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COMMERCIAL LAW

Liquidations

Limited liability companies, joint-stock companies and branches not re-registered with the Register of companies before December 31, 2004 will be deemed to have terminated their activities and subject to liquidation.

After the expiration of the term, the Register of companies will publish the list of such entities in the official newspaper "Latvijas Vēstnesis" inviting creditors to file claims within 3 months from the day of the publication.

Assets left after the liquidation is finished will go to a state treasure.



Deadline for re-registration of a limited liability companies (SIA), joint-stock companies (AS) and branches with the Register of companies expires on **December 31, 2004**.

Decrease of a 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 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. State fees expenses for decrease of the share capital are about LVL 38, regardless of the amounts of decrease. After the decrease is registered, the amounts actually may be wire transferred to the shareholder.

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 table of the next page 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

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.

EU FUNDS

On August 12, 2004 the Latvian Investment and Development Agency (LIDA) has finally announced call for project applications to funding from State Aid Programs co-financed by EU structural funds. An application must include several documents concerning the information on the applicant company, financial situation and activities planned within the project.

Requirements

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 of 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.

TAXES

Natural resources tax

According to the amendments to the law "On Natural Resources Tax" new conditions are applicable for calculating natural resources tax. Taxable activities are the following:

- extracting natural resources;
- polluting of environment;
- selling goods detrimental to environment;
- importing packaged goods;
- selling in retail and by catering companies the non-recyclable tableware;
- using radioactive substances producing waste;
- registering for first time end-of life vehicles;
- emitting greenhouse gas;
- pumping the natural gas in geological structures.

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.

If the tax payer is not aware of packaging type and size, the opinion should be received from the Latvian Packaging Certification Center.

Packaging tax

Tax is imposed on the following packaging types: glass (tax rate- LVL 0.04 per kg), pulp and other natural-fibre raw materials, (LVL 0.012 /kg) polymers (LVL 0.09 /kg), PET (LVL 0.105 /kg), metal (LVL 0.06 /kg), paper, cardboard, laminates with polymer or metal components (LVL



0.06 /kg).

If tax payer to product adds only label natural resources tax is not applicable.

VAT refunds

Tax authorities have provided data on bases of refusals of VAT refunds for business. The tax authorities refused to refund overpaid input VAT in total LVL 7.8 millions in the first half of 2004. The main reasons for refusing VAT refund are the following:

- tax payers had late tax payments;
- refund for not existing VAT overpayment is claimed;
- timing of refund claim is not observed;
- VAT refund is claimed repeatedly for the same amount;
- the value of the transactions to which a 0 % tax rate is applicable exceeds 50 % of the total value of the taxable transactions.

Dividends

There is a new order for taxation for dividends paid to residents of EU countries. According to the law "On Corporate Income Tax" starting from May 1, 2004, withholding tax on dividend payments to residents of EU member states is not applicable, if the recipient has owned at least 25% of capital and voting rights in the company distributing the dividends for at least 2 years.

EU company shall submit to the Latvian company paying dividend's a notice on the shareholder's capital and votes rights stating how long at least 25 % of the shareholders capital and votes rights are owned.

If payment is made within the said 2 year period, exemption may be granted from withholding tax if a bank guarantee to the amount of 10% of the dividend is submitted to tax authorities. In the bank guarantee shall be mentioned tax authority

whom guarantee is given; full information about bank, EU company receiving dividends, Latvian company dividends payer; payment guarantee amount 10% from the amount of dividends; confirmation that bank guarantees to the tax authority immediately to pay money in the amount of guarantee, if EU company has lost rights not to withhold tax and has not paid tax. All disputes related with guarantee shall be settled according to the laws. Currently, withholding tax is set at 10% on dividend distributions unless an applicable tax treaty determines a lower rate.

FINANCE

Minority shareholders

Recently introduced law "On the Financial Instruments Market" provides 3 types of share buyout offers – mandatory, voluntary and final.

Mandatory buyout

A mandatory buyout of minority shareholder offer shares shall be made by a person who

- 1) directly or indirectly acquires the shares with a half or more than a half of voting rights; and
- 2) has voted in a shareholders meeting to discontinue the trading of the shares on a regulated market. Such a decision cannot be made in a closed voting.

Voluntary buyout

A person has rights to make a voluntary share buyout offer if the purpose of the offer is to acquire the number of shares that ensures at least 10 % of the voting rights in a joint-stock company.

Final buyout

A person that acquires the voting rights granted by shares in the amount that equals or exceeds 95 % of the total voting rights has rights to demand that other shareholders sell the shares they own to that person. In the all share buyout cases an offering party shall submit a prospectus of a share buyout offer to the Financial and Capital Market Commission (FCMC), which shall answer within 10 days.

The law prescribes establishing the price of one share in mandatory and final share buyout offer by dividing equity to a number of shares. Upon making a decision on granting permission to make an offer, the FCMC shall simultaneously notify the offering 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 offer in an electronic form to that market organizer. A market organizer shall post a prospectus of a share buyout offer on its Internet homepage without delay.

Timing

A share buyout offer shall be valid for a period of 30 to 50 days, starting on the day of making the offer. There are significant differences in all of the above mentioned buyout cases depending whether a shareholder accepts or rejects a buyout offer.

If mandatory or voluntary buyout offer has been made, a person can choose to accept the offer and sell his or her shares or to reject it. However, if final share buyout offer has been made, a person on mandatory bases, shall sell the shares. If a shareholder does not accept a final share buyout offer 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.



BANKING LAW

Starting from July 24, 2004, the Bank of Latvia has set 4% as a new limit of reserves which shall be hold by Latvian banks and foreign branches. Reserve base consists of bank liabilities such us non-bank deposits and bank issued debt securities.

ARBITRATION

In a recent case the Supreme Court hold that in case the claim containing arbitration clause rights of agreement have been assigned (transferred) to another person, the assignee cannot sue a debtor in the arbitration court and enforce such arbitration decision. This is true because in this case the claim rights have been assigned but not the dispute resolution process.

COMPETITION

New regulations about release of vertical agreements from prohibition of agreements according the Competition law determinates procedure how separate vertical agreements among members of the market, are liberated from the prohibitions. The major requirements which all shall be met are the following: the market share of the seller in the relevant market is not more than 30 %, or the market share of the buyer is not more then 30 % regarding exclusive sales agreement (the seller is obligated to sell goods only to one buyer and it is using these goods in production). The prohibition may be applied also to the agreements between competitors, if the agreement is not on the purchase between competitors, if the market shares for both competitors together is not more than 20 % and the seller is the producer of the goods and the distributor, but the buyer is the distributor, but not the producer of the goods competitive to the goods of the agreement.

LABOUR LAW

Amendments to the Labour law provides additional requirements to employers regarding handicapped, regarding the right of the employees to unit in the organizations, regarding the non-discrimination of the employees and regarding prohibition of differential attitude.

Before amendments an employer, after receipt of a doctor's opinion, was prohibited from employing pregnant women and women for a period following childbirth not exceeding 1 year, but if the woman is breastfeeding – during the whole period of breastfeeding if it is considered that performance of the relevant work poses a threat to the safety and health of the woman or her child. Now, after amendments in the Labour law the employer is prohibited from employing pregnant women 2 weeks before and 2 weeks after a child birth.

Overtime

An employee who performs overtime work or work during a holiday shall receive a supplement of not less than 100 % of the hourly or daily wage rate, but if piece-work pay has been agreed upon, a supplement of not less than 100% of the piece-work rate for the amount of work done.

Before amendments overtime work maid not exceed 48 hours within a four-week period and 200 hours within a calendar year. After amendments overtime work may not exceed 144 hours within a four-month period.



Valdemara Center

- ① REVAL HOTEL
- ② RIGA REGIONAL COURT
- ③ SUPREME COURT

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