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**CORPORATE INCOME TAX**

***Dividends***

According to amendments to the law „On corporate income tax”, withholding tax on dividend payments to the EU member states residents is not applied, if the recipient of dividends until the dividend payment for at least 2 years has owned at least 25% of capital and voting rights in the company distributing dividends. If payment is done within the said 2 year term, exemption may be granted from a withholding tax if a bank guarantee in amount of 10% of dividend is



In June 2003 Valters Gencs spoke in an annual conference "Licensing in a Changing World" of the Licensing Executive Society International (LES) in Oslo (Norway) covering tax and legal issues of licensing and franchising agreements. The summary of the presentation may be found at [www.gencs.lv/Doing business in Latvia](http://www.gencs.lv/Doing%20business%20in%20Latvia). The conference gathered 540 attendees from 51 countries.

provided. Currently, withholding tax is set at 10% on dividend distributions unless applicable tax treaty benefit is claimed. Entrance into force of the EU exemption will be specified in a future.

***Interest deductions***

Starting with 2003 tax year new rules is stipulated for interest deductions. Corporate income tax deductible interest is total amount of interest deducted minus the highest from the following: 1) interest multiplied by 1.2 of the average short term credit interest rate set by the Central statistical bureau within the last month of the taxation year (rate in June 2003 was set at 5.6%); or 2) proportionally ratio of debt against 4 times of equity within the first month of the taxation

year. The equity before calculation shall be decreased by long term revaluating reserve and other reserves. The above are not applied to loans from Latvian banks. Interest accrued till 2003 may be carried forward within five years in amount of 20% of the interest accrued. The new rules applicable as of 2003 do not permit interest carry forward.

***Consulting fee***

Consulting fee definition is broadened, including into the consulting fee which is subject to 10% withholding tax all consulting and management services provided to a company, not only services provided to a management of a company. To avoid withholding a double tax treaty benefits may be employed for payments to tax treaty countries.

***Payments for sale of real property***

According to the law „On corporate income tax” withholding tax of 2% on non-residents income on alienation of real property shall be withheld. The new rules determine that in case the withholding tax of 2% is not withheld for payments, the payment amount does not become non-deductible expense for a corporate income tax purposes. The general rule is that in case payments are done to non-residents, there is an option to withhold tax on consulting (10%),

interest to related party (10%) and royalty fees (5% or 15%). If the withholding tax is not paid till 15th of the following month to a state, the full amount paid becomes a non-deductible expense.

### **Capital loss deductions**

The new amendments determine that loss on sale of non-public securities may be carried forward for 5 years and offset from taxable income with a precondition that the securities are held for more than 12 months and sale has not occurred more often than once in a taxation year.

## **CUSTOM'S TAX**

### **Exemption for expatriates**

The new law "On customs tax", which becomes effective as of 1<sup>st</sup> of September 2003 provides relief from customs tax for goods intended for personal use. This relief applies to persons entering Latvia for period not less than 12 month if they may provide a Latvian labor agreement to customs authorities.

### **Requirements for goods**

The goods are released from the customs tax if the following criteria are met: 1) a person has owned the goods in the past residence place abroad not less than 6-month before the person left this place; 2) the person will use these goods for the same purpose as he/she used the goods before; and 3) the residence place of the owner of respective goods is outside of Latvia for at least 12 months in total.

### **Transfer of business**

Goods imported by expatriate who transfer his/her business to Latvia for

business purpose may be exempted from a custom's tax. The goods shall be used for 12 months before the transfer and the business shall be continued in similar manner in Latvia. The exemption is granted if the new business is started in Latvia, but not if the goods are brought for a merger purposes. If within 12 months or extended period 36 months period after the import the goods are alienated, tax authorities shall be informed and appropriate custom's tax paid.

## **IMMIGRATION NEWS**

### **Social fee statement**

Effective as of 1<sup>st</sup> of May 2003 the Immigration authorities are granting residence permits based on labor relations if additionally a statement from tax authorities is submitted regarding person's social tax payments from a reasonable living income during the past year. As it is now applied by the Immigration authorities, minimal salary for board members of legal entity from which social fee shall be paid is Ls 338 (app. 532 Euro) per month. This situation becomes identical as in Lithuania where a minimal salary is asked to be paid for company's management. In total monthly income of a foreigner in Lithuania should be not less than 3,000 Litas (app. 869 Euro) per month.

### **Declaration of residence place**

As from 1<sup>st</sup> of July 2003 new rules has entered into force on declaration of residence place of individuals. The reference issued by a local municipality regarding declared residence place shall be submitted to the Immigration authorities for resident's permit purposes. To register residency a declaration must be submitted to respective municipality depending on the person's residence.

### **Management agreements**

Further, according to new rules for company board members a management agreement is required for obtaining a residence permit. The decision now is taken only by the Immigration authorities regarding work permit of a board member. A work permit is required for all foreigners who wish to work in Latvia also in cases if the labor relations are based on different ground than a labor agreement. Accordingly, board members of the Latvian legal entities shall apply for work permits.

### **State fees**

Recently state fees for immigration have changed. Now, a fee for immigration invitation is Ls 10 per one invited person; fees for residence permits with term more than 90 days are – within 30 days – Ls 70; within 10 working days – Ls 120; within 5 working days – Ls 170.

### **Where to apply?**

The countries from which citizens may submit residence permit documents in Latvia while they are staying here with valid visa or on basis of free visa regime are: Andorra, Island, the Netherlands, Australia, Italy, Norway, Austria, Israel, Poland, USA, Japan, Portugal, Belgium, New Zealand, Rumania, Bulgaria, Canada, Slovakia, Czech Republic, Cyprus, Slovenia, Denmark, Great Britain, Finland, France, Lithuania, Spain, Greece, Liechtenstein, Switzerland, Hong Kong, Luxemburg, Hungary, Croatia, Malta, Vatican, Estonia, Monaco, Germany, Ireland, Nicaragua, Sweden. Citizens from countries not mentioned in the foregoing list shall submit documents in Latvian embassy abroad, even if they are board members or founders of the Latvian legal entity.



## VAT REFUNDS

Please, see aside the VAT refund form to get back VAT paid for 2003 in Latvia by non-residents not registered in Latvia as VAT payers. Due date for refund applications is June 30, 2004.

## COMPANY LAW

### Liquidation

According to the amendments to the law "On entrepreneurship" the Enterprise Register may initiate simplified liquidation of company if it has received information from tax authorities that a company is not present at its legal address or a declared address does not exist or a company has not started entrepreneurship in 1 year since registration. The same is true if a company consistently is not submitting to authorities reports and declarations.

Prior to start a process of simplified liquidation, the Enterprise Register will issue and publish it a warning to a company, stating deadline when violations must be eliminated.

### Names

According to amendments to the law "On the Enterprise Register of the Republic of Latvia" from July 2003 the Enterprise Register does not verify if the name of company to be registered into the Commercial Register is confusingly similar to other name.

Further, the registration may be delayed only if the company's name is equal to names already recorded in the Commercial Register or in the Enterprise Register or equal to names already applied to register.

## Application for Refund of Value Added Tax to Non residents

To the Large Taxpayers Department of the State Revenue Service

Please refund the value added tax (VAT) for goods and services purchased in the Republic of Latvia in 2003.

### I. Applicant (non-resident)

Full name	
Address	
Postal code, Country	Telephone Telefax E-mail_address
VAT registration number in country of residence	
Tax authority in country of residence (name, address)	
Business in country of residence	
Total amount of VAT reclaimed for refund, LVL	

### II. Authorised person (to be filled out if authorised person on behalf of applicant submits the application; power of attorney must be enclosed in original)

Name and surname (for legal person – full name)	
Passport number, personal identification number (for legal person – registration number)	
Address	
Postal code Country	Telephone Telefax E-mail_address

### III. Receiver of VAT refund (non-resident or authorised person)

Name and surname (for legal person – full name)
Name and code of bank, SWIFT code .....
Country
Account number to which the refunded tax is to be transferred

### IV. Invoices (originals) on the basis of which refund of the VAT is reclaimed

Date of invoice	Number of invoice	Seller (name, VAT registration number)	Goods/services	Value of goods/services (VAT not included), LVL	VAT, LVL
<b>Total</b>					

I declare that the information in this application is true and correct, goods and services are purchased for business purposes abroad and no business activity has been performed in the Republic of Latvia in 20\_\_\_\_.

Signature and transcription (in block letters)	Date
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### VI. Decision on refund of the value added tax (to be filled out by the SRS)

Refund value added tax in the amount of LVL .....	Do not refund value added tax in the amount of LVL .....	
Director of the Large Taxpayers Department of the SRS	Signature and transcription (in block letters)	Date

Place of seal



## EU FUNDS

Two pre-structural funds (ISPA and SAPARD) and financial assistance from EU programs (Phare and several sectoral programs) are available at present for Latvia. Latvian companies now only indirectly, except those in farming sector (SAPARD), can receive financial resources from EU funds participating in tenders of Phare and ISPA projects.

After accession to EU financial resources from 4 structural funds (for industry ERDF (European Regional Development Fund) and ESF (European Social Fund) are relevant) and Cohesion fund will be available.

The ERDF is the instrument to co-finance investment leading to the creation or maintenance of jobs, investment for infrastructure and business activities of small and medium-sized enterprises (SMEs). The ESF assists projects for employment development. The Cohesion Fund to some extent substitutes the ISPA and finances projects designed for environment and transport infrastructure. The regulations of the Latvian

government concerning application order will be accepted shortly. EU multiannual SME program provides several financial instruments in forms of investments, grants, loans and guarantees managed by European Investment Fund. Concrete measures to promote Latvian SMEs are defined in Program for Development of Latvian SMEs.

There are more than 350 European funds for private sector. After accession the most essential benefit will be the increased possibility to get assistance by several means from European Investment Fund and European Investment Bank.

## NEWLY EMPLOYED

We are pleased to announce that Renārs Gasūns has joined the firm as a lawyer.

Formerly he has been working as the Head of Sectoral Policies department of the European integration bureau, which is under direct authority of the Prime Minister. He specializes in EU law, project finance, energy and environmental law.

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**Valdemara Center**

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- ② RIGA REGIONAL COURT
- ③ SUPREME COURT