, part of the VAT deducted at the time of purchase must be repaid to the government. The amount is calculated as 1/10 of the deducted input tax multiplied by the number of years remaining until the end of said 10 year period (from the date of purchase or placement in to operation). This repayable input tax amount is included in the value of the real estate, and a buyer shall not be entitled to deduct it as input tax.

VAT paid on goods and services purchased for the construction and repair of buildings is deductible. VAT deductions do not apply to VAT paid on the construction of facilities used for VAT-exempt businesses or community infrastructure, such as apartment buildings, sports, medical and educational facilities, if the community facilities do not relate directly to the commercial activities of the company.

Any VAT deducted shall be repaid to the state if the real estate is sold within 10 years of its purchase or if it has been used for VAT-exempt transactions.

### ***VAT refunds***

VAT paid on goods purchased and services received in Latvia by a company which is registered as a VAT payer in any EU country, and is not actively engaged in business activities in Latvia, may be refunded.

VAT paid on goods purchased and services received in Latvia by a company from any third country which is not registered as a company in Latvia may be refunded according to the reciprocity principle.

VAT refunds may be requested in the following cases:

1. the term for which VAT repayment is requested is between 3 and 12 months, and VAT paid for goods and services totals more than LVL 135
2. the term for which VAT repayment is requested is
  - a. calendar year, or
  - b. period less than 3 months and these are the last months of calendar year and VAT paid for goods and services are more than LVL 20.



Documents required for VAT repayment are the application form, invoices (originals), payment documents and a statement from the appropriate tax authority that the company is registered as VAT payer in another country.

VAT paid by an individual from any third country on goods of value greater than LVL 25 purchased in Latvia and brought out of the EU may only be refunded by licensed companies.

### ***Investment in equity***

There are rules effective January 1, 2002 determining that it is possible to invest property in equity of other company without restriction to deduct paid VAT.

The State Enterprise register has granted us a license to provide evaluation opinions of value of shares and stock for purposes of investment in kind in equity of a company.

### ***Importing fixed assets***

In case of import of fixed assets (except cars), not intended for leasing companies, VAT factually shall not be paid, namely, it is shown as VAT payable and deductible. A new limitation is imposed, requiring in instances when asset value exceeds LVL 50'000 to report within next 5 years to tax authorities on use of assets for VAT exempt activities, if any exempt supplies are VAT made, proportion of how much VAT may be deducted shall be calculated. The proportion is calculated as all taxable supplies without VAT (including transactions with 0% VAT rate) divided by all transaction exempt from VAT. If proportion (including exempt transactions) is changed within a year, adjustment of the VAT deductible shall be made.

### ***Pricing***

If systematically and continually price is charged to buyer below commercially substantiated level, at the end of a taxation year additional VAT shall be charged on the omitted difference, except discounts.

### ***Intra – community acquisitions***

If a Latvian-registered VAT payer receives goods from an EU-registered VAT payer, they have to show VAT as payable and deductible in their VAT declaration, based on the invoice received. If a Latvian non-VAT-registered entity receives goods from an EU-registered VAT payer, and the total value of the goods received exceeds LVL 7 000, the Latvian entity have to register as a VAT payer in Latvia.

### ***Fiscal representatives***

Changes to the VAT law, effective May 1, 2004, introduce the concept of VAT fiscal representatives. If the responsibility for VAT payment lies with a fiscal representative, it is mandatory that the Latvian VAT registration number, name and registered address of the VAT



representative are mentioned in VAT invoices. In addition, VAT invoices must include the following items:

- Date and number of invoice
- Supplier's and recipient's names, addresses and VAT numbers
- Date of supply
- Type of goods or services and quantity supplied
- Prices and applicable discounts
- VAT rate and amount plus cost of goods without VAT
- If 0% rate is applied or responsibility of tax payment is on the recipient of the goods or services – reference to a respective article of VAT law on which zero rate is based, the same is true for fiscal representatives.

Non-EU persons (for example, US companies) may register via fiscal representation in any EU country based on local rules as VAT payer. Use of the registration number in Latvia will be accepted for VAT zero export on triangle transactions as described below.

#### *Triangle supplies*

There is a seller, a broker and a buyer in triangle transaction. All the persons mentioned before shall be VAT registered in different EU countries. Goods ought to be supplied upon instructions of the broker to the buyer. Invoices issued by the brokers will be subject to VAT 0%, if recipient of goods is VAT registered person.

#### ***Zero-rated supplies and exemptions***

Pursuant to the law, the following groups of supplies and services are subject to the 0% VAT rate:

- *export of goods if documents show that the goods have been transported outside the EU*
- *services which are related to export of goods outside the EU*
- *services which are defined as “not supplied within Latvia”*
- *goods and services related to the maintenance and service of international transportation*
- *certain tourism services*
- *on the basis of reciprocity, services and goods related to diplomatic and consular officers enjoying immunity*
- *certain services, if the recipient is a non-resident, such as assignment, transfer or grant of intellectual property rights; services related to advertising and public relations; legal, accounting, audit, consulting, interpretation, expert, engineering, market research, and management services, services of patent offices; data processing; exchange of know-how, supply of information; supply*



*of staff, except education and training services; leasing except real estate and vehicles; telecommunication services; broker agency services*

A number of goods and services are exempt from VAT, e.g. certain services with an educational value or cultural function, the sale of shares and not-newly constructed real estate, lotteries as well as land.

The 0% VAT rate for intra-community supplies is applied if the recipient of goods is an EU entity which is registered with its home country's VAT register and transport documents demonstrate that the goods were actually delivered. The 0% rate is also applied to intermediaries who re-sell goods to end consumers within EU countries. Reports on such intra-EU supplies must be submitted to tax authorities quarterly.

### ***Administration***

VAT owed to the government must be paid on a monthly basis by the 15<sup>th</sup> day of the following month or, with the agreement of tax authorities, by the 25<sup>th</sup> day of the following month for companies with multiple branches. Monthly VAT returns are also required to be filed. The annual VAT declaration is due no later than by May 1 of the following year.

### ***Penalties***

Penalties for breach of the VAT law are 100% in amount of 100% the tax not paid. Penalty applies also to increase of claims for VAT refund and amounts which refer to the next VAT period (month), for example, VAT deduction is made before a term.

## **8. Excise Tax**

Pursuant to the law "On Excise Tax", adopted on October 30, 2003, excise tax rates are as follows:

- soft drinks (LVL 4 per 100 litres)
- coffee (LVL 100 per 100 kilograms)
- beer (LVL 4 per 100 liters)
- wines and other fermented drinks (LVL 40 per 100 liters)
- alcoholic beverages up to 15 proof (LVL 42 per 100 liters)
- alcoholic beverages between 15-22 proof (LVL 70 per 100 liters)
- other spirits and alcoholic beverages (LVL 825 per 100 liters)
- cigarettes (LVL 22.5 per 1000 cigarettes; 34.5% of the retail price)
- cigars (LVL 11 per 1000 cigars)
- tobacco (LVL 14-23 per 1000 grams)
- petrol, diesel (LVL 234-300 per 1000 liters)



- oil-gas (LVL 90 per 1000 liters)
- products used for heating (LVL 11 per 1000 liters)

Generally, excise tax for alcohol and tobacco products is paid by purchasing excise tax stamps.

## 9. Natural Resources Tax

According to the law “On Natural Resources Tax” adopted on December 15, 2005 the following conditions are applicable for calculating natural resources tax. Taxable activities are the following:

- extracting of natural resources, including harvesting of Roman Snails *Helix pomatia L.*
- polluting of environment;
- selling of goods harmful to environment (including monitors, cell phones, fridges, TV);
- importing of packaged goods;
- selling in retail and by catering companies the non-recyclable tableware and packing;
- using of radioactive substances producing waste;
- registering of first time end-of life vehicles;
- emitting of gasses resulting in greenhouse effect;
- pumping of the natural gas in geological structures.

### *Packaging tax*

Tax on the packaging of products is calculated on every unit of packaging. The number of packaging units should be specified by accounting documentation and an act on usage of packaging standards, or by supplier’s statement confirming packaging kind and weight, or by agreement on obtaining goods, or by a cargo waybill approved by customs authority if goods are imported from non-EU countries, or by consumption of packaging standards per unit.

Tax is imposed on the following packaging types: glass (tax rate- LVL 0.20 per kg), pulp and other natural-fiber raw materials, (LVL 0.15 /kg) polymers (LVL 0.60 /kg), metal (LVL 0.45 /kg), paper, monitors (LVL 1.05/kg), cell phones (LVL 1,5/kg), fridges (LVL 0.65-1.05/kg).

## 10. Gambling Tax

According to the law “On Gambling and Lottery Taxes”, adopted on in 1994, gambling and lottery tax is levied on business entities that have obtained gambling licenses. The cost of an



annual license is LVL 25 000 or LVL 300 000 for engagement into totalizator gambling services.

Gambling tax is payable for each gambling facility or gambling machines annually. For example, each roulette table is subject to LVL 9600 gambling tax; each totalizator to LVL 30'000; each slot machine to LVL 1680, each bingo with up to 100 seat occupancy to LVL 12'000. Success telephone games – 10% of revenues.

Lottery tax of rate 8% is imposed on revenues from the sale of lottery tickets. Revenue from sale of instant lottery tickets is subject to 10 per cent tax.

## 11. Special Taxation Regimes

Pursuant to the law "On the Application of Taxes in Free Ports and Special Economic Zones" adopted in 2001, a special tax regime may apply to companies operating in the Liepāja or Rēzekne Special Economic Zones, or the Rīga or Ventspils Free Ports.

The applicable tax holidays or favorable conditions are as follows:

- *80 or 100% rebate on real estate tax*
- *80% rebate on corporate income tax on income derived within the zone*
- *80% rebate on withholding tax for dividends, management fees and payments for use of intellectual property*
- *VAT at 0% rate for most goods and services supplied in within free zones, including storage*
- *VAT, excise tax and customs duty exemption on import in free zones from foreign countries and on export to free zones abroad*
- *expatriates who pay social insurance in their home countries may pay social insurance on a fixed amount, currently 15 minimum monthly salaries per annum*

As from January 1, 2003 rebates may not exceed 50% of the amount invested.

Tax holidays could be applicable only if permission is received. Permissions are issued by Authority of Special Economic Zone or Free Port. Permission may be issued for companies located in the territory of special economic zone or free port and performing entrepreneurial activities only in the territory of a special economic zone or free port.

The following are not considered as an entrepreneurial activity outside of the territory of a special economic zone or free port- the location of the administrative institutions outside of the territory of a special economic zone or free port, the conduct of negotiations and the concluding of contracts outside of the territory of a special economic zone or free port, the transit of goods from or to the territory of a special economic zone or free port, and other activities not having the nature of the execution of a goods-money transaction.



## ACCOUNTING AND AUDITING

### **1. General information**

The law “On Accounting” and the law “On Annual Reports of Enterprises” are the basic laws, which regulate bookkeeping and financial reporting in Latvia. Both laws are based on the 4<sup>th</sup> and 7<sup>th</sup> EU directives. Latvian accounting standards are applicable too.

In addition, the law “On Sworn Auditors” was adopted by the Saeima on May 22, 2001, and came into effect on January 1, 2002.

#### ***Law on Accounting***

The law “On 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 documents which shall contain definite information, 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 Annual Reports of Enterprises***

The law “On Annual Reports of Enterprises” applies to all enterprises that are registered in Latvia, irrespective of the type of commercial transactions they undertake or of the property they possess. The law neither applies to farms and fishery farms nor to individual businesses where the annual income from business transactions does not exceed LVL 200’000 at the start of the reporting year. In addition, the law does not apply to banks or to credit institutions and insurance companies, which are regulated by special acts of parliament.



## 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 Accounting” 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 Latvia (Latvian lat), and Latvian 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 Latvia. 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, such as the presence of the seal, etc. are provided by the Cabinet of Ministers.

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.

The accounting period may be altered. The change shall be justified and explained in the notes to the annual report. A newly formed company may have a longer or a shorter accounting period for the first year, but it may not exceed 18 months. The accounting period shall not exceed 12 months if it is changed for an already existing company. The accounting



period may also be shorter than 12 months where either a company terminates its activities or the beginning of the accounting period is changed.

### ***Reporting requirements***

An annual report, as a whole, consists of a balance sheet, a profit or 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 Accounting" and the law "On Annual Reports 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 Latvian and the monetary unit of the Republic of Latvia shall be used as a measure of value.

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

- *it shall be assumed that a company will continue to operate (going concern);*
- *the same valuation method as in the previous reporting year shall be used (consistency);*
- *the valuation shall be done carefully, considering the following conditions (prudence);*
  - *the annual report shall include only the profit as of the date of drawing up the balance sheet;*
  - *all provisions for the risk and losses incurred during the current or previous reporting years shall be taken into account, even if they have become known in the time period between the drawing up of the balance sheet and the annual report;*
  - *all reductions in value and the amounts depreciated shall be taken into account regardless of whether the reporting year has ended in profit or loss.*
- *all income and charges related to the reporting year shall be considered regardless of the actual date of payment. Charges shall be co-coordinated with the income in the respective periods of the reporting year;*
- *the items of assets and liabilities shall be valued separately;*
- *the opening balance of each reporting year shall correspond to the closing balance of the previous year;*
- *all the items that significantly influence the valuation or the decision making of those who use annual accounts shall be shown. Items, which do, not*



*significantly influence the annual report but which make it too detailed may be shown as one item on the balance sheet and on the profit and loss statement. In this case, the disclosure of the consolidated items and the details shall be disclosed in explanatory notes;*

- *the business transactions of a company shall be recorded and presented in the annual report, having regard not only to their legal form, but also to their “economic content and essence”.*

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 Accounts*”. Parent company has to prepare annual accounts of a group in the event if a group two years exceeds any two of the criteria below:

- *total assets: 1 000 000 Lats;*
- *net turnover: 2 400 000 Lats;*
- *average number of employees in the reporting year: 250.*

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. If the accounting principles, which are applied in a subsidiary, differ from those applied by a parent company, corrections must be made to the subsidiary’s records when making the consolidated annual account. This will allow all the transactions to be reflected in the same conditions. If it is not possible to adjust the records, this shall be pointed out and explained in the consolidated annual report. Furthermore, the proportion of the subsidiaries applying different accounting principles in the consolidated annual account shall be indicated.

### ***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:

- *total assets: 250 000 Lats;*
- *net turnover: 500 000 Lats;*
- *average number of employees in the reporting year: 25.*



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.*

A company shall submit a copy of the audited annual report, the management report, the auditor's report and the copy of minutes of the meeting on which the annual report was approved by the shareholders, to the tax authority not later than a month after approval of the annual report, and not later than four months after the end of the reporting year. The time period between the submission of the above-mentioned documents, and the end of the reporting period shall not exceed seven months and applies both to the parent company of the group and to other companies in the group which exceeds two of the following criteria:

- *total assets: 1 000 000 Lats;*
- *net turnover: 2 400 000 Lats;*
- *average number of employees in the reporting year: 250.*

Additionally, if either the distribution of the annual profit or the coverage of losses is not included in the annual account, a copy of the minutes of the shareholders' meeting showing the distribution of these profits or losses must be given to the tax authority.

### ***Publication of annual reports***

The law "On Annual Reports of Enterprises" regulates the publication and storage of annual reports. All submitted annual reports have to be made publicly available to any person who has paid the due fee.

If it is intended to publish a complete annual account of the company or to publish an annual account of a group of companies, the documents shall be in the same form and wording as at the time of their auditing. Furthermore, the documents shall include the auditor's report and notes, if there are any. If the auditor has had any complaints, or he has refused to prepare the auditor's report, this shall be declared and an explanation given. The recommendations and decisions concerning the distribution of profit or the covering of losses shall be shown either under corresponding items in the balance sheet or they shall be published separately.

If the annual report and other auditing documents are not published in full, it shall be clearly stated that the publication is not complete and that the complete file of the annual report is



available at the Enterprise Register of the Republic of Latvia. The auditor's report shall be published in full, regardless of whether the annual report published is complete.

Companies and groups of companies shall publish their balance sheet and profit or loss statement in the publication indicated by the Enterprise Register of the Republic of Latvia if two of the following criteria are exceeded:

- *total assets: 1 000 000 Lats;*
- *net turnover: 2 400 000 Lats;*
- *average number of employees in the reporting year: 250.*



## COMPETITION

### 1. The Competition Act

Competition is regulated by Competition Act of October 4, 2001. It introduces far stricter control to ensure fair competition. The rules of Prohibited Agreements, Dominant Position, Merger Control and the Unfair Competition are provided there.

### 2. Prohibited agreements

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

- *the fixing of the price or the exchange of relevant price information;*
- *the fixing of the production volume, restriction of investments or technical development;*
- *any division of market;*
- *conditional conclusion of agreement on acceptance of obligations that are not connected with the subject of the agreement;*
- *participation or refusal to participate in tenders or bidding, or in the agreement on the rules of the tender or bidding except for cases where the competitors jointly declare the offer for rules;*
- *application of different conditions to the equal substance agreements if it creates competitive disadvantage;*
- *activities restricting any other member of the market from entering the market or forcing its departure from the market.*

If the activities of this type are detected by the Competition Council, the authority is entitled, in some instances, to order the termination of the activities in question and to impose on the market member a penalty up to 5 per cent and on competitors - up to 10 per cent of the net turnover of the last financial year. Non-compliance with the decision regarding restrictive



practices entitles the Competition Council to increase the penalties up to the maximum amounts (5 and 10 per cent). The decision of the Competition Council may be appealed to the administrative court.

### **3. Release of prohibited agreements**

The Regulations on the release of vertical agreements from prohibition of agreements according to the Competition Act determines procedure how separate vertical agreements between members of the market are liberated from the prohibitions.

The main requirements which shall be met are the following: the market share of agreement's participant in the relevant market is not more than 10 %; the market share of supplier in the relevant market is not more than 30 %; the market share of the buyer is not more than 30 % regarding exclusive supply (distribution) (the seller is obligated to sell goods only to one buyer in specified territory for special use and resale).

Agreements between competitors (horizontal agreements) also may be liberated from the prohibition and the main requirements which shall be met are the following: combined market share of market participants, who has agreed on joint purchase, sale, distribution and advertising of goods in the relevant market, is not more than 15 %; combined market share of market participants, who have entered in unilateral specialization agreement (one market participant undertakes to cease or refrain from proceeding of some certain goods and obtain them from competitive participant of market, but competitive participant of market undertakes to produce and deliver these goods) or in mutual specialization agreement (two or more market participants mutually agree to cease the produce of some certain (different) goods and obtain these goods from other market participants, who agree to deliver these goods), or in agreement on joint production of goods, in relevant market is not more than 20%.

### **4. Dominant position**

A market participant is in a dominant position if he has the capacity to significantly hinder, restrict or distort competition in any relevant market for a sufficient length of time by acting with full or partial independence from competitors, clients, suppliers or consumers. The market member is prohibited from taking advantage of the dominant position in a malicious manner.

Among other malicious acts, the law particularly defines the following prohibited activities:

- *the refusal to conclude an agreement with any other market member without a substantiated reason;*
- *the decrease in volume of manufacturing goods, or technical development without a valid reason;*



- *the imposition of rules according to which the conclusion of the agreement with any other market member is dependent on the acceptance of conditions that are not related to the subject of the agreement;*
- *unfair price fixing or the imposition of unfair conditions of trade;*
- *the application of different conditions to equivalent agreements if it creates competitive disadvantage.*

If a market participant is in dominant position in retail trade, the law defines to such market participants special following prohibited activities:

*Application or imposition of unfair and unjustified:*

- *provisions in relation to the returning of goods;*
- *payments for the presence at a retail selling point of the goods supplied;*
- *payments for the entry into a contract;*
- *payments for the supply of goods to a soon-to-be-opened retail selling point;*
- *lengthy settlement periods for the goods delivered;*
- *finances for violating the provisions of a transaction.*

If the Competition Council detects malicious activities, it is entitled to order the termination of the activities and to impose a penalty on the market participant in question in an amount of 5 per cent of the net turnover of the last financial year. If malicious activities are detected in action of market participant who is in dominant position in retail trade, penalty will be imposed in amount up to 0,2 per cent of the net turnover of the last financial year. Non-compliance with the decision entitles the Competition Council to increase the penalty up to 10 per cent, but in case market participant is in dominant position in retail trade, penalty will be increased up to 2 per cent calculated from the net turnover of the last financial year.

## **5. Merger control**

Merger notification shall be given to the Competition Council, if combined net turnover of the parties of merger exceeded Ls 25 million for the last financial year.

## **6. Merger notification**

Companies with joint turnover of the previous financial year not less than 25 Millions lats, who intends to merge, shall submit a full-form notification to the Competition Council. The short-form notification report shall be submitted if: none of the participants in the merger operates in a single concrete market or in a market that is vertically related thereto; or the combined market share of the merger participants in a concrete market does not exceed



15 per cent. The notification to the Competition Council shall not be submitted if the turnover for the last financial year of one from two merger participants does not exceed Ls 1.5 million.

It is specified, that the turnover of the market participants shall be calculated by summing the proceeds from the activity, from the purchase of goods and services only in Latvia in the prior financial year. If the companies do not submit such report, a penalty up to Ls 1000 per day can be fined.

## **7. Unfair Competition**

Unfair competition is defined as an activity, which violates law or fair business practices and which, may result in the restriction, deformation or suppression of competition. The law regulates:

- *usage or reproduction of the name, marks or other characteristics of any other market member when the usage or suppression may be misleading as to the identity of the market member;*
- *the usage of a trademark or the reproduction of trade external appearance, labels, packaging or name of goods manufactured or realized by any other member of the market if the foregoing activities may be misleading as to origin of the goods;*
- *the dissemination of false, incomplete or distorted information regarding any other member of the market; its participants or goods manufactured or realized by the member, if the dissemination may cause damages;*
- *the appropriation, usage or dissemination of trade secrets without the consent of the owner;*
- *the influencing of any other member of the market by threat or bribery in order to create a competitive advantage, if the foregoing activities may cause loss.*

Violation of unfair competition prohibition rules are being settled at the court.



## **IMMIGRATION AND RESIDENCY**

### **1. General information**

Citizens from the following countries (EU, EEZ and Switzerland) may enter in the Republic of Latvia without a visa and stay in Latvia for up to 90 days within a six-month period, counting from the day of entry: Austria, Belgium, Czech Republic, Cyprus, Denmark, Finland, France, Germany, Greece, Hungary, Estonia, Ireland, Iceland, Italy, Lithuania, Liechtenstein, Luxemburg, Malta, The Netherlands, Norway, Poland, Portugal, Slovakia, Slovenia, Spain, Sweden, Switzerland, United Kingdom, Bulgaria and Romania.

Citizens from the following countries may enter in the Republic of Latvia without visa according to the EU regulation No. 539/2009 Andorra, Argentina, Costa Rica, Croatia, Israel, Japan, Korea (South Korea), Monaco, Panama, Singapore, Uruguay and Special Administrative Regions of the People's Republic of China: Hong Kong SAR and Macao SAR passports, UK passport British Nationals (Overseas).

Under this regime, foreigners from these countries may stay without visa in Latvia for up to 90 days within six month period, counting from the day of entry. In addition, under a unilateral step taken by Latvia, USA, Vatican City State, Australia, New Zealand, Canada, Nicaragua, Honduras, Brazil, Brunei, Chile, Guatemala, Malaysia, Mexico, Paraguay, El Salvador, Venezuela and San Marino citizens may also stay in Latvia up to 90 days a year without a visa.

### **2. Work permits**

A work permit is necessary for all foreign nationals who wish to work in Latvia, as well as for persons having signatory rights in legal entity of Latvia.

Work permits are not required for EU, EEZ member state and Switzerland citizens since May 1, 2004.

### **3. Residence permits**

An application for a residence permit should either be submitted to the Latvian Embassy in the foreign national's country or locally to the appropriate office of the Latvian Office of Citizenship and Migration Affairs.



Foreign nationals must obtain residence permits to reside in Latvia longer than three months, except for holders of special visas and diplomatic visas. Residence in Latvia may be granted only in the cases when the purpose of entry is one of the following:

- *studies;*
- *scientific work;*
- *commercial work;*
- *living with a spouse who is a citizen of Latvia;*
- *living with a spouse (a foreign national) who has a temporary residence permit or permanent residence permit in Latvia.*

The Latvian Labor Department must approve employment invitation. The approval procedure takes approx. 5-10 days. The residence permit then is issued for the time period mentioned in employment invitation. The employment invitation is not necessary for board and council members.

#### **4. Residence permits (registration certificates) for the EU, EEZ and Switzerland citizens**

If individuals from EU, EEZ and Switzerland stay in Latvia more than 90 days starting from first entrance day, he/she has to register in the Latvian Office of Citizenship and Immigration Affairs. Registration is not required for EU citizens in case if they stay less than 90 days within half a year in Latvia, and stay in Latvia up to 6 month within 1 year (starting from first entry) for employment purpose in Latvia. If these above conditions are not met, the registration is required.

Individuals from EU, EEZ and Switzerland may receive a registration certificate based on:

- employment or other agreement;
- status of self-employed person;
- status of service provider;
- if individual has sufficient maintenance (now the Immigration department has set LVL 1680 limit per month).
- studies.

To obtain a registration certificate because of employment for EU, EEZ and Switzerland citizens the following documents will be required:

- passport;
- employment or other agreement;
- 1 photos;
- fulfilled application form (requiring to disclose information regardless individual and his/her family).



All required documents shall be submitted in the Immigration department personally. Individual should receive a registration certificate personally. No state duties are required for a registration certificate for EU, EEZ and Switzerland citizens.

### **5. Registered place of residence**

Foreign individuals who wish to stay in Latvia more than 1 month and who has received residence permit or registration certificate are responsible to register their residence place according to the Latvian legislation. The registration basis is property rights; rent (lease) agreement; family relationship etc. If the person does not comply with this requirement the administrative penalty is applicable by the Immigration police.



## INTELLECTUAL PROPERTY

### 1. Membership in international agreements concerning intellectual property

Latvia is a member to the following international agreements:

Latvia has ratified following international agreements regarding intellectual property:

“The Paris Convention”;

“Patent cooperation Treaty”;

“WIPO”;

“The Madrid Agreement Concerning the International Registration of Marks”;

“The Budapest Treaty on the International Recognition of the Deposit of Micro-organisms for the Purposes of Patent Procedure”;

“The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks”;

“The Bern Convention for the Protection of Literary and Artistic Works”;

“The Trademark Law Treaty”;

“The Agreement for the Protection of Intellectual Property between the Republic of Latvia and the United States of America”;

WIPO Copyright Treaty;

WIPO Performances and Phonograms Treaty;

Extension Agreement on European Patents with EPO;

European Patent convention;

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

Furthermore, since 1 May, 2004 the protection of intellectual property in Latvia is based on laws, harmonized with the legislation of EU. All European Union normative acts related to the intellectual property enter into force with respect to Latvia.



## 2. Patents

### *General principles*

A Latvian “*Patent Law*” was passed on 15 February, 2007.

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 Cooperation Treaty, the European patent extension to Latvia, the functions of the Latvian Patent office, and the rights derived from patent. It also deals with the infringement of patent rights, 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 Latvian Patent office. A patent may be granted for an invention which is new, industrially applicable and which has inventive step. Non-patentable subject matters are discoveries, scientific theories, mathematical methods, designs, methods for performing mental acts, software and methods of presenting information, if the above-mentioned subject matter as such is claimed. Also, inventions, which are contrary to public order and morality, as well as varieties of plants or animals or essential processes of the biological production of plants or animals (except microbiological processes), are considered as non-patentable subject matter.

Generally, the patentability criteria in Latvia correspond to those set by the European patent convention. The Latvian Patent office 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 are invited to submit their oppositions to registration, within nine months of the date of publishing.

### *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.

The ownership of a patent grants the owner the exclusive right to produce and to use the patented product, as well as to offer it for sale, to put it into circulation and to import or stock the patented product for the above-mentioned purposes. 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 Latvia.

### *European patent extensions*

A European patent, which has been extended to Latvia, 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 Latvian Patent office has received the application of registration of the European patent.

## **3. Trademarks**

### *General principles*

The legal status of trademarks in Latvia is determined by the law “*On Trademarks and Indication of Geographical Origin*” of 16 June 1999. The law has provisions relating to the procedure for trademark registration, use of a trademark, expiration of the trademark and 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.

### *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. After expiration of the term, registration may be renewed continuously. Well-known trademarks are protected in Latvia without registration.

### *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 Latvia, as well as marks which reproduce trademarks belonging to any other person and are well-known in Latvia or similar



trademarks if there is a likelihood of confusion or association, even if the trademarks are not registered in Latvia.

The registration of a trademark is done by filing a trademark application to the Latvian Patent Office. 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.

### ***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, by demanding that the infringing packaging be changed or he may seek the destruction of the infringing goods.

### ***Community trademarks***

As from the date of Latvia's accession to the European Union ie. May 1, 2004, the Community trademarks are extended to Latvia. The Council Regulation on the Community trade mark, as well as other EU normative acts related to the trademarks enter into force with respect to Latvia.

## **4. Designs**

Pursuant to the “*Law on Designs*”, the design is the appearance of the whole or a part of a product resulting from the features of, in particular, the lines, contours, colours, shape, texture or materials of the product or its decoration (ornamentation). Product is any industrial or handicraft item, including inter alia parts intended to be assembled into a complex product, packaging, get-up, graphic symbols and typographic typefaces.

The owner of a design has exclusive rights to the design. The owner is entitled to use the design, to offer it for sale, to put it into circulation and import, to export or stock the design for the above-mentioned purposes. The designer has moral rights of non-transferable paternity as an author of the design. The design is valid for five years. Upon the expiration of this period of time, registration may be renewed each time for a new five-year period until the maximum time period for the protection of a design — 25 years from the filing date — is reached.

A design is granted according to an application, which has been filed with the Latvian Patent Office. A design may be granted if it is new and has individual character. Legal protection shall not be granted to the appearance of a product, which is in conflict with the public policy or socially accepted principles of morality, to the features of the appearance of a product that are solely dictated by the technical functions of the product, to such features of the appearance of a product which must be reproduced in an exact form and dimensions in order to permit the product in which the design is incorporated or to which it is applied to be



mechanically connected to another product, placed into another product, placed around or against such product, so that in addition both products should be able to perform their functions.

The Patent Office does not perform substantive examinations of design applications. 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 design within three months of the publication date.

Since May 1, 2004, when Latvia entered in the European Union, the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs is into force in Latvia and the Community designs are extended to Latvia.

## **5. Copyrights**

The “*Copyright Law*” of 6 April 2000 applies to works of science, literature and music, software, as well as to works of visual art, irrespective of the purpose or merit of the work or the mode of its expression. Also, copyrights may be obtained on derivative works, such as translations and adaptations, works that have been redone, annotations, synopses, summaries, reviews, musical arrangements. Copyrights can also be granted to the collections of works, for instance encyclopedias, anthologies and atlases, as well as databases and other compilations, which, by the selection and arrangement of the material, have resulted in the creation of a work. In order to be subject to copyright, the works, ideas and concepts must be made known to the public in any form.

### ***Rights of author***

The author of a work, independently of his economic rights, has inalienable moral rights. 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. The copyright for a work made available after decease of its author remains in force for 70 years after the date it was lawfully made available.

### ***Fair use***

Copyrights are restricted by fair use provisions. Fair use is allowed when a work is reproduced for the use of work for informational and educational purposes, in the reproduction of works by libraries and archives, the use for judicial purposes, and the use of works permanently exhibited in public places and in other instances.

### ***Neighboring rights***



The Copyright law specifies that the owners of neighboring rights are the performers, the producers of sound recordings, broadcasting organizations, and producers of films or their successors in interest or heirs.

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 Latvia is a limited liability company [SIA]. The minimum share capital required to establish a limited liability company is LVL 2000 (EUR 2845) which shall be paid before a company registration with the Commercial register. As an alternative, a share capital may be invested in – kind by different assets.

Besides, a branch engaging in business may be registered in Latvia. 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 limited liability company registration checklist

Please, see below documents required to setting up a limited liability company in Latvia.

1. Application form which must be signed by all founders. Signatures and capacity of signatories must be certified by a notary.  
The power of attorney issued by a founder to another person, authorizing such a person to sign the application, must be notarized. The signature of the authorized person on the application form must be notarized as well.
2. Shareholders' agreement shall be signed by all founders. In case of a sole founder the Memorandum shall be replaced by Resolution on Incorporation.
3. Copies of the founders' passports.
4. Articles of association signed by all founders. Special provisions, which may be included in the articles:
  - 1) payment of a share capital (if the price of the subscribed share is not paid)
    - the share shall be transferred to the Company;
    - only the number of paid up shares shall remain;
    - a penalty on non-compliance with the deadlines may be imposed;
  - 2) each share entitles to one vote (articles of association may provide otherwise);



- 3) encumbrance of shares may be prohibited;
  - 4) it can be stipulated that in the event of death of a member, his/her share shall be transferred to the company. In such case the company shall be obliged to pay compensation to the deceased member's heirs in accordance with the liquidation quota, which would be receivable by such a heir;
  - 5) claim on expulsion of a member may be filed by members representing at least  $\frac{1}{2}$  of the share capital (higher number of votes may be determined);
  - 6) the Meeting of share holders is competent, if more than one half of members participate in such meeting (articles of association may provide for higher quorum);
  - 7) resolution of members shall be passed by more than one half of votes represented (articles of association may provide for higher quorum);
  - 8) resolution on amendments to the articles of association shall be passed by at least  $\frac{2}{3}$  majority of votes present at the meeting (articles of association may provide for higher quorum);
  - 9) resolution on changes in the share capital shall be passed by at least  $\frac{2}{3}$  majority of votes present at the meeting (articles of association may provide for higher quorum);
  - 10) the Board shall be obliged to convene meetings in the events stipulated in the articles of association;
  - 11) certain issues may be determined as being exclusive competence of the Meeting of share holders;
  - 12) the articles of association may prescribe the procedure for convening the meeting (as in provisions of law – notice of meeting must be delivered at least two weeks prior to the meeting);
  - 13) it may be stipulated the Chairman of Board is appointed by the Council (if the Council is established);
  - 14) representation of Board members:
    - jointly;
    - each individually;
    - mixed- e.g. chairman individually, other two members jointly.
  - 15) term of representation rights (1, 2, 3 years).
  - 16) articles may stipulate that the Board member may be disqualified on the basis of:
    - gross misuse of authority material misconduct;
    - non-fulfillment of incomplete fulfillment of obligations;
    - inability to manage the company;
    - activity detrimental to the company;
    - loss of reliability.
5. Confirmation letter from the bank (in case of monetary contributions).



6. Statement on the investments in kind.

A statement must be made and submitted on each material contribution. The statement must contain the following information:

- 1) description of each item of the contribution in kind;
- 2) ownership;
- 3) method of valuation of each item;
- 4) conclusion on compliance of contributed items to the types of business operations conducted by the company.

The statement shall be signed by expert (who must be included in the list approved by the Commercial register) or founders (provided that the total value of material contribution does not exceed LVL 4000 and forms less than one half of the share capital).

7. Each Council member's consent to act as a Council member (if the company has established a Council).
8. Passport copies of the members of the Council.
9. Each Board member's consent to act as a Board member.
10. Passport copies of the Board members.
11. Notarized signature samples of the Board members having representation rights. (Not required, if Board member's signature samples are attested on the application).
12. Board's announcement on the legal address.
13. Auditor's consent to act as an auditor (if auditor is elected).
14. Auditor's passport copy (if auditor is elected).

After a limited liability company registration the entity is assigned a joint tax and company registration number, however, the tax authorities request is that also all the company incorporation documents are filed until tax authorities after the incorporation of the company.

### **3. Liability of management**

Commercial law determines that members of a board shall perform their duties as honest and diligent managers. The members of the board are jointly liable for losses caused to the company. If creditors cannot gain satisfaction of their claims from the company, they are entitled to bring a pretension for the benefit of the company against the members of the



board, who have created losses to the company, but have not reimbursed them. Such claim may be brought within 5 years from the day the claiming rights have been established. The enclosed table shows minimal number of persons who shall be in a management of a company:

	Board		Council	
	Minimal	Maximal	Minimal	Maximal
A limited liability company	1	several	3 (optional)	20 (optional)
A joint stock company	1	several	3	20
A public joint stock company	3	several	5	20

#### 4. Signing rights

In accordance with articles of association of relevant entity all members of the board have joint, individual or mixed representation rights. 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.

#### 5. Procurement

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 1 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-procuration the procurators may represent the company only jointly. The grant of the joint-procuration shall be marked in the application for procuration.

### ***Other restrictions***

A company is entitled to foresee in procuration also other restrictions, e.g. set the ceiling, to which a procurator may enter into transactions. Such restrictions will not be recorded within the Commercial Register. The law provides that the restrictions to procuration amount are not in force against third parties. Though to avoid misunderstandings, a company entering into transactions with another company represented by procurator, shall ask the procurator to present the procuracy. As well a procurator to certify his rights to act in a certain amount on behalf of the company shall present the procuracy.

The amendments to the information on the procurator and termination of the procuration shall be notified to the Commercial Register. If a joint-procuration is issued to two procurators and the company wishes to recall one procurator, then both procurators should be recalled and a new procuracy should be issued for one procurator. Similarly if the recording of changes to the procurator's representation rights is decided, the existing procuracy should be terminated and new one shall be granted.

## **6. Auditors**

Founder shall appoint a certified auditor if company's parameters exceed two of the criteria listed below:

- total assets: 250 000 Lats;
- net turnover: 500 000 Lats;
- average number of employees in the reporting year: 25.

Optionally, sworn auditor may be appointed also if the criteria are not exceeded.

## **7. Decrease of share capital**

Shareholders in limited liability companies and joint stock companies may decide to decrease a share capital to regain back previously invested amounts. For commencing the decrease of the share capital the shareholder has to take a decision on the decrease of the



share capital and shall prepare the regulations how the decrease will be executed. After notification on a decrease is submitted to the Register of companies, the board shall notify all known creditors and shall publish the notice in the official newspaper “Latvijas Vēstnesis”. The application term for creditors may be not shorter than one month. After the notification term expires, a board shall submit to the Register of companies the amendments to the articles of association, new wording of the articles of association and a shareholders list. After the decrease is registered, the amounts actually may be wire transferred to the shareholder.

## **8. European company**

A European Company (Societas Europaea, SE) may be formed in Latvia or in other EU Member State. The main privilege of such company is that the SE may transfer its legal address from one Member State to another Member State of EU or EEA where the more beneficial tax policy exists without liquidation of company and incorporation of new company in another Member State. The SE is a public limited liability company and it is governed by laws on the public limited liability company of the country of its legal address. In Latvia the laws applicable to a joint stock company shall be observed. The SE may not be registered until the agreement on employees’ involvement arrangements has been concluded. The subscribed capital of SE shall not be less than EUR 120’000.

### ***Establishment of the SE***

The SE may be formed by already existing companies in the following ways:

1. The joint stock companies merge and form a SE, if at least two of companies are governed by the law of different Member States.
2. The joint stock companies and limited liability companies form a holding SE, if at least 2 of companies are governed by the law of different Member States, or if at least 2 of companies had for at least 2 years a subsidiary governed by the law of another Member State or a branch situated in another Member State.
3. The joint stock companies and limited liability companies form the subsidiary SE if at least 2 of companies are governed by the law of different Member States, or if at least 2 of companies had for at least 2 years a subsidiary governed by the law of another Member State or a branch situated in another Member State
4. A joint stock company itself transforms into SE, if the company at least 2 of companies had for at least 2 years had a subsidiary in another Member State.
5. A SE itself forms a subsidiary as a SE.

## **8. Insolvency**

Since 1<sup>st</sup> January 2008 there have come into force the new Insolvency Law. The new law establishes some substantial changes in this area.

As first substantial change there should be mentioned insolvency criteria for legal entities.



Firstly, it is foreseen that the company will be deemed to be insolvent when applying compulsory measure of execution it was not possible to execute the judgement of the court about the a debt recovery from a debtor.

Secondly, the debtor has not comply with any or several debt commitments which each or all together exceed 1000 lats and for which the date of payment has come, and if a creditor or creditors have handed out or delivered to the debtor's legal address a notification about his/their intent to submit an application for starting a process of insolvency and the debtor within three weeks after the date of handing out or delivering of such notification has not paid the debt or has not raised any objections against this claim.

Thirdly, the debtor has not fully paid to employees salaries, compensation of damages due to an accident in a work place or a professional disease or has not made social security contributions within two months from the fixed payment day. If there is no payment day fixed in the employment contract, the payment day is the first working day of the next month.

Fourthly, the debtor is not able to settle his debt commitments for which the payment day has come and his debt commitments exceed his assets.

Fifthly, the company will be deemed to be insolvent when at the beginning of liquidation the financial statement will show that the debtor's assets are not sufficient in order to satisfy all reasoned creditor's claims or when such state of affairs turn out in the course of liquidation.

Finally, the debtor is not able to settle his commitments which were established in the action plan of judicial protection process.

The other substantial change in the law is that finally the law regulates insolvency issues in regard to individuals. Those new provisions provide that an individual may submit himself in a court an insolvency application if this individual does not have any possibility to settle his debt commitments for which the date of payment has come and those debt commitments exceed in total 50 minimum monthly salaries or due to provable conditions it will be not possible for this individual to settle his debt commitments for which the payment day will come within one year, and those debt commitments in total exceed 100 minimum monthly salaries.

The transitional provisions of the law provide that the old law will still apply to the insolvency processes which have been started before the new law came into force.

### ***Legal protection proceeding***

In accordance with a new Insolvency Law there are created a new complex of the measures of legal character for protection of the interests of commercial company in case o limited paying capacity in order to renew its paying capacity in full – the legal protection proceeding.



The company shall be entitled to submit an application to the court on initiating legal protection proceeding, if the company has limited paying capacity and the following preconditions exist:

- 1) its assets exceeds the creditors' liabilities, for which the due data has set in;
- 2) it has been registered in the Register of Enterprises for not less than 3 years and annual reports have been submitted on the last 3 accounting years.

It is not possible to initiate legal protection proceeding, if:

- 1) an application for insolvency proceeding is submitted against the company
- 2) liquidation of the company is commenced;
- 3) the legal protection proceeding has been implemented and terminated for the company within the last 5 years;
- 4) a participant of company, who has deciding influence, a member or their relatives have creditor's claim against the company and the due data of such creditor's claim or its part sets in within the legal protection proceeding;
- 5) an enterprise, in which the company has deciding influence, the insolvency proceeding is declared and it is not terminated.

The following methods shall be applied within the legal protection proceeding:

- 1) delay of the fulfillment of payment obligations;
- 2) an offset;
- 3) repayment or decrease of the principal debt, contractual penalty or repayment or decrease of interest;
- 4) alienation of movable property or immovable property or encumbrance with the rights in things;
- 5) increase of the share capital of the company.

Consent shall be received for the implementation of the legal protection proceeding from those unsecured creditors, whose claims in general form 2/3 from the amount of claims.

Company shareholders shall not be entitled to exercise creditors' rights regarding coordination of the plan of measures of the legal protection proceedings.

The implementation term of the legal proceedings shall be set not longer than a year from the day, when the court judgment regarding implementation of the legal protection proceedings has come into force.

## **REORGANIZATIONS IN LATVIA**

Mergers, divisions and changes in the form of Latvian companies fall under the reorganization rules. This summary covers the main legal and tax points to be taken into account in reorganizations in Latvia.

### **Mergers**

Merging can take the form of an acquisition or a consolidation. An acquisition is the process in which the acquired company transfers all of its property to the acquiring company. A consolidation is when two or more companies transfer all of their property to a newly founded acquiring company. In the case of a merger, the acquired company ceases to exist without liquidation procedures. All the rights and obligations of the acquired companies are transferred to the acquiring company. The shareholders of the acquired companies shall become shareholders of the acquiring company.

### **Division of companies**

Division is a process by which the dividing company transfers all of its property to one or more acquiring companies through splitting up or divesting its sets. In the case of splitting up, the dividing company transfers all of its property to two or more acquiring companies and ceases to exist without liquidation procedures. But in the case of divestiture, the dividing company transfers part of its property to one or more acquiring companies and the dividing company shall continue to exist. The acquiring company can be an already existing company or a newly founded company.

All the shareholders of the dividing company or part of them become shareholders of the acquiring company. Alternatively, the dividing company can become the sole shareholder of the acquiring company in accordance with a decision regarding the divestiture of the company.

### **Restructuring**

Restructuring is a process in which a company is restructured into a different type of company via acquisition. All the rights and obligations of the restructured company are transferred to the acquiring company and the restructured company ceases to exist without liquidation procedures. The shareholders of the restructured company become shareholders of the acquiring company.

### **Corporate income tax**

On reorganization, the acquisition of one company by another where the previous owners retain control allows transfer of losses of acquired company to the acquirer.

For determining taxable income, the re-evaluation of assets and liabilities brought about by the reorganization are not taken into account. For example, the acquirer should take as a base the surplus value of the capital assets, as it was for the transferor at the moment of the reorganization.

This does not apply, if the shares acquired by the transferor were owned for less than three years, unless the transferor justly proves that the reorganization does not aim to decrease its taxable income, evade taxes payable in Latvia or decrease the amount of taxes. To prove this, the transferor submits to the tax authorities the copies of the documents certifying the transactions and substantiates the necessity to sell the shares.



## 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.

Therefore, the transferor should submit to the acquirer the list of real property, indicating the detailed information on the calculated VAT for each property. The list must be conformed by the tax authorities. The acquirer within 30 days should re-register the real property with its territorial tax authorities. Otherwise, the transferor must repay to the state the deducted input tax for the real property, transferred after the reorganization to the acquirer.

If the real property or part of it is sold within 10 years after its acquisition or its putting into operation, then the sum of tax, calculated by multiplying 10% of the deducted input tax by a number of years up to 10, should be repaid to the state.

## Loss carry back

If the company is reorganized through a merger with another company, but the new company after reorganization is controlled by one and the same person or group of persons, the second company after reorganization must assume the pre-taxation period losses of the first company. It can also cover them in the taxation period and in following taxation periods in chronological sequence from taxable income of the next five taxation periods.

The acquiring company must take over the losses in the previous taxation period of the transferring company, which are related to the types of economic activity transferred, and to cover such losses in the taxation period in which the transfer took place and in subsequent taxation periods. Losses can be covered in chronological sequence from taxable income of the next five taxation periods.

If, in the course of reorganization, the company is divided or divested and the company at the time of reorganization has losses that it must cover in accordance with the law, company's losses must be assumed by the newly founded company.

But in the case of divestment (the company to be divided after reorganization and the newly-founded divested company) the division of the losses of the company split up between the original company and the newly-founded company in the case of divestment (and between the newly-founded company in the case of division after reorganization), should be proportional in relation to the value of the assets of the divested company after reorganization against the value of the assets of the company to be divided prior to reorganization.



## LABOR LAW

### *General Rules about Daily and Weekly Working Time*

According to the Labour Law the working time means a period from the beginning till the end of work during which an employee performs work or is at the disposal of the employer, with the exception of breaks in work.

Regular daily working time of an employee may not exceed eight hours, and regular weekly working time – 40 hours. Daily working time means working time within a 24-hour period.

Generally there is 5 days working week; however, due to the nature of the work it is possible to settle a working day of six days. Before that the consultation with representatives of employees should be done.

If there is a working week of six days, then the length of daily working time shall not exceed seven hours. Work on Saturdays shall be ended earlier than on other days.

The daily working time and weekly working time should be established in the employment contract or there should be a reference in the employment contract that such rules are established in the collective employment agreement or in the regulations of the working procedure. The rules about the working time should contain also rules about the beginning and the end of the working time and breaks during the work.

### *General Rules about Overtime*

Overtime work is permitted if the employee and the employer have so agreed in writing. However, the employer has a right the employer has the right to employ the employer on overtime without his or her written consent in the following exceptional cases:

- 1) if this is required by the most urgent public need;
- 2) to prevent the consequences caused by *force majeure*, an unexpected event or other exceptional circumstances which adversely affect or may affect the normal course of work activities in the company; or
- 3) for the finishing of urgent, unexpected work within a specified period of time.



The overtime work must not exceed 144 hours within period of four months.

The employer has an obligation to maintain the records about the each employee's hours worked and overtime hours, including hours worked at night, on the weekly rest days and holidays.

### ***General Rules about Resting Periods***

The length of a day rest within a period of 24 hours shall not be less than 12 consecutive hours.

If the daily working time of the employee exceeds six hours the employee has the right to a break in work.

The period of break shall be granted not later than four hours after the beginning of the work. The employer shall determine the length of a break after consultation with employee representatives, though it may not be less than 30 minutes. Taking into account occupational safety and health protection principles, the collective agreement may specify other procedures for the granting of breaks. A break shall not be included as working time.

During period of the break an employee has the right to leave his or her workplace unless otherwise provided for by the employment contract, the collective agreement or working procedure regulations. Prohibition against leaving a workplace during daily resting periods shall be adequately reasoned.

### ***Feasibility of Flexible Working Hours***

It should be noted that there is no prohibition in the Labour Law to agree about different working time than it is settled in the law. It means that the employer and the employee may also agree to introduce flexible working time where one part of the working time may be settled as a core working time but the other part of the working time may be defined by the employees themselves.

### ***Exclusive Rules regarding Working Time Organization***

According to the law where taking into account the characteristics of the respective work or occupation the length of working time is not measured or determined in advance or it may be determined by the employees themselves, in such case, complying with the principles of safety at work and health protection, as well as providing sufficient rest, there is allowed to depart from several previously described rules regarding daily and weekly working time, overtime and resting periods.

In such case the departure is allowed from following rules:

- 1) daily working time – 8 hours, weekly working time – 40 hours;
- 2) that the overtime work must not exceed 144 hours within period of four months;



- 3) the length of a day rest within a period of 24 hours shall not be less than 12 consecutive hours;
- 4) regarding the breaks in the work.

All other rules will continue to apply, for example, the below-described rules regarding salary and payment for overtime and rules regarding breaks during the work. Please also note that those above-mentioned rules will still apply to the working time which will be determined by the employer.

### ***Salary***

The employer has an obligation to maintain the records about the each employee's hours worked and overtime hours, including hours worked at night, on the weekly rest days and holidays.

According to the law there two methods of the salary systems:

- 1) a time salary system or
- 2) a piecework salary system.

The time salary shall be calculated in conformity with the actual time worked irrespective of the amount of work done.

The piecework salary shall be calculated in conformity with the amount of work done irrespective of the time within which it was done.

At the end of each year the government establishes the minimum monthly salary and minimum hourly rate.

In 2009 the minimum monthly salary for regular working time is LVL 180, but minimum hourly rate is LVL 1,083.

### ***Payment for overtime and work on holiday***

If an employee performs overtime work or works on a holiday he shall receive an additional payment of not less than 100 per cent of the hourly or daily salary rate specified for him or her, but if piecework salary has been agreed upon, an additional payment of not less than 100 per cent of the piecework rate for the amount of work done. However, a collective agreement or an employment contract may specify a higher additional payment for overtime work or on a holiday.



### ***Night work***

Night work shall mean any work performed at night for more than two hours. Nighttime shall mean the period of time from 22 to 6 o'clock.

A night-employee shall mean an employee who normally performs night work in accordance with a shift schedule, or for at least 50 days in a calendar year.

Regular daily working time for a night employee shall be reduced by one hour. This provision shall not apply to employees who have been prescribed regular shortened working time. Regular daily working time for a night employee shall not be reduced if such is required by the particular characteristics of the undertaking.

An employee who performs night work shall receive a supplement of not less than 50 per cent of the specified hourly or daily wage rate specified for him or her, but if a lump-sum payment has been agreed upon, a supplement of not less than 50 per cent of the piece-work rate for the amount of work done.

### ***Shift Work and Aggregated Working Time***

If it is necessary to ensure continuity of a work process, an employer, after consultation with employee representatives, shall determine shift work. In such case the length of a shift may not exceed the regular daily working time prescribed for the relevant category of employees.

If due to the nature of the work it is not possible to comply with the length of the regular daily or weekly working time prescribed for the relevant category of employees, the employer, after consultation with employee representatives, shall prescribe aggregated working time.

Aggregated working time may not exceed 56 hours a week and 160 hours within a four-week period unless otherwise provided for by a collective agreement or an employment contract.

### ***Dismissal and termination of employment contract***

An employment contract shall be terminated:

- 1) if the employee and the employer have agreed on termination of the employment contract;
- 2) in the event of the death of the employee;
- 3) in other cases specified in the Labour Law of Latvia (for example notice of termination from employee, notice of termination of the employer etc.).

According to Labour Law of Latvia Employer has the right to give a written notice of termination of an employment contract only on the basis of circumstances related to the conduct of the employee, his or her abilities, or of economic, organizational, technological measures or measures of a similar nature in the undertaking in the following cases:



- 1.1. the employee has without justified cause significantly violated the employment contract or the specified working procedures;
- 1.2. the employee, when performing work, has acted illegally and therefore has lost the trust of the employer;
- 1.3. the employee, when performing work, has acted contrary to moral principles and such action is incompatible with the continuation of employment legal relationships;
- 1.4. the employee, when performing work, is under the influence of alcohol, narcotic or toxic substances;
- 1.5. the employee has grossly violated labour protection regulations and has jeopardized the safety and health of other persons;
- 1.6. the employee lacks adequate occupational competence for performance of the contracted work;
- 1.7. the employee is unable to perform the contracted work due to his or her state of health and such state is certified with a doctor's opinion.

If termination of the employment agreement is moved by the employer, there should be well grounded and provable reasons, there should be enough written evidences testifying the dismissing.



## FINANCE AND BANKING

### *Minority shareholders*

Recently the amendments to the Financial Instrument Market Law in Latvia of 1995 have been passed developing the regulations for regulated market participants on the share buy-out. The buyout bid is considered as a public bid to certain part of shareholders of a company being in public circulation (the target company) to buy their shares expressed by another shareholders or other company or individuals. The law provides 3 types of share buyout bids – mandatory, voluntary and final.

### *Mandatory buyout*

A buyout bid regarding minority shareholder shares shall be mandatory expressed by another shareholder (i) acquiring directly or indirectly majority – the half or more shares with voting rights; and (ii) voted in a shareholders meeting for the exclusion of the shares from a regulated market. Such a decision cannot be made in a closed voting. Therefore a decision regarding exit from the regulated market shall be made in an opened voting.

### *Voluntary buyout*

A person or company is entitled to make a voluntary share buyout bid their purpose is to acquire least 10 % of the shares with the voting rights. Where control (the half or more of all shares) has been acquired following a voluntary bid to all the shareholders, the abovementioned obligation to make mandatory bid no longer applies.

### *Final buyout*

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. The law prescribes establishing the price of one share in mandatory and final share buyout bid by dividing equity to a number of shares. Upon making a decision on granting permission to make a bid, the FCMC shall simultaneously notify the bidding party and the respective organizer of a regulated market institution on which the shares are admitted to trading and send the prospectus of the share buyout bid in an electronic form to that market organizer. A market organizer shall post a prospectus of a share buyout bid on its Internet homepage without delay.



### *Prospectus and Timing*

In any share buyout case the offerer shall submit a prospectus regarding the share buyout bid to the Financial and Capital Market Commission. The prospectus 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 10 days. A share buyout bid shall be valid for a period of 30 to 70 days, starting on the day of making the bid. 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 final share buyout 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 shares shall be blocked on his or her accounts on the next day after the expiration date and the shareholder shall lose its using rights. The new amendments more specifically clarify the regulatory framework for share buyout in Latvia.



## **DATA PROTECTION**

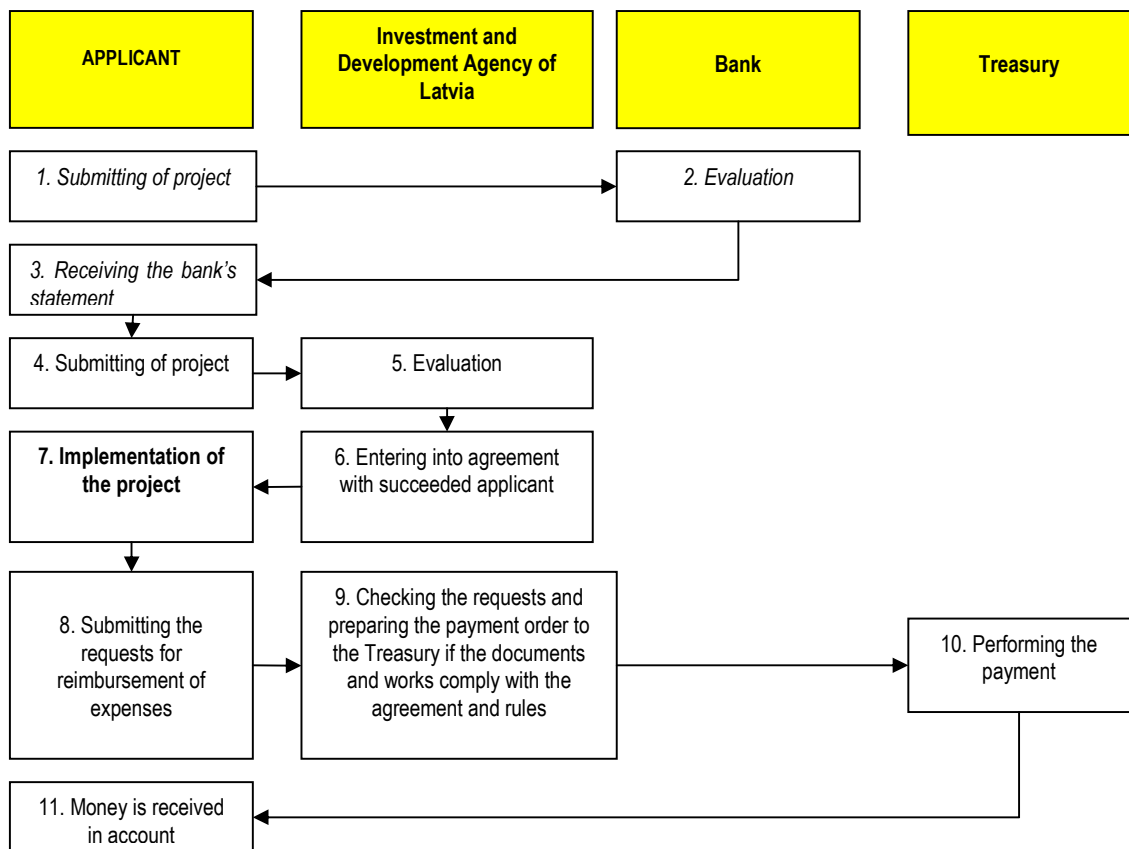
According to the “Law On Personal Data Protection” any individual, entity or institution carrying out personal data processing (personal data processing comprise any operation carried out regarding personal data which is information related to an identifiable individual-including data collection, registration, 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 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 Ls 250 may be imposed.



## EUROPEAN UNION FUNDS

### *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 Latvia. 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 4<sup>th</sup> step.





### *Fiscal criteria*

The guidelines provide specific selection criteria concerning financial stability of the companies applying for funding from the ERDF. The guidelines foresee the following indices the company has to be complied with in last financial year before submitting the project or in time period between last financial years:

- profit after taxes+(50% of depreciation) more or equal 0;
- equity/total amount of assets more or equal 0.2;
- current assets/current liabilities more or equal 0.9.

During and within 5 years after the implementation of the project – positive cash flow. After the accomplishment of the project, within a concluded financial year following final year of the project, the company has to comply with the following criteria:

- equity/total amount of assets more or equal 0.15;
- current assets/current liabilities more or equal 1.

### *Procurement procedure*

On March 13, 2004 the Parliament has adopted amendments to the Law on Procurement for State or Local Government Needs concerning procurement procedures for works and supplies within projects financed by structural funds. In cases when the construction project is up to 50% directly co-financed by structural funds or national co-financing and the expected costs of a project exceeds Ls2 800 000, the beneficiary for supplies has to apply the general procurement rules provided by the mentioned law.

### *Application*

An application must include several documents concerning the information on the applicant company, financial situation and activities planned within the project.

The documents to 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).



### *Construction project*

If a project includes construction in addition a design accepted by the Construction Authority and construction estimate has to be submitted. The procurement procedures for construction must be performed so that the construction permit can be submitted within 6 month starting from the conclusion of agreement with the LIDA on the project implementation. The procurement procedures for supplies and services must be performed before the submission of application.

### *New trends 2007-2013*

It has been announced that from 2007 – 2013 there will be available 18 state aid programmes which funding in total will be 261,50 millions lats.

Those programmes could be divided in three subgroups: in the first subgroup there are programmes where the entrepreneur will receive funding himself. In the second subgroup, there are programmes where the entrepreneur in order to receive funding should cooperate with his colleagues, competitors and scientists. In the third subgroup's programmes the entrepreneur will not receive any funding but he will be able to benefit from development of infrastructure and environment.

It is important to note that there are a lot of improvements in the whole process. Firstly, everybody remembers the long queues at the doors of the Investment and Development Agency of Latvia where people spent many hours in order to submit their projects. Taking into account this experience it has been decided to replace queues with the set of criteria which will be used during the process of evaluation of the submitted projects. This will allow to classify the projects according to their quality.

Secondly, there have been decreased the amount of documents which should submitted together with the project. Thirdly, it is allowed to submit the project by post in registered letter or by e-mail using electronical signature. It means that there is no more the need for entrepreneurs who are situated outside Riga to come to Riga and to stand in the queues.

Fourthly, there will be possible in the several programmes to divide the funding in several payments. For example, if the project will last few years it will be possible to receive some part of funding while the project is in its` middle of the realization. It will be possible to have also advance payments.

Finally, it is foreseen that also the process of reports will be simpler. For example, if in the project there are many payments for small amount of money it will be enough to present a printout from a bank account.

As it was mentioned before there will be available 18 aid programmes, for example: the development of the new product or technology, the implementation of the new product in the manufacturing, the registration of the industrial property rights, the attraction of highly



qualified employees, the support for a business activity with high added value, the entering in the external market and many other programmes.

It should be noted that almost for all the programmes there are the maximum amount of the money which could be assigned to the respective project as well as there are several business areas in the some programmes which will not be supported at all. For example, in the programme of the development of the new product or technology there will be no funding assigned to the production of alcoholic drinks or tobacco products.

However, in our view it will be possible for almost everybody to find the programme which is more appropriate to his/her business interests.

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