

# International Tax

## Lithuania Highlights

In Plain English



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## Investment basics:

**Currency** – Euro (EUR)

**Foreign exchange control** – No

**Accounting principles/financial statements** – IAS and IFRS, or Business Accounting Standards (BAS) apply. 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 in 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 an equivalent tax) in those countries. Nonresident entities are subject to corporate income tax on Lithuania-source income and on income received by a PE in Lithuania. Branches are taxed in the same way as subsidiaries.

**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.

**Rate** – The general corporate income tax rate is 15%. Micro companies (i.e., those with up to an average of 10 employees and annual income of up to EUR 300,000) may be exempt from tax for the first tax period and entitled to a reduced rate of 5% for subsequent tax periods. In determining whether a company is treated as a micro company, the total average number of employees and the total annual income of associated companies are taken into consideration. Income earned from the commercialization of scientific research and experimental development production is subject to a reduced rate of 5%.

As from 1 January 2020, an increased corporate income tax rate of 20% applies to the taxable profits of banks and credit unions in excess of EUR 2 million. This increased corporate income tax rate will apply for tax years 2020, 2021, and 2022.

**Surtax** – No

**Alternative minimum tax** – No

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

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. Dividends received from a foreign entity registered in a state other

than an EEA member state also may be tax exempt if the Lithuanian company holds at least 10% of the shares of the subsidiary for at least 12 months, the foreign entity's profits are subject to corporate income tax or an equivalent tax and the foreign entity is not registered in a blacklisted territory.

**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 10% 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 10% 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 to carry on the activity that resulted in the losses. However, losses carried forward cannot offset more than 70% of the entity's taxable profit in any tax period, except for micro companies. Losses incurred on the sale of shares may be carried forward for five consecutive tax periods and may be offset only against taxable profit 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.

Losses incurred by a PE may be transferred and deducted from a Lithuanian entity's income if: (i) the income attributed to

the PE is taxed in an EU country; (ii) all available options to deduct the losses in the country of the PE are used; and (iii) the PE's transferrable tax losses are calculated in accordance with the provisions of Lithuania's corporate income tax law.

**Foreign tax relief** – 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 or intends to hold at least 10% of the shares of the subsidiary for at least 12 months. See also above under "Capital gains."

**Holding company regime** – A corporate tax exemption may be available on capital gains derived from the disposal of shares (see above under "Capital gains") and an exemption also may be available on dividends (see above under "Participation exemption").

**Incentives** – Three times the amount of scientific research and experimental development costs incurred may be deducted when calculating corporate income tax. As from 1 January 2018, profits derived from the use or the transfer of assets (e.g., copyrighted software or patented or similarly protected inventions) generated through scientific research and experimental development activities concluded in Lithuania are subject to the reduced corporate tax rate of 5%. Under

an incentive for investment program, a company may reduce its taxable profits by 100% for expenses incurred between 2009 and 2023. Incentives also are provided for micro companies and companies in free economic zones.

From 2019-2023, 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: (i) reduce its taxable income by 75% of funds provided to the film producer, and (ii) 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.

### **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 and payment** – 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 15th day of the sixth month of the following tax period, i.e., by 15 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 also is required to make advance payments no later than the 15th day of the last month of each quarter of the tax period, of at least 25% of the total annual corporate income tax calculated according to the rules specified in the corporate income tax law.

**Penalties** – Penalties equal to 10%-100% 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. A daily late penalty of 0.03% applies to late tax payments.

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

### **Individual taxation:**

**Residence** – An individual is treated as a resident if at least one of the following conditions is satisfied: (i) the individual's permanent place of residence during the tax period is in Lithuania; (ii) the individual's personal, social or economic interests during the tax period are in Lithuania, rather than abroad; (iii) the individual is present in Lithuania for at least 183 days during the tax period; (iv) 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 (v) the individual is a citizen of Lithuania who does not meet the criteria in (iii) and (iv) 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.).

**Basis** – Lithuanian tax residents are

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

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

**Rates** – Employment-related income derived by individuals generally is subject to personal income tax at the standard rate of 20%. Any portion exceeding 84 average salaries per year (EUR 104,278 for 2020) is subject to personal income tax at a rate of 32%.

Other income unrelated to employment (royalties, interest, gains from the sale of property) generally is subject to personal income tax at a rate of 15%, provided the annual amount of such income does not exceed 120 average salaries. Any amount of income exceeding 120 average salaries is subject to personal income tax at a rate of 20%.

Income from distributed profits (dividends) is subject to personal income tax at a rate of 15%.

The following types of income are subject to personal income tax at a rate of 20%, or 32% on any portion exceeding 84 average salaries per year: "tantiems" (annual payments) or other payments to the members of a board or supervisory board; income derived under copyright agreements (received from a company that also is the employer of the individual); and income received under civil agreements by a manager of a small partnership that is

not a member of the partnership.

A progressive system of taxation applies to income from independent individual activities (i.e., business and professional income). A 5% rate applies where annual profits do not exceed EUR 20,000, and the rate increases progressively to a maximum of 15% where annual profit is at least EUR 35,000. Alternatively, fixed income tax rates may apply to: (i) income earned from individual activities or the rental of real estate that does not exceed EUR 35,000 per tax period; or (ii) income earned from activities for which the taxpayer holds a business certificate.

**Capital gains** – Individuals are taxed at a rate of 15% on gains from the disposal of property exceeding EUR 500 in a tax period, including shares. The amount of gains that exceeds 120 average salaries per year (EUR 148,968 for 2020) is taxed at a rate of 20%. Any gains from the disposal of financial instruments not exceeding EUR 500 per tax period are tax exempt, unless the shares disposed of were issued in a blacklisted territory.

Capital gains from the sale of immovable property located in the EEA are exempt if the property is owned for at least 10 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) on the minimum salary is EUR 4,200, and the TEA decreases as the salary grows. The TEA is applicable if annual income does not exceed approximately EUR 31,990.

The annual TEA is calculated by taking into account taxable income (not only employment income), with certain exceptions. A tax resident also may deduct the following expenses: life insurance premiums, contributions to private pension funds, fees paid for certain types of studies up to EUR 1,500, and up to a total of EUR 2,000 for childcare service expenses, car repair service expenses, and apartment or other building repair/construction service expenses. Deductible expenses may not exceed 25% of an individual's annual taxable amount.

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

**Foreign tax relief** – Foreign tax paid may be credited against Lithuanian tax on the same income, but the credit is limited to the amount of Lithuanian tax payable on the foreign income.

### **Compliance for individuals:**

**Tax year** – Calendar year

**Filing status** – Joint filing is not allowed.

**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: (i) he/she does not wish to utilize unused additional tax-exempt amounts and deduct expenses; or (ii) he/she did not receive income other than employment income from a Lithuanian entity during the tax year.

**Penalties** – Penalties equal to 10%-100% 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 payments.

**Rulings** – Individuals can request a non-binding ruling, binding ruling, future transactions.

### **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 paid to EEA-resident companies and companies resident in countries that have concluded a tax treaty with Lithuania. Otherwise, the applicable withholding tax rate is 10%. The withholding tax rate for nonresident individuals is 15% unless it is reduced under a tax treaty.

**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. The withholding tax rate for nonresident individuals is 15% unless it is reduced under a tax treaty.

**Fees for technical services** – No

**Branch remittance tax** – No

### **Anti-avoidance rules:**

**Transfer pricing** – New transfer pricing

documentation rules relating to domestic and cross-border transactions with associated enterprises became effective in 2019. Lithuania has adopted the OECD's three-tiered documentation structure, comprising a master file, local files and a country-by-country (CbC) report.

A master file is required by companies that belong to a multinational entity group and whose revenue in the previous taxable year exceeded EUR 15 million. A local file is required by companies whose revenue in the previous taxable year exceeded EUR 3 million. A CbC report must be prepared if the multinational entity group had consolidated revenue in the previous taxable year equal to or exceeding EUR 750 million.

The deadline for preparing the master file and local file is the 15th day of the sixth month of the following tax year (for master files covering tax year 2019, the preparation deadline is extended by six months). CbC reports must be submitted by the end of following tax year.

Advance pricing agreements are available.

**Interest deduction limitations** – 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.

In addition to the debt-to-equity ratio of 4:1, additional interest deduction

limitation rules apply. These rules are not limited to interest expenses incurred due to loans received from related parties and, therefore, will be applied in respect of interest expenses incurred due to the acquisition of bank loans as well.

Entities may fully deduct interest expenses that do not exceed interest income (taking into consideration the debt-to-equity ratio of 4:1) and deduct any excess amount of interest expense that does not exceed 30% of earnings before interest, tax, depreciation, and amortization (EBITDA) or up to EUR 3 million. Entities also are allowed to fully deduct interest expenses if they are members of a consolidated group for financial accounting purposes, provided they can demonstrate that the ratio of their equity over their total assets is not more than two percentage points lower than the equivalent ratio of the group and all assets and liabilities are valued using the same method as in the consolidated financial statements.

EBITDA and the deductible amount of interest expenses are calculated on a group level. A group of entities includes entities in respect of which the controlling entity directly or indirectly holds more than 25% of the shares (interests, member shares), voting rights, or other rights to a portion of the distributable profits, or exclusive rights to the acquisition thereof.

Interest expenses that are nondeductible in a year under the interest deduction limitation rules may be carried forward for an unlimited period.

**Controlled foreign companies** – A foreign company is treated as a CFC if: (i) it is controlled by the controlling person on the last day of the tax period; and (ii) the controlling person directly or indirectly

holds more than 50% of the foreign company's shares or other rights to its distributable profits or the exclusive rights to acquire them; or (iii) 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 50% of the shares in the controlled entity or in other rights to a portion of distributable profits or preemptive rights to the acquisition thereof. The CFC definition also is applicable to foreign PEs of Lithuanian taxpayers.

The CFC rules are applied to include CFC income in the tax base of the controlling person if:

- The controlled company is established in a blacklisted territory; or
- All of the following conditions are fulfilled:
  - The passive income of the CFC (e.g., dividends, interest, royalties, income from financial activities, and commissions) exceeds one-third of its total income;
  - The corporate income tax rate applied to this income is lower than 50% of the effective corporate income tax rate that would be applied in Lithuania to such passive income; and
  - The CFC has insufficient staff and assets to carry out actual economic activities in the territory in which it is registered or organized.

**Hybrids** – As from 1 January 2020, Lithuania has implemented regulations in line with the EU Anti-Tax Avoidance Directive regarding hybrid mismatches with third countries (ATAD2).

**Economic substance requirements** –

The substance-over-form principle applies.

**Disclosure requirements** – Lithuania has adopted country-by-country reporting rules in accordance with action 13 of the OECD BEPS project. It also has implemented regulations in line with the EU directive on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6).

**Exit tax** – As from 1 January 2020, a taxpayer is subject to corporate income tax if the assets that it owns are transferred outside of Lithuania in one of the following situations:

- The assets are transferred from a Lithuanian entity to its PE established outside of Lithuania (no change in the ownership of the assets);
- The assets/business of a nonresident entity that carries out its business activities in Lithuania through a PE are transferred from the PE to the entity/another PE outside of Lithuania;
- A Lithuanian entity transfers its Lithuanian business activities to a foreign country, except when those assets remain effectively connected with a Lithuanian PE; or
- A nonresident entity that has carried out its business activities in Lithuania through a PE transfers the business activities to a foreign country.

**General anti-avoidance rule** – As from 1 January 2019, Lithuania implemented regulations in line with the EU Anti-Tax Avoidance Directive (ATAD1) related to a general anti-abuse rule GAAR). The GAAR tackles abusive tax arrangements if



there is no other anti-avoidance rule that specifically covers such an arrangement and allows the tax authorities to ignore artificial tax arrangements and tax on the basis of the real economic substance.

### **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 exceeded 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 through either 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 monthly, no later than 25 days after the end of the taxable period. In some instances, a calendar quarter-/half-year or other taxable period basis may be applied. The annual tax return (if applicable) is due on 1 October of the following tax year.

VAT payers registered in Lithuania also are required to submit VAT registers no later than 20 days after the end of the taxable period.

### **Other taxes on corporations and individuals:**

Unless otherwise stated, the taxes in this section apply both to companies and individuals and are imposed at the federal level.

**Social security contributions** – On behalf of employees, the employer must withhold 12.52% of the employee's gross salary for social security contributions (8.72% for pension social insurance and 2.09% and 1.71% for sickness and motherhood social insurance, respectively), an additional 2.1%-3% for participants in the second pillar pension funds program and 6.98% for health insurance contributions. The employer's portion usually is equal to 1.77%-3.75% (depending on the type of employment agreement and risk group); contributions are made to unemployment insurance, social insurance for accidents at work, and occupational diseases and the long-term employment benefit fund.

Income received from an appointment to a management board, supervisory board or loan committee is subject to 6.98% health insurance contributions (plus an additional 2.1%-3% for participants in the second pillar pension funds program) and an 8.72% pension social insurance

contribution withheld by the employer.

Income from independent individual activities generally is subject to a 6.98% health insurance contribution (except where the individual holds a business certificate). This income also is subject to social security contributions, at a rate of 12.52% (plus 2.1%-3% for individuals participating in the second pillar pension funds program). Caps for both health insurance and social security contributions are set, so that annual contributions are calculated on the amount of income not exceeding 43 average salaries in Lithuania, which amounts to approximately EUR 53,380. The base for health insurance and social security contributions is 90% 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 are subject to a 6.98% health insurance contribution and a 13.83% social security contribution (plus 2.1%-3% for individuals participating in the second pillar pension funds program). The base for the social security contributions is 50% of the remuneration received by the owners of the unlimited liability entity and members of partnerships, declared to the State Tax Inspectorate as employment-related income (in certain cases, income is exempt from social security contributions). 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 cannot be calculated on a lower amount than minimum statutory monthly salary.

The health insurance contribution on

income derived from carrying on individual activities with a business certificate is 6.98% of the minimum statutory monthly salary. Health insurance contributions for persons that carry on individual activities with a business certificate and who also receive employment-related income are calculated in proportion to the time during which they hold a valid business certificate. Social security contributions on such income are 8.72% (plus 2.1%-3% for individuals participating in the second pillar pension funds program) of the minimum statutory monthly salary.

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

As from 1 January 2020, a social security contributions ceiling applies for income exceeding 84 average salaries.

**Payroll tax** – No

**Capital duty** – 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.

Progressive tax rates are applied to real estate (such as residential property; gardens; garages; farms; greenhouses; households or auxiliary households; buildings used for science, religious or recreational purposes; and fishery and engineering constructions) owned by

individuals depending on the value. Real estate with a value of up to EUR 150,000 is exempt; a 0.5% tax rate applies to the total value of real estate valued between EUR 150,000 and EUR 300,000; a 1% tax rate applies to the total value of real estate valued between EUR 300,000 and EUR 500,000; and a 2% tax rate applies to the total value of real estate valued in excess of EUR 500,000.

Preferential rates and thresholds apply to individuals raising three or more children (or adopted children) under the age of 18 years and children (or adopted children) who require special care.

Real estate tax rates from 0.5% 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.

**Transfer tax** – No

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

**Net wealth/worth tax** – No

**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.

**Other** – An employer must contribute 0.16% of an employee's gross salary to the Guarantee Fund.

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.

**Tax treaties:** The MLI entered into force for Lithuania on 1 January 2019.

**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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