

# LEGAL NEWSLETTER

YEAR 2010

## REPUBLIC OF LITHUANIA

Vilnius, Lithuania

### Corporate Law

On January 1, 2010 the Seimas adopted amendments to the “Law on the Securities Market”. The Law’s amendments entered into force on January 1, 2005. The Law established rules for the mandatory sale and purchase of minority shareholders’ shares.

The Law provides that shareholders of a Company listed on the official list of the Lithuanian stock exchange or on the current list on the stock exchange, having acquired (acting independently or with other persons) shares representing at least 95 percent of the total votes in the General Shareholders Meeting of an issuer, have the right to request all remaining shareholders to sell their remaining shares with voting rights to the majority shareholder.

The State Gazette, “Valstybės žinios”, 2010. No. 1

On October 17, 2010 the Head of the State Tax Inspectorate under the Ministry of Finance approved “Instructions on Sanctions Applied by the Tax Administrator to Non-operational Legal Persons”.

The said Instructions set forth the obligation on the State Tax Inspectorate to apply to the Legal Persons Register to initiate a Company’s liquidation proceedings if certain listed conditions are present.

It should be noted that the Instructions do not apply in case of on-going restructuring, liquidation or bankruptcy of legal persons pursuant to the Lithuanian Civil Code and/or other legal acts of Republic of Lithuania.

The State Gazette, “Valstybės žinios”, 2010. No. 127.

### Competition Law

On January 13, 2010 the Competition Council of the Republic of Lithuania adopted amendments to the “Resolution on the Procedure for Filing and Examination of Notices of Concentration and of Calculation of Aggregate Turnover” so as to implement amendments to the “Law on Competition”, adopted by the Seimas on April 15, 2004, and to amend certain aspects of the procedure for filing and examination of concentration notices.

The procedure for filing and examination of concentration notices was supplemented with provisions providing particulars for the determination of persons participating in a concentration when the concentration results in an increase in existing control. One of the most significant amendments is the

provision that a request for permission to perform separate acts of concentration may be filed with the Competition Council only together with a notice of concentration.

The State Gazette, "Valstybės žinios", 2010. No. 14.

### **Environmental Law**

On March 24, 2010 the Seimas adopted amendments to the "Law on Environmental Protection", which came into force on April 12, 2010.

The amendments indicate that in case of the presence of a real threat of possible damage to the environment, legal persons must immediately take all necessary measures to protect the environment. It should be noted that in case a real threat to the environment cannot be eliminated, companies must inform the Ministry of the Environment or its authorized institutions.

Pursuant to the said amendments, companies who have caused damage or have created threat of damage to the environment, shall bear the costs of execution of necessary preventive measures and for restoration of the environment even in cases when the authorized institutions of a municipality or government execute such measures.

The State Gazette, "Valstybės žinios", 2010. No. 31.

### **Finance and Banking Law**

On December 20, 2009 the Head of the State Tax Inspectorate under the Ministry of Finance approved "Regulations for Setting off the Amounts Paid by a Taxpayer". The said Regulations set forth the procedure for determining of priority in setting off amounts paid by taxpayers and tax withholders for the purposes of covering taxes and/or tax-related amounts.

The State Gazette, "Valstybės žinios", 2010. No. 54.

On February 4, 2010 the Minister of Finance approved the "Accounting Rules for Legal Persons for Unlimited Civil Liability". The Rules set forth the requirements for observing accounting principles which have to be met by all business entities while performing their activities.

The Rules establish that business entities that are VAT payers or which have hired employees in an accounting (or previous) year, must maintain double entry bookkeeping. However, business entities that are not VAT payers or which have not hired employees in the accounting year or previous accounting year may maintain single entry bookkeeping.

Additionally, the Rules provide that business entities that do not draw up financial statements are recommended in their bookkeeping to act in conformity with Business Accounting Standards.

The State Gazette, "Valstybės žinios", 2010. No. 19.

On February 15, 2010 the Head of the State Tax Inspectorate under the Ministry of Finance approved "Rules for Recording of Recovered Amounts of Tax in Arrears", which came into force on February 23, 2010. The said Rules set forth the procedure for recording amounts of tax in arrears recovered by the State tax inspectorates for the purposes of payment of tax in arrears.

The State Gazette, “Valstybės žinios”, 2010. No. 25.

On May 13, 2010 the Head of the State Tax Inspectorate under the Ministry of Finance approved the amendments to the “Rules on Recognition of Tax in Arrears Due to Taxpayers as a Bad Debt, Revising and Accounting of Tax in Arrears and of the Methods of Computation of the Enforcement Expenses Incurred in Respect of Tax in Arrears Due to Taxpayers”. The amended Rules came into force on May 20, 2010.

The Rules set forth the procedures for tax recognition in arrears as bad debts, their revision and accounting.

The State Gazette, “Valstybės žinios”, 2010. No. 63.

On March 9, 2010 the Minister of Economy of the Republic of Lithuania approved the “Rules for Assignment and Use of Financial Support for implementation of Means of Financial Support to Small and Medium-size Businesses”. These Rules came into force on March 16, 2005.

The Rules established a system of financial support for small and medium size business entities; assisting small and business size entities in regard to receiving loans from credit institutions for implementation of their projects and/or business plans, as well as granting financial support to small and medium-size business entities.

The State Gazette, “Valstybės žinios”, 2010. No. 34.

#### **Import and Export Laws**

On November 17, 2010 the Minister of Environment approved the “Regulations on Registration of Producers and Importers”, which came into force on November 25, 2010.

The regulations establish the procedure for registering Lithuania’s internal market producers and importers of lubricants, vehicles, electric and electronic equipment, taxable products and product-filled packages.

The State Gazette, “Valstybės žinios”, 2010. No. 138

#### **Insurance Law**

On January 18, 2010 the Seimas amended and supplemented a “Law on Insurance”, which came into force on February 8, 2005.

The said Law was supplemented with a provision permitting subordinate insurance intermediaries to refrain from taking out civil liability insurance in such case if the insurance company or an affiliate of a foreign insurance company, when concluding an agreement with the subordinate insurance intermediary, assumes the obligation to fully indemnify for any damage which may arise due to a failure to perform or to perform properly by the subordinate insurance indemnity of its professional duties.

The State Gazette, “Valstybės žinios”, 2010. No. 18.

On March 15, 2010 the Insurance Supervisory Commission of the Republic of Lithuania approved Instructions for Insurance Companies and Insurance Brokerages Intended for Money Laundering Prevention". The Instructions came into force on March 23, 2010.

The approved Instructions are applicable to insurance companies and insurance brokerages, subsidiaries of foreign insurance companies in Lithuania and insurance companies of the EU member states that were established and/or provide services in Lithuania.

Under the terms of the said instructions, insurance companies and insurance brokerages, having determined that a money operation conducted by a client meets any criteria for a money operation or transaction to be considered suspicious, must immediately suspend the conduction of the operation, irrespective of the amount of money involved.

Insurance companies and insurance brokerages must provide information about any suspicious money operations conducted by a client to the Financial Crimes Investigation Agency under the Ministry of Internal Affairs of the Republic of Lithuania in written form and within 3 business hours as of their first suspicion.

The State Gazette, "Valstybės žinios", 2010. No. 37.

On October 18, 2010, the Seimas adopted the amendments to the "Law on Insurance", which came into effect on November 3, 2010.

The Law set forth an obligation for the Insurance Supervisory Commission of the Republic of Lithuania to inform the European Commission and other responsible institutions of member states of the European Union on the issuing of an insurance activity license to an insurance company, which is the direct or indirect subsidiary of a foreign state's legal person.

The State Gazette, "Valstybės žinios", 2010. No. 130.

### **Intellectual property**

On June 30, 2010 the Seimas adopted amendments and supplements to the "Law on Patents", which came into force on July 14, 2010.

The adopted Law serves to implement the provisions of the European Patent Convention, signed on October 5, 1973 in Munich, Germany and to implement the July 6, 1998 Directive 98/44/EC of the European Parliament and Council on the legal protection of biotechnological inventions.

The Law also established that an applicant, who files an application for a European Patent directly to the European Patent Office or the State patent Bureau, is entitled to obtain a valid patent in all specified member states which are the parties to European Patent Convention.

The Law also prohibits double protection, in a case then a European and national patent was granted to the same person and for the same invention. The national patent will lose its effect as of the date when the term for opposing the European patent expires and if no notice of opposition is received.

The State Gazette, "Valstybės žinios", 2010. No. 85.

## **Labor Law**

On January 3, 2010 the Minister of Social Security and Labor, and the Minister of Health approved the “Regulations for Establishing a Working Capacity Level Resulting from Accidents at work or Occupational Diseases”, which came into force on July 1, 2005.

The State Gazette, “Valstybės žinios”, 2010. No. 4.

On March 24, 2010, the Minister of Economy approved a “Regulations for Attesting Employees Engaged in Construction and Operation of Energy Objects and Equipment”, which came into force on April 1, 2010.

The State Gazette, “Valstybės žinios”, 2010. No. 41.

On April 4, 2010 the Lithuanian Government adopted the “Resolution on the Increase of the Minimum Wage”. The said legal act came into force on April 4, 2010.

The Resolution has set minimum hourly rates at 3,28 Litas and the minimal monthly wage in the amount of 550 Litas for employees working in private companies, establishments and organizations. For politicians, judges, State, military and civil servants, the minimum hourly salary rate were set at 2,57 and the minimum monthly salary at 430 Litas.

The State Gazette, “Valstybės žinios”, 2010. No. 45.

On May 12, 2010 Seimas adopted amendments to the “Labor Code of the Republic of Lithuania”, which came into force on May 28, 2010.

### **The amendments of the Lithuanian Labor Code relate to:**

-Conclusion, Performance and Termination of the Employment Agreement (amendments to Item 4 of an Article 99; supplement with Item 4 to Article 109; supplement with Item 4 to the Article 120; amendments to Item 1 of the Article 130; a new wording of Item 3(5) of the Article 129; amendments to Item 7 of the Article 130; amendments to Item 1 of the Article 134; a new wording of Item 1 of the Article 132; a new wording of Item 1 of the Article 140; supplement with Item 3 to the Article 141);

-Overtime and Strikes (amendments to Articles 151 and 152). Labor councils may make a decision announce a strike, but only in case there is no trade union acting in a company;

-Deductions in regard to recovery of debt's from employee's (debtor's) work pay (amendments to an Article 225).

The State Gazette, “Valstybės žinios”, 2010. No. 67.

On May 26, 2010 the Head of the State Tax Inspectorate under the Ministry of Finance approved the amendments to the “Rules for Filling the Form FR0445 for a Request of a foreign Taxable Person for Value Added Tax (VAT) Refund”, which came into force on June 1, 2010.

The State Gazette, “Valstybės žinios”, 2010. No. 68.

On December 20, 2005 the Seimas adopted the amendments to the “Labor Code”, which came into force on December 22, 2005.

The amendments provide that in case State holidays coincide with non-working days, State holidays will be moved to the next following business day. It should be noted that collective bargaining agreements may set a different procedure for moving State holidays to business days.

The State Gazette, “Valstybės žinios”, 2010. No. 149.

### **Real Estate Law**

On September 28, 2010 the Seimas adopted a new version of the “Law on Protection of Immovable Cultural Properties”, which came into force on April 20, 2010.

The new version of the Law provides for additional restrictions in case a person wishes to transfer an immovable cultural property to another person. The Law sets the necessity of a one-month clearance notification to the relevant municipal offices for protection of heritage regarding a pending transaction. The Law also provides for a possibility of an agreement on protection, which may be entered into by the possessor of immovable cultural property and the relevant State authority.

The State Gazette, “Valstybės žinios”, 2010. No. 153.

On April 15, 2010 the Minister of Culture of the Republic of Lithuania approved the “Description of Criteria for Evaluation and Selection of Immovable Cultural Properties”, which came into force on April 24, 2009.

Objects that may be selected and protected, as objects of cultural heritage, must meet the criteria set forth in the said Description.

The State Gazette, “Valstybės žinios”, 2010. No. 52.

On June 7, 2010 the Seimas adopted the “Law on Real Property Tax”, which came into force on January 1, 2006.

The said Law establishes the procedure for taxation of real property through means of a real property tax. The tax is applied to Lithuanian and foreign natural and legal persons for the real property (or its parts) owned by such persons.

The Law sets a tax rate of 1 percent of the assessed tax value of real property. The assessed value of real estate will be deemed the average market value of the real estate determined using the real estate mass evaluation approach, and in some cases the value will be determined by using the replacement value (cost) method.

The tax period is a calendar year. The Law also provides a list of real property which is not subject to the real property tax.

Under the provisions of the Law, legal persons will have to pay the tax not only for the real estate owned by them, but also for the real estate owned by natural persons the possession of which is given to legal persons for an indefinite term or a term longer than one month.

The State Gazette, “Valstybės žinios”, 2010. No. 76.

On June 23, 2010 the Lithuanian Government adopted a new version of the “Regulations on the Real Estate Cadastre”, which came into effect July 1, 2010.

The said Regulations set forth the procedure for entering real estate objects or items to be registered into the Real Estate Register, regulate the objects of the Real Estate Cadastre, its content, and form, and preparation of real estate data, files, documents.

The Regulations were adopted in accordance to a new version of the “Law on Real Estate Cadastre”, which entered into force on January 1, 2009.

The State Gazette, “Valstybės žinios”, 2010. No. 80.

On July 5, 2010 the Seimas adopted the amendments to the “Law on Land”, which came into force on July 21, 2010.

The said Law provides that municipal land may be disposed of by transferring it for management by a trustee; by selling, exchanging, leasing or granting the land for free use; and by conducting transactions on land easements under procedure set forth in the Lithuanian Civil Code ownership and other legal acts.

The adopted Law also establishes various procedures and conditions so that a parcel of land owned by a municipality may be exchanged for a parcel of land and or another item of real estate of equal value owned by the State.

The State Gazette, “Valstybės žinios”, 2010. No. 88.

On August 25, 2010, the Lithuanian Government approved “Rules for submission and Examination of Requests for Appropriation of Land for Public Needs and the Rules for Preparing and Implementing Projects of Land Appropriation for Public Needs”, which came into force on August 28, 2005.

The said Rules regulate the submission by State authorities or municipalities or other institutions authorized by them of requests to the Governor of a Lithuanian County and the procedure for examination of requests for appropriation of the land for public needs.

If the Governor of County grants the request, and if it is expedient, the landowner may be proposed to enter into a land exchange agreement. If the landowner refuses to enter into a land exchange agreement or if it is not expedient to enter into such agreement, the Governor of the county may take the decision to appropriate the land for public needs. A landowner may be compensated by transfer of a parcel of land of equal value or by means of payment of compensation in cash.

The State Gazette, “Valstybės žinios”, 2010. No. 104.

On September 16, 2010 the Lithuanian Government approved “Rules for Sale and Lease of Parcels of State owned Land listed as Privatization Objects”. The Rules came into force on September 23, 2005.

The approved Rules set forth the procedure for sale and lease of real estate parcels or some portions of

them of State owned land necessary for use by State-owned or municipal structures and facilities or their parts in accordance with the “Law on Privatization of State-owned and Municipal Property”.

The State Gazette, “Valstybės žinios”, 2010. No. 113.

On September 16, 2010 the Lithuanian Government approved “Rules for Concluding an Agreement for Exchange of State-owned Land for Private Land or Another Object of Real Property”, which came into effect on September 23, 2005. The said Rules are applicable to the conclusion of an agreement for exchange of State-owned land for private land or another object of real property.

The State Gazette, “Valstybės žinios”, 2010. No. 113.

### **Social Insurance Law**

On June 7, 2010 the Seimas adopted the “Law on Temporary Social Tax”, which came into force on January 1, 2006.

The tax will be paid for by the legal persons who must pay the profit tax under the assessed procedure set by the “Law on the Profits Tax”. The “Law on Temporary Social Tax” assesses a tax rate of 4 percent, applicable in the tax period starting the year 20012 and a tax rate of 3 percent applicable in the tax period starting the year 2010.

The State Gazette, “Valstybės žinios”, 2010. No. 76.

On June 14, 2010, the Lithuanian Government approved “Rules on Formation and performance of the State Social Insurance Fund Budget”, which came into force on June 17, 2005.

The Rules provides that a bonus received by members of a Company’s Board and/or Supervisory Council, and who are employed in a Company under employment contracts, are subject to social insurance contributions.

The State Gazette, “Valstybės žinios”, 2010. No. 75.

### **Tax Law**

On March 22, 2010, the State Tax Inspectorate under the Ministry of Finance approved the “Form FR0528 for Reporting on Transactions between Associated Persons or Commercial Operations and the Form’s Filing Regulations”, which came into force on April 1, 2005.

Starting from the 2005 financial year, both Lithuanian and foreign entities operating through a permanent establishment will have to submit a duly completed report with an annual tax return to the State Tax Inspectorate, unless a company:

- Concluded transactions with related persons, the value whereof was less than 300,000 Litas; or
- Concluded transactions of the same type, the total value whereof was less than 300,000 Litas; or
- Concluded transactions of the different type, the total value whereof was less than 300,000 Litas. If above-mentioned conditions are met above, the Company may choose whether to file the report or not to

the State Tax Inspectorate.

The State Gazette, "Valstybės žinios", 2010. No. 41.

On June 7, 2010 the Seimas adopted amendments and supplements to the "Law on Personal Income Tax", which entered into force on July 1, 2011.

The said Law provides that from January 1, 2011 till June 30, 2011, income derived from labor relations, as well as income, which is not included into the exhaustive list of income subject to the personal income tax at the rate of 15 percent, will be subject to personal income tax at the rate of 33 percent.

However, starting from July 1, 2011 till December 31, 2011 income derived from labour relations or other relations which are in fact labor relations as well as income, which is not included into the exhaustive list of income subject to the personal income tax at the rate of 15 percent, will be subject to the personal income tax at the rate of 27 percent.

Starting from January 1, 2011 the income rate would be again reduced to 24 percent.

The State Gazette, "Valstybės žinios", 2010. No. 76.

On July 5, 2011 the Seimas adopted amendments and supplements to the "Law on Profits Tax", which came into force on July 21, 2010.

The said Law provides that the amounts paid directly by a legal person to an education institution of the European Economic Area member states or foreign countries, and which the Republic of Lithuania has double taxation treaties are a permissible deduction if training results in a higher or university degree.

The supplement to the Law also provides that insurance premiums for additional (voluntary) health insurance may also be a permissible deductions.

The State Gazette, "Valstybės žinios", 2010. No. 88.