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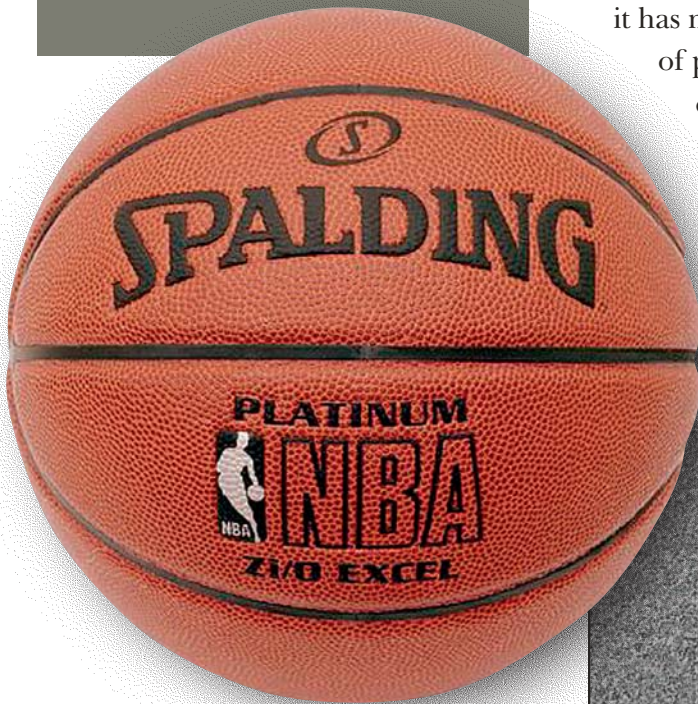
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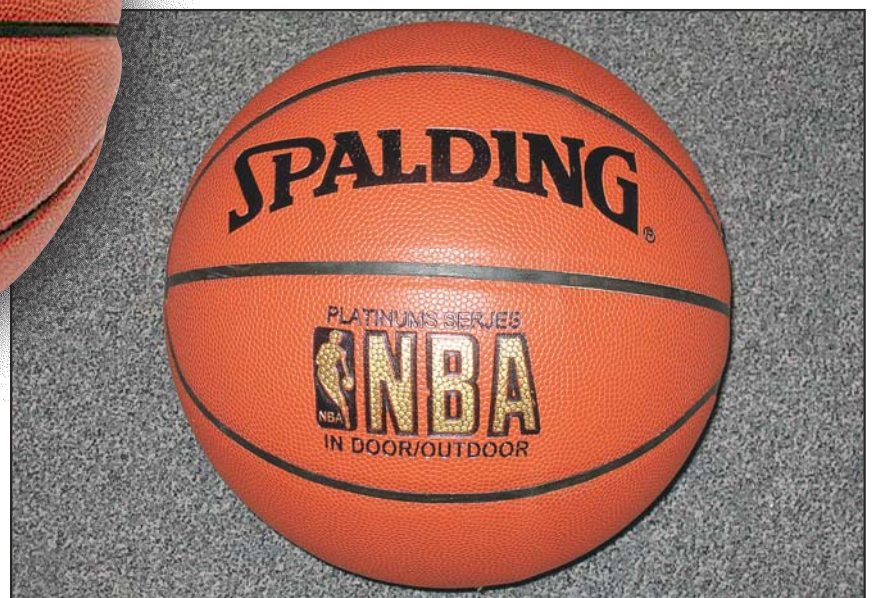
Trademarks

Among other things the Gencs Valters Law Firm provides the intellectual property protection service for the client to eliminate from the market the counterfeit products. The recent case concerns the worldwide known SPALDING balls, the piratical copies of which were shipped from the United Arab Emirates and arrested by Latvian Customs Authorities. As it is seen from pictures, there are quite considerable differences between genuine and piratical SPALDING balls. The cheap counterfeit product lacks "S" icon;

it has misspelling "platinums serjes" and golden logoman instead of platinum one; no even speaking about the poor quality of composite material. The Gencs Valters Law Firm plays against such counterfeits by performing all necessary formalities with the Customs Authorities – that ends the life of piratical products in the flames of oven or in the landfill under the tracks of the bulldozer. ■■



Genuine SPALDING ball



Piratical SPALDING ball



Parliament Accept Tax Change for Real Estate Transactions

Latvia's Parliament on May 17 approved amendments to the personal income tax law that affect income derived from the sale of real property or a capital gain on shares held, directly or indirectly, in a company with Latvian real estate assets in excess of 50 percent. The changes will take effect June 12.

Until now, income from sales of shares and of real property that was held for at least one year was exempt from personal income tax. (If the shares or property were held for less than a year, the applicable personal income tax rate was 25 percent.)

The new changes address income derived from the sale of real property or a capital gain on shares held, directly or indirectly, in a company with real estate assets in excess of 50 percent, which subjects the gain to the normal 25 percent personal income tax. The 50 percent threshold applies to a current or previous year and is measured by the balance sheet value at the beginning of the tax year. To ascertain indirect ownership, shareholdings both in Latvian and foreign companies are taken into account.

The new rules establish that a sale of immovable property that has been in the possession of a person for more than five years, starting from the day the property is registered in the Land Register, or for more than 12 months if the property is the person's primary place of residence, is not subject to personal income tax.

However, the old rules will still apply for a three-year transition period (until July 1, 2010) under the following circumstances:

- the owner's property rights are already registered in the Land Register with effect until June 12, 2007;
- the owner's property rights are not registered in the Land Register until June 12, 2007, but the registration will remain in effect until December 31, 2008;
- the owner's property rights are not registered in the Land Register until June 12, 2007, because of a dispute of ownership, but a court has issued a decision accepting the owner's claim; or
- the owner's property rights are not registered in the Land Register until June 12, 2007, but a decision has been made to restore the owner's rights on property. ■■■



Dividends

In many instances after a company is established in Latvia comes up questions and problems in relation to dividend payments. This concerns a shareholders structure as well as a country from which are shareholders and may not be changed so simply after finding out the problems with dividend taxation. If we presume that the aim of a business is to make profit and pay dividends rather than just to grow in the investment stage, which is also true, dividend taxation becomes an issue to be dealt with before the company establishment. Further we provide some roadmap for the shareholders not to encounter higher cost of tax.

Normally, individuals when founding company shall beforehand consider how dividends will be paid out of company and what tax consequences will be. There are three possible options:

- in a general case 10% withholding tax (WTH) is applicable to dividends paid to non-residents by Latvian company;
- if owner of a company is from country with which Latvia has concluded tax treaty reduced tax rate is applicable, for example, according to the tax treaty concluded between Latvia and USA, 5% WTH will be applicable if the beneficial owner is a company which holds directly at least 10% of the shareholders' votes of the company paying dividends. Countries with which Latvia has concluded tax treaties provides maximum possible tax benefits, although in some instances the benefits of the tax treaty may be denied based on the "limitations of benefits" principle in evident instances of treaty shopping. To employ a treaty benefits certain formal procedure shall be completed, which in a number of instances are missing.
- WTH on dividend payments to residents of EU, EEZ companies is not applicable.



Before founding company it shall be considered the most suitable and the best structure of paying dividends.

However, there are also restrictions to pay dividends. Dividends (and any other payments) may not be paid out to shareholders if equity at the time of closure of the accounting year is less or as a result of this payment becomes less than the share capital. Recently there have been several cases when company had a profit in previous financial year but few years before was losses and result is equity which is smaller than share capital. If financial results are improving and financial report prepared shows positive results that equity is at least the same as share capital, it is possible consider to change financial year. New financial report has to present financial results where equity is (and after payments will be) at least in amount of share capital.

These questions shall be considered before closing financial year when still it is possible to improve financial results.

Problems are encountered with dividends also upon a sale of shares. Often in the agreement of sale of shares it is not mentioned what happens with not paid dividends after changing share holder. Previous owner often wants to receive dividends which raised from time when he/she was owner, but if it is not mentioned in the agreement, all dividends receives that owner which is at the time of paying dividends. In case when agreement of sale of shares is concluded it is very important to indicate order how dividends will be paid. ■■



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Energy sector experience:

- ■ Reconstruction of Kegums and Plavīnu hydro power stations (HES) by *Alstom Power Hydro*
- ■ Plavīnu HES reconstruction by *Alstom Power Generation*
- ■ *Vattenfall* projects in the Rīga International Airport
- ■ TEC -1 reconstruction by *Siemens Industrial Turbomachinery*
- ■ Purchase of *Essent* investments in the Baltics
- ■ *Weatherford* Pipeline & Speciality Services
- ■ *Latvenergo* financing by EIB and NIB
- ■ Sale of *Statoil* bioenergy unit

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