Deloitte.

International tax

Lithuania Highlights 2016

Investment basics:

Currency – Euro (EUR)

Foreign exchange control – No

Accounting principles/financial statements – IAS and IFRS, or Business Accounting Standards (BAS). BAS are prepared in conformity with IAS, IFRS and the European accounting directives. Financial statements must be prepared annually.

Principal business entities – These are the public/private limited liability company, general/limited partnership, small partnership, subsidiary of a foreign enterprise and branch or representative office.

Corporate taxation:

Residence – A corporation is resident if it is incorporated in Lithuania.

Basis – Lithuanian entities are subject to tax on their worldwide income minus the income of their permanent establishments (PEs), provided the PEs are based in European Economic Area (EEA) countries or countries that have concluded a tax treaty with Lithuania and the income from activities carried out through the PEs is subject to corporate income tax (or equivalent tax) in those countries. Nonresident entities are subject to tax on Lithuania-source income and on income received by a PE in Lithuania.

Taxable income – Corporate income tax is imposed on a company's profits, which consist of business/trading income, passive income, capital gains and positive income of a Lithuanian entity's controlled foreign entity, or part of such income. Normal business expenses may be deducted in computing taxable income.

Taxation of dividends – Dividends are taxable at a rate of 15%, unless the participation exemption applies (dividends are exempt from corporate income tax if a parent company holds at least 10% of the shares of the subsidiary for at least 12 months).

If a Lithuanian entity distributes profits to an individual shareholder and the profits (or part thereof) were exempt from corporate income tax as a result of corporate income tax incentives and/or were taxed at a rate of 0%, the distribution results in taxation of the part of the distributed profits proportionate to the shareholding, at a rate of 15%.

Dividends received from a foreign entity registered in an EEA member state and whose profits are subject to corporate income tax or an equivalent tax are exempt from tax.

Capital gains – Capital gains of resident and nonresident companies are taxed as general taxable income, at a rate of 15%. An exemption may apply to capital gains derived by a Lithuanian resident holding company or PE of a foreign company on the disposition of shares in a company (that is subject to corporate income tax) located in Lithuania, another EU/EEA member state or a country that has concluded a tax treaty with Lithuania. To qualify for the exemption, the Lithuanian company or PE must hold more than 25% of the voting rights for an uninterrupted period of at least two years. In the case of a reorganization, the exemption applies if a company or PE has held more than 25% of the voting rights for an uninterrupted period of at least three years.

Losses – Operating losses may be carried forward indefinitely if the entity continues carrying on the activity that resulted in the losses. However, losses carried forward cannot offset more than 70% of taxable income for the entity in any tax period, except for micro companies. Losses incurred on the sale of shares may be carried forward for five years and may be offset only against income from the sale of shares. Losses may be transferred within a group of companies if certain criteria are met. The carryback of losses is not permitted.

Rate – The general rate is 15%. Micro companies (those with up to 10 employees and up to EUR 300,000 in income per year) may be entitled to a reduced rate of 5%.

Surtax – No

Alternative minimum tax – No

Foreign tax credit – Foreign tax paid may be credited against Lithuanian tax on the same profits, but the credit is limited to the amount of Lithuanian tax payable on the foreign income. Foreign tax paid on income earned through a Lithuanian company's PE located in an EEA member state or a country that has concluded a tax treaty with Lithuania may not be credited against Lithuanian tax.

Participation exemption – Dividends are exempt from corporate income tax if the parent company holds at least 10% of the shares of the subsidiary for at least 12 months. See also under "Capital gains."

Holding company regime – Lithuania does not have a holding company regime, but an exemption may be available on capital gains derived from the disposal of shares (see under "Capital gains").

Incentives – Scientific research and experimental development costs may be deducted three times when calculating corporate income tax. According to an incentive for investment programs, a company may reduce its taxable profits by 50% for expenses incurred between 2009 and 2018. Incentives also are provided for small companies and companies in free economic zones.

From 2014-2018, a Lithuanian entity or a PE of a foreign entity that provides funds to a Lithuanian film producer for the production of all or part of a film may be entitled to (1) reduce its taxable income by 75% of funds provided to the film producer; and (2) reduce up to 75% of the corporate income tax payable by the amount of funds provided to the film producer, provided certain conditions are satisfied.

Withholding tax:

Dividends – The withholding tax on dividends paid to a nonresident is 15%, unless the rate is reduced under a tax treaty, the participation exemption applies (see above under "Taxation of dividends" and "Participation exemption") or the EU parent-subsidiary directive applies.

Interest – There is no withholding tax on interest for EEA companies and companies resident in countries that have concluded a tax treaty with Lithuania. Otherwise, the rate is 10%.

Royalties – Royalties paid to a nonresident company are subject to a 10% withholding tax, unless the rate is reduced under a tax treaty or eliminated in accordance with the EU interest and royalties directive.

Technical service fees – No

Branch remittance tax – No

Other taxes on corporations:

Capital duty – No

Payroll tax – No

Real property tax – Real property (with certain exceptions) owned by a legal person; real property used by a legal person under an installment sale or lease contract or financial lease providing for the transfer of ownership; or real property owned by an individual and transferred to a legal person for an indefinite period or a period exceeding one month is subject to real property tax. Depending on the municipality, the rate varies from 0.3% to 3% of the value of the property. The type of property will determine the applicable valuation method and, thus, the taxable amount.

Social security – In addition to withholding a 3% pension social insurance and a 6% health insurance contribution on behalf of an employee, an employer must contribute to social insurance (including pension social insurance, sickness and motherhood social insurance, unemployment insurance, health insurance and occupational accident and disease contributions) at a rate between 30.98% and 32.6% of the employee's gross salary, depending on the risk group.

For social security contributions on royalties paid to individuals, see under "Other taxes on individuals."

Stamp duty – No, although a notary fee may apply to certain transactions.

Transfer tax – No

Other – An employer must contribute 0.2% of an employee's gross wages to the Guarantee Fund.

Anti-avoidance rules:

Transfer pricing – The transfer pricing rules are based on the OECD transfer pricing guidelines. Companies must document transfer prices if the annual turnover exceeds EUR 2,896,200 (this threshold does not apply to financial and credit institutions or insurance companies).

Thin capitalization – Thin capitalization restrictions apply to interest paid to controlling entities. A creditor qualifies as a controlling entity if it owns more than 50% of the shares in the company paying the interest (or more than 50% of the shares are owned together with associated persons and the creditor's "own" holding is 10% or more). A group company also qualifies as a controlling entity. A debt-to-equity ratio of 4:1 applies, and any interest attributable to the debt in excess of this ratio is nondeductible. The thin capitalization restrictions do not apply if the paying entity can demonstrate that the same loan would have been granted under the same circumstances by an unrelated party. No thin capitalization restrictions apply to financial institutions rendering financial lease services.

Controlled foreign companies – A foreign company is treated as a CFC if it is controlled by the controlling person on the last day of the tax period and the controlling person holds, directly or indirectly, more than 50% of the shares (or the controlling person, together with related persons, holds more than 50% of the shares and the portion controlled by the controlling person accounts for at least 10% of the shares) in the controlled entity or in other rights to a portion of distributable profits or preemptive rights to the acquisition thereof.

Disclosure requirements – No

Other – The substance-over-form principle applies.

Compliance for corporations:

Tax year – The tax year is a financial year that coincides with the calendar year. However, at the request of the taxpayer and taking into account the characteristics of the taxpayer's activities, the tax authorities may set a 12-month tax period other than a calendar year.

Consolidated returns – Consolidated returns are not permitted; each company must file a separate return.

Filing requirements – Companies are required to file an annual corporate income tax return and advance corporate income tax returns (if the income for the previous tax year exceeded EUR 300,000). The annual corporate income tax return must be submitted and the corporate income tax must be paid by the first day of the sixth month of the following tax period, i.e. by 1 June of the following tax year for calendar-year taxpayers. If the company's income for the previous tax period exceeded EUR 300,000, the company is required to make advance payments no later than on the last day of each quarter of the tax period and, for the last quarter, no later than on the 25th day of the last month of the last quarter.

Penalties – Penalties equal to 10%-50% of the tax liability may be imposed; the amount depends on the type of violation, whether the taxpayer cooperates with the tax authorities and other circumstances the authorities deem relevant. For late tax payment, a daily late penalty of 0.03% applies.

Rulings – A taxpayer can request a binding ruling or advance pricing agreement on future transactions.

Personal taxation:

Basis – Lithuanian tax residents are subject to tax on their worldwide income; nonresidents are subject to tax only on income sourced in Lithuania and on income derived from activities through a fixed base in Lithuania, including foreign-source income attributed to that fixed base.

Residence – An individual is treated as a resident if at least one of the following conditions is satisfied: (1) the individual's permanent place of residence is in Lithuania during the tax period; (2) the individual's personal, social or economic interests are in Lithuania, rather than abroad, during the tax period; (3) the individual is present in Lithuania for at least 183 days during the tax period; (4) the individual is present in Lithuania for at least 280 days during two consecutive tax periods and has stayed in Lithuania for at least 90 days in either of the tax periods; or (5) the individual is a citizen of Lithuania who does not meet the criteria set out in (3) and (4) above and who receives employment-related remuneration or whose costs of living in another country are covered by the state budget or municipal budgets of Lithuania (e.g. diplomats, consuls, etc.).

Filing status – Joint filing is not allowed.

Taxable income – Taxable income includes employment income, income from commercial activities, royalties, income from the lease of assets and all other personal income.

Capital gains – Individuals are taxed at a rate of 15% on gains from the disposal of property, including shares. Any gains from the disposal of financial instruments not exceeding EUR 500 per tax period are tax exempt. Capital gains from the sale of immovable property located in the EEA are exempt if the property is owned for at least ten years before the sale. Gains derived from the sale of a residence are not taxable if the individual lived in the premises for at least two years, or if less than two years, when the income from the sale is used within one year to purchase another residence where domicile will be declared.

Deductions and allowances – The annual tax-exempt amount (TEA) of EUR 2,400 is applicable if annual income does not exceed EUR 4,200. The annual TEA is reduced on annual income from EUR 4,200 to 11,258, and no TEA is applicable if annual income exceeds EUR 11,258. The annual TEA is calculated by taking into account taxable income (not only employment income), with certain exceptions. Additional TEA is deducted from income received by individuals raising children (EUR 1,440 for each child). The additional TEA is allocated to both parents equally, without taking into account the income received by either. When filing the annual tax return, if one parent did not use the full amount of the additional TEA, the other parent can use it. A tax resident also is allowed to deduct the following expenses: life insurance premiums, contributions to private pension funds and fees paid for certain types of studies.

A resident carrying out individual business activities can deduct 30% of his/her annual income without providing documentation of the expenses. Deductible expenses, however, generally are similar to those available for corporate income tax purposes.

Rates – Income derived by individuals generally is subject to personal income tax at the standard rate of 15%, although exceptions apply to income from individual business activities (except income from certain professional activities) and income received from the sale of base scrap metal, which is taxed at a rate of 5%.

Other taxes on individuals:

Capital duty – No

Stamp duty – There is no stamp duty, but a notary fee may apply to certain transactions.

Capital acquisitions tax – A 15% personal income tax is levied on gifts valued at more than EUR 2,500, but only the portion of the gift exceeding EUR 2,500 is subject to tax. Gifts received from a spouse, child, brother, sister, parent, grandparent or grandchild are tax exempt.

Real property tax – Real property owned by an individual and real property used by an individual under an installment sale or lease contract of financial lease providing for the transfer of ownership are subject to real property tax.

A 0.5% tax rate is applied to the total value of real estate (e.g. residential property; gardens; garages; farms; greenhouses; households or auxiliary households; buildings used for science, religious or recreational purposes; and fishery and engineering constructions) that is above the nontaxable value of EUR 220,000. The total value of real estate is calculated by taking into account real estate owned by family members, including spouses, single persons that are raising children (or adopted children) and children (or adopted children) under 18 years old who are residing with the taxpayer.

Real estate tax rates from 0.3% to 3% apply to buildings intended for certain purposes (administration, accommodation, trading, services provision, catering, transportation, manufacturing, industrial, warehousing, medical services and sports) that are owned by individuals. Rates can vary depending on the municipality.

Individuals do not pay real estate tax if use of the real estate is transferred to another legal person for an indefinite period or a period exceeding one month. In that case, the legal person using the real estate must pay the real estate tax.

Inheritance/estate tax – The inheritance tax rate is 5% of inheritable assets valued at EUR 150,000 or less, and 10% on inheritable assets valued at more than EUR 150,000. However, the taxable base is only 70% of the inherited assets. The taxable value not exceeding EUR 3,000 is exempt. Exemptions also apply to assets inherited by family members.

Net wealth/net worth tax – No

Social security – The employer must withhold a 3% pension social insurance and a 6% health insurance contribution on behalf of its employees from employment-related income, and pay the employer's part of social security contributions at a rate between 30.98% and 32.6%, depending on the insurer's risk group.

Royalties received by an individual, regardless of whether he/she has an employment agreement with a legal entity, are subject to a 6% health insurance and a 3% social security contribution. Where there is an employment contract, the entity that pays the royalties must contribute to social insurance at a rate between 30.98% and 32.6% of the royalties, depending on the risk group. Where there is no employment contract, the entity paying the income must make a 29.7% social security contribution.

Where an individual does not have an employment contract concluded with a legal entity, the basis for the health and social security contributions is 50% of the royalties, with a monthly cap of four times the insured income (currently EUR 445 x 4) and an annual cap of 48 times the insured income (currently EUR 445 x 48).

Income from individual activities generally is subject to a 9% health insurance contribution (except where the individual holds a business certificate). This income also is subject to social security contributions, at a rate of 28.5%. Caps for both health insurance and social security contributions are set so that annual contributions are calculated on the amount of income not exceeding 48 times the insured income (currently EUR 445 x 48). The base of health insurance and social security contributions is 50% of taxable income before the deduction of health insurance and social security contributions.

Income of owners of unlimited civil liability entities, members of partnerships and members of small partnerships is subject to a 9% health insurance contribution and a 26.3% social security contribution. The base of the social security contributions is the remuneration received by the owners of the unlimited civil liability entity and members of partnerships, declared to the State Tax Inspectorate, and it cannot be lower than the minimum statutory monthly salary (currently EUR 350). In certain cases the requirement to pay social security contributions on the amount not lower than the minimum statutory amount does not apply. The base of health insurance contributions is the amount on which the owners of unlimited civil liability entities and members of partnerships pay social security contributions and it cannot be lower than minimum statutory monthly salary (currently EUR 350). The maximum monthly amount on which the health and social security contributions are calculated is four times the insured income (currently EUR 445 x 4) and the maximum annual amount, respectively.

The health insurance contribution on income derived from carrying on individual activities with a business certificate is 9% of the monthly minimum salary (currently EUR 350). Health insurance contributions of persons that carry on individual activities with a business certificate and who also receive income related to the employment relationship is calculated in proportion to the time during which they hold a valid business certificate. Social security contributions on such income are 50% of the base pension benefit (EUR 56 per month).

Special provisions apply to income derived by athletes, income from entertainment activities, income from farming and certain other types of income.

Compliance for individuals:

Tax year – Calendar year

Filing and payment – Employment income is taxed by withholding at source.

Individual tax returns are due by 1 May following the end of the taxable year. An individual must file an annual return unless (1) he/she does not want to utilize unused additional tax-exempt amounts and deduct expenses; or (2) he/she did not receive income other than employment income from a Lithuanian entity during the tax year.

Penalties – Penalties equal to 10%-50% of the tax liability may be imposed; the amount depends on the type of violation, whether the taxpayer cooperates with the tax authorities and other circumstances the authorities deem relevant. Daily penalties of 0.03% apply for late payment.

Value added tax:

Taxable transactions – VAT applies on the sale of goods and the provision of services, intra-community acquisitions and the import of goods.

Rates – The standard rate is 21%, with reduced rates of 9%, 5% and 0%.

Registration – Registration is compulsory for Lithuanian businesses whose annual turnover exceeds EUR 45,000, but voluntary registration also is possible. Lithuanian and foreign taxable persons, or legal persons that are not taxable persons, also must register as VAT payers in Lithuania if they acquire goods in Lithuania from another EU member state and the value of such goods exceeds EUR 14,000 in the previous calendar year or if it is foreseeable that the value of such goods will exceed that amount in the current calendar year.

The turnover threshold does not apply to foreign companies; they must register irrespective of turnover. Foreign taxable persons must register either through a local affiliate or a fiscal agent. Direct registration is possible only for companies established in an EU member state or in territories where agreements exist concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures and administrative cooperation and combating fraud in the field of VAT.

Filing and payment – VAT must be paid on a monthly basis, no later than 25 days after the end of the taxable period. In some instances, a calendar half-year or other taxable period basis can be applied. The annual tax return (if applicable) is due on 1 October of the following tax year.

Source of tax law: Tax Administration Law, Corporate Income Tax Law, Personal Income Tax Law, Law on Health Insurance, Law on Social Security Contributions, Value Added Tax Law

Tax treaties: Lithuania has 53 tax treaties.

Tax authorities: State Tax Inspectorate under the Ministry of Finance of the Republic of Lithuania, Customs Department of the Republic of Lithuania, State Social Insurance Fund Board under the Ministry of Social Security and Labor

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