



LAW FIRM ■ ADVOKATŲ KONTORA

SUTKIENĖ, PILKAUSKAS IR PARTNERIAI

LEGISLATIVE REVIEW

April 2008 No. 51

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LAWS AND REGULATIONS OF THE REPUBLIC OF LITHUANIA

COMPANY LAW

Rules for Preparation and Submission of Information of Management Companies and Investment Companies, the Management of Which Assets is not Transferred to Management Companies Approved

On 10 April 2008, the Securities Commission of the Republic of Lithuania adopted Resolution No. 1K-12 (official gazette *Valstybės Žinios*, 2008, No. 43-1631), by which it approved the Rules for Preparation and Submission of Information of Management Companies and Investment Companies, the Management of Which Assets is not Transferred to Management Companies, (hereinafter, the "Rules"), implementing provision of the new version of the Law on Collective Investment Undertakings. The Rules will come into effect on 1 July 2008.

The Rules establish new requirements for regular reports of special collective investment undertakings (i.e. real estate collective investment undertakings, private capital investment undertakings, collective investment undertakings investing into other collective investment undertakings, alternative collective investment undertakings).

Reports must contain:

- i) general information;
- ii) information about the net asset value and the number and value of investment units (shares);
- iii) information about expense and turnover ratios;
- iv) information about the portfolio of investment instruments, investment return and risk ratios;
- v) information about the financial condition, payment of dividends, borrowed or lent funds;
- vi) information about persons responsible for preparation of the report;
- vii) other significant information about the financial condition of the collective investment undertaking, factors and circumstances which had an impact on assets or liabilities of the collective investment undertaking, and any other important information about activities of the collective investment undertaking so that the investor could duly evaluate changes in and results of the undertaking's activities.

Please note that the Rules give the procedure of publishing the net asset value, as well as the value of an accounting unit and investment unit or share; it is also necessary to give in the report the values of the benchmark index and other risk ratios. Quarterly reports of management companies will not longer need to contain financial statements, whereas information about participants of pension funds will have to be provided only in the annual reports of pension funds. The Rules also

DIDŽIOJI 23, LT - 01128 VILNIUS, LITHUANIA

Phone: (+ 370 5) 251 4444, 251 4445

Fax: (+ 370 5) 251 4455

E-mail: spp@spp.lt

www.spp.lt

establish requirements for pension funds to provide information about distribution of investments and, after the end of an accounting month, to submit reports on the established net assets values, the values of an accounting unit or investment unit or share, as well as the values of the benchmark index (if any).

New requirements were included in the Rules regarding the content of reports to the public. It has been determined that the annual report on results of pension funds published in a daily will have to contain information about the net investment return of pension funds, changes in the value of the accounting unit and the benchmark index, the average change in value of an accounting unit during 3 years, the net asset value and the value of an accounting unit, the rates of applied deductions and calculated deductions and other expenses, it will also be necessary to indicate the place where the full annual report is available. The duty for management companies to publish their financial statements in a daily was cancelled – they will be able to publish this information on the website of the management company.

TAX LAW

Treaties for Avoidance of Double Taxation on Income and Capital Entered into by the Government of the Republic of Lithuania Ratified

On 17 April 2008, the Seimas of the Republic of Lithuania ratified the Treaty between the Government of the Republic of Lithuania and the Government of the Republic of Serbia for Avoidance of Double Taxation on Income and Capital, as well as the Treaty between the Government of the Republic of Lithuania and the Government of the Republic of Macedonia for Avoidance of Double Taxation on Income and Capital and Prevention of Tax Evasion.

International legal double taxation on income and capital is such taxation when both the contracting states, based on their domestic taxation laws, tax the same income received by the same taxpayer during the same taxation period or tax the same capital held by the same taxpayer during the same taxation period.

Treaties for avoidance of double taxation are entered into in order to distribute the taxation rights between the contracting states, to cancel international legal double taxation, to prevent fiscal violations and tax evasion and to avoid tax discrimination.

Law of the Republic of Lithuania on Corporate Income Tax Revised and Amended

On 10 April 2008, the Seimas of the Republic of Lithuania amended the Law of the Republic of Lithuania on Corporate Income Tax, i.e. adopted the Law on Amending and Supplementing Articles 2, 12, 13, 17, 18, 21, 23, 26, 28, 30, 31, 38-1, 47, 50 and Schedules 1, 3 of the Law of the Republic of Lithuania on Corporate Income Tax (official gazette *Valstybės Žinios*, 2008, No. 47-1749) (hereinafter, the “Amended Law”). The Amended Law came into effect on 24 April 2008.

The Amended Law provides that from now on, in assessment of the taxable profit, the following expenses of entities can be

deducted from their income – employee bonuses paid from profit, annual payments to members of the Board and Supervisory Board of an entity and all actual expenses of business trips. The procedure of recognising amounts paid by entities for studies of their employees or future employees as expenses was simplified: such amounts paid for employees will be deducted from income in that taxation period in which they are paid, whereas for future employees – will be accrued and will begin to be deducted from income in that taxation period in which the person begins employment in the entity.

The Amended Law increased the limit of income from LTL 100,000 to LTL 1 million, which, if not exceeded, does not entities liable to pay an advance corporate income tax. For the sake of legal certainty provisions of paragraph 15 of Article 12 of the Law on Corporate Income Tax were amended to establish that income from increase in property value from disposal of certain shares are considered tax exempt income only in case when such shares are transferred to another entity (except for cases when shares are redeemed by the issuing entity) or a natural person.

On 8 April 2008, the Seimas of the Republic of Lithuania also adopted the Law on Amending and Supplementing Articles 3, 33, 34, 35, 55 of the Law of the Republic of Lithuania on Corporate Income Tax (official gazette *Valstybės Žinios*, 2008, No. 47-1748), which will come into effect on 1 January 2009.

When the amendments come into effect, the rules of taxation on dividends paid to Lithuanian persons and foreign persons with the corporate income tax will be made the same and the procedure of deduction of the corporate income tax paid in foreign states from the amount of the corporate income tax of a Lithuanian entity assessed in accordance with the Law on Corporate Income Tax will be simplified.

According to the currently effective provisions of the Law on Corporate Income Tax and dividends paid both to a Lithuanian person and to a foreign person (unless the conditions set in paragraphs 2 of Articles 33 and 34 of the Law on Corporate Income Tax are satisfied) are subject to the corporate income tax at the rate of 15 percent. The tax is to be assessed, deducted and paid to the treasury by the entity paying dividend. The amount of the corporate income tax deducted from dividend paid to Lithuanian persons can reduce the annual corporate income tax amount assessed by the dividend paying entity, whereas the amount of the corporate income tax deducted from dividend paid to foreign persons cannot reduce the annual corporate income tax amount assessed by the dividend paying entity.

Law of the Republic of Lithuania on Personal Income Tax Revised and Amended

On 10 April 2008, the Seimas of the Republic of Lithuania adopted the Law on Amending and Supplementing Articles 2, 5, 6, 17, 24, 27, 30, 31, 32, 33, 36 of the Law of the Republic of Lithuania on Personal Income Tax and the Appendix to the Law (official gazette *Valstybės Žinios*, 2008, No. 47-1750) (hereinafter, the “Amended Law”). The Amended Law came into effect on 24 April 2008.

The amended law clearly determines that output value-added tax (hereinafter, the “VAT”) on goods supplied and services

provided assessed by an individual or for an individual is not considered as income. After this provision is established, there should be less legal uncertainty regarding income assessment principles in cases when VAT is assessed for an individual who is not registered as a VAT payer.

With regard to amendment to the Law of the Republic of Lithuania on Corporate Income Tax, paragraph 5 of Article 5 of the Law on Personal Income Tax was amended by attributing annual payments received by non-residents of Lithuania – members of the Board and the Supervisory Board – from a source in Lithuania to the personal income tax object of such individuals. In this way, the conditions of taxation for residents and non-residents of Lithuania receiving analogous income from a source in Lithuania were made the same.

Paragraph 2(13) of Article 6 of the new version of the Law on Personal Income Tax establishes that the personal income tax of 15 percent is applicable to repaid pension contributions paid not only by an individual himself but also by other persons to a pension fund established according to laws application to accumulation of relevant pensions, subject to satisfaction of other conditions set in the law. This provision is aimed at ensuring that repaid contributions/premiums that were paid according to two accumulation systems (accumulation of pensions and life insurance) would be subject to the taxation conditions.

New Provisions Added to the Law of the Republic of Lithuania on Real Estate Tax

On 3 April 2008, the Seimas of the Republic of Lithuania adopted the Law on Supplementing Article 7 of the Law of the Republic of Lithuania on Real Estate Tax (official gazette *Valstybės Žinios*, 2008, No. 45-1681) (hereinafter, the “Law”). The Law came into effect on 19 April 2008.

According to the Law on Real Estate Tax that was in effect until 19 April 2008, real estate of health care institutions founded by the state or a municipality was exempted from the real estate tax, but private providers of health care services providing the same health care services paid from the Compulsory Health Insurance Fund, state or municipal budgets or municipal funds within the framework of the special program of support for public health, if they provided health care services in their own premises or premises rented from natural or legal persons, had to pay the real estate tax as the tax burden for the property of the said persons was then moved onto the direct user of the real estate.

After the Law came into effect, real estate used to provide personal and public health care services paid from the Compulsory Health Insurance Fund, state or municipal budgets or municipal funds within the framework of the special program of support for public health, irrespective of the ownership of the real estate, are exempt from the real estate tax if the revenue from provided personal and/or public health care services paid from the Compulsory Health Insurance Fund, state or municipal budgets or municipal funds within the framework of the special program of support for public health make at least 80 percent of all revenue from provided personal and/or public health care services.

REAL ESTATE

New Version of the Construction Technical Regulation Approved “Technical Certificates. Preparation and Approval”

On 17 April 2008, the Minister of Environment of the Republic of Lithuania by his Order No. D1-215 (official gazette *Valstybės Žinios*, 2008, No. 47-1762), amended Construction Technical Regulation STR 1.03.03:2002 “Technical Certificates. Preparation and Approval” and gave a new version of it (hereinafter, the “Regulation”). The Regulation will come into effect on 25 June 2008. The main change in the Regulation is that instead of one technical certificate, now there will be two types of technical certificates – national and European technical certificates.

National technical certificates are prepared:

- i) for new construction products;
- ii) when the harmonised Lithuanian standard is not prepared;
- iii) when international or European standards are not adopted in Lithuania, when the original Lithuanian standard is not prepared;
- iv) for construction products when their conformity cannot be evaluated according to applicable technical requirements;
- v) when technical characteristics of a construction product are very different from characteristics of the construction product given in the harmonised Lithuanian standard, adopted international or European or the original Lithuanian standard.

European technical certificates are prepared:

- i) for new construction products;
- ii) when there is no harmonised standard prepared and there is no mandate of the European Commission to prepare a harmonised standard;
- iii) when the European Commission decided that a harmonised European standard cannot yet be prepared;
- iv) when technical characteristics of a construction product are very different from characteristics of the product given in a harmonised standard.

The procedure of preparation, formalisation, approval, registration and distribution of a national technical certificate remains the same as in the former version of the Regulation. The new procedure is provided just for a European technical certificate, the preparation, formalisation and other stages of validation of which is the responsibility not of the national authority but of the European Organisation for Technical Approvals (EOTA).

New wording of the Construction Technical Regulation “Declaration of Conformity of Construction Products”

On 17 April 2008, the Technical Regulation of Construction STR 1.03.02:2002 “Declaration of Conformity of Construction Products” was amended by order No. D1-217 of the Minister of Environment of the Republic of Lithuania (official gazette *Valstybės Žinios*, 2008, No. 47-1764), and the new wording was introduced (hereinafter, the “Regulation”). The Regulation will come into effect on 25 June 2008.

As compared with the previous wording of the Regulation, more detailed requirements for the content and form of the declaration of conformity of construction products are set out in the Regulation. The declaration of conformity and all other required information about the product should be submitted by the manufacturer or its authorised representative established in the European Union, or the product importer.

In addition to the already required data of declaration of conformity,

- i) all product characteristics (type, characteristics, criterion) required by the technical specification and laws and regulations should be specified depending on the purpose of product. If any characteristic of product is not specified, this should be noted in the declaration. NPD (*no performance determined*) may be inserted instead of non-declared characteristics in the declaration;
- ii) the characteristics (type, characteristics, criterion) declared by the manufacturer or its authorised representative and approved by bodies attesting the conformity, should be clearly marked;
- iii) information related to the results of conformity assessment should be presented as basis for declaration of conformity, e.g. references to certificates, certificates of manufacturer's control system, testing records, reports, name and address of the body which performed conformity assessment and other relevant information).

The declaration of conformity must be prepared in the Lithuanian language; it may be submitted as a separate document or included in other documents related to product declaration (catalogue, bill of lading, directions for use).

FREEDOM OF SERVICES

Law of the Republic of Lithuania on Recognition of Regulated Professional Qualifications

On 3 April 2008, the Seimas of the Republic of Lithuania adopted the Law No. X-1478 of the Republic of Lithuania on Recognition of Regulated Professional Qualifications (official gazette *Valstybės Žinios*, 2008, No. 47-1747) (hereinafter, the "Law"). The Law came into effect on 24 April 2008.

The Law defines the principles and mechanisms for, as well as administrative communication in connection with recognition of professional qualification acquired by the citizens of the EU member states, citizens of the European Economic Area and citizens of the Swiss Confederation, in the EU member states, the European Economic Area and the Swiss Confederation, and confers guarantees on persons having acquired their professional qualification in a member state to have access to the same profession and pursue it in the Republic of Lithuania in employment or self-employed capacity with the same rights as the citizens of the Republic of Lithuania.

Subsequent to recognition of professional qualification by the Republic of Lithuania, a person may:

- i) pursue the same profession in employed or self-employed capacity in the Republic of Lithuania, as the one acquired in his/her country of origin;
- ii) pursue the same profession in employed or self-employed capacity in the Republic of Lithuania with the same conditions as the citizens of the Republic of Lithuania.

The profession pursued by a person in employed or self-employed capacity in the Republic of Lithuania, is considered to be the same professional qualification obtained in his/her member state of origin, if it includes similar activities.

Recognition of professional qualifications is governed by the Law in the following two cases:

- i) when persons intend to provide services;
- ii) when persons intend to be established.

The Law also provides for special rules for recognition of profession of doctors, nurses responsible for general care, dental practitioners, midwives, pharmacists and architects.

The Law obliges competent authorities of the Republic of Lithuania and member state of origin to cooperate closely, provide mutual assistance and ensure the confidentiality of the information which they exchange.

SECURITIES

Resolutions adopted by the Securities Commission of the Republic of Lithuania on 28 March 2008 came into effect

On 28 March 2008, the Securities Commission of the Republic of Lithuania adopted resolutions setting out amendments and supplements described in our Legislative Review No. 50 of March:

1. No. 1K-9, On Rules for the Content of Prospectuses of Collective Investment Undertakings (official gazette *Valstybės Žinios*, 2008, No. 39-1447);
2. No. 1K-10, On Procedure for Issuing Permits Provided for in the Law on Collective Investment Undertakings and in the Law on the Additional Voluntary Accumulation of Pensions (official gazette *Valstybės Žinios*, 2008, No. 39-1448);
3. No. 1K-11, On Amending and Supplementing of the Methods of Calculation of the Net Asset Value (official gazette *Valstybės Žinios*, 2008, No. 39-1449).

All the above resolutions came into effect on 6 April 2008.

LAW FIRM NEWS

On 23 April 2008, managing partner Eugenija Sutkienė participated in the *Independent Law Firms Forum* organised by one of the most influential periodicals in the Great Britain *Legal Week* and law firm *Berwin Leighton Paisner*. The forum was attended by representatives of law firms from 28 countries. The organisers of the forum had the privilege of receiving a large number of speakers from the leading independent law firms of the world.

The Independent Law Firms Forum offered a great possibility to share experience and ideas, discuss topical issues with the prominent lawyers. Mr. Aare Tark, managing partner of law firm *Tark & Co* – the strategic partner of *Sutkienė, Pilkauskas & Partners* in Estonia, had also participated in the forum. Mrs Eugenija Sutkienė together with the Estonian colleague had presented tripartite alliance *TLS Alliance* informing about introduction of a new trademark in the market and further business plans.

TLS Alliance is comprised of law firms which are among the largest and most professional ones in Lithuania, Latvia, and Estonia. As a result of long-lasting and close co-operation law firms *Sutkienė, Pilkauskas & Partners, Loze, Grunte & Cers,* and *Tark & Co* aim at becoming definite leaders in the Baltic States. *TLS Alliance* ensures provision of quality legal services to its clients.

This legislative review is for information purposes only and does not reflect all aspects of legal regulation. For full legal advice please contact our law firm by phone: (370 5) 251 44 44, (370 5) 251 44 45.