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If a whole or part of a paragraph has been amended, the date of the amending regulation appears in square brackets at the end of the paragraph. If a whole paragraph or sub-paragraph has been deleted, the date of the deletion appears in square brackets beside the deleted paragraph or sub-paragraph.

Republic of Latvia

Cabinet

Regulation No. 677

Adopted 14 November 2017

**Regulations Regarding Application of Provisions of the Enterprise Income Tax Law**

*Issued pursuant to*

*Section 4, Paragraph two, Clause 2, Sub-clause “e”, Section 5, Paragraph four, Section 8, Paragraph eleven, Clause 4, Section 16, Paragraph three, Section 17, Paragraph eighteen, Section 20, Clauses 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 13 of the Enterprise Income Tax Law*

[*5 May 2020*]

1. The Regulation prescribes the procedures for applying the provisions specified in the Enterprise Income Tax Law (hereinafter – the Law) to relevant taxpayers in specific cases providing for the following:

1.1. the application of the terms used in the Law to the calculation of the enterprise income tax;

1.2. the procedures for specifying the taxable base by taking into account various circumstances, the restrictions specified in the Law, and other conditions which affect the amount of the tax base in the specific situation;

1.3. the special conditions for determining the taxable object for domestic undertakings and permanent establishments of non-residents if they perform transactions with persons who are located, set up, or established in low-tax or tax-free countries or territories;

1.4. the procedures for exempting payments from deduction of tax which a Latvian domestic undertaking or permanent establishment of a non-resident (hereinafter – the permanent establishment) makes to a person who is located, set up, or established in low-tax or tax-free countries or territories;

1.5. the methods and the procedures to be used for the determination of the market price (value) of a transaction if the transaction has been made between related persons;

1.6. the examples necessary for the illustration of practical application of the provisions of the Law;

1.7. the procedures for applying the tax in the case of reorganisation of a taxpayer;

1.8. the procedures for submitting a statement regarding the income obtained by a non-resident in Latvia and the form of the statement;

1.9. the procedures by which a taxpayer provides information to the State Revenue Service (hereinafter – the Service) on the amounts disbursed to non-residents and also on the deducted tax;

1.10. the procedures for providing information on the dividends or the income equivalent to dividends received from investment funds and alternative investment funds by which the base taxable with the enterprise income tax of an investor is eligible for reduction;

1.11. the procedures by which a credit institution does not include the loans in the base taxable with the enterprise income tax which it issues on the basis of general credit conditions or which result from the laws and regulations governing the activities of credit institutions.

2. The terms used in the Law shall also conform to the terms used in other laws, including the terms used in the Commercial Law, unless they are in conflict with the Law.

3. The term “related person” used in the Law shall conform to the term used in the law On Taxes and Fees.

4. In applying Section 1, Paragraph twenty-two of the Law, objects and holders of copyright or related rights shall be determined in accordance with the Copyright Law and also bilateral international agreements for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital (hereinafter – the tax convention) shall be adhered to. If a payment has been received for the use of its own work in a material form protected by copyright, it shall not be deemed the payment for the exercise of copyright or the right to exercise copyright to this work.

5. Within the meaning of the Law, the total gross work remuneration calculated for employees from which mandatory State social insurance contributions have been made (hereinafter – the gross work remuneration) shall include the basis wage, the remuneration for the time worked (including overtime) or for the amount of work carried out, the regular or irregular supplements, bonuses, and other benefits, the payment for leave, the payment for a sick-leave certificate A, the payment for work on holidays and other days, and also the part of the remuneration in respect of which the solidarity tax is calculated. The gross work remuneration shall also include the remuneration of an employee who has been posted to another country (except for the permanent establishment of a taxpayer abroad) if the personal income tax and the State social insurance are paid in Latvia and also the remuneration of an employee who is a non-resident also if the State social insurance contributions are made in its country of residence and the personal income tax is paid in Latvia. The gross work remuneration shall not include the part of the mandatory State social insurance contributions made by the employer.

6. The tax rate specified in Section 3 of the Law shall be applicable to the base taxable with the enterprise income tax (at a gross value) which is determined by summing up the taxable objects (for example, disbursed dividends) and dividing the total amount (at a net value) by the coefficient of 0.8 (in accordance with Section 4, Paragraph nine of the Law) in the taxation period (see Paragraph 1 of Annex 1 to this Regulation for an example of the determination of the tax base).

7. The taxable object specified in Section 4, Paragraph two, Clause 2, Sub-clause “e” of the Law and corresponding to the difference between the transaction price and the market value shall be calculated as follows:

7.1. performing the functional analysis referred to in Paragraph 10 of this Regulation;

7.2. applying the methods referred to in Paragraphs 13, 14, 15, 16, and 17 of this Regulation;

7.3. performing the comparability analysis referred to in Paragraphs 11 and 12 of this Regulation.

7.1 Paragraph 7 of this Regulation shall not be applicable to low value added services if a taxpayer chooses to determine the taxable object in accordance with the simplified procedures laid down in Paragraphs 18.1, 18.2, 18.3, 18.4, 18.5, 18.6, 18.7, 18.8, and 18.9of this Regulation.

[*9 July 2019*]

8. The method for the determination of the market value of a transaction or market price of goods (a product, a service, an intangible property, and another transaction object) that has been referred to in Paragraphs 13, 14, 15, 16, and 17 of this Regulation shall be selected depending on the following:

8.1. the economic nature of the controlled transaction which is determined by performing the functional analysis in accordance with Paragraph 10 of this Regulation;

8.2. the availability of reliable information (in particular in respect of arm’s length transactions or financial indicators of unrelated persons) which is necessary when applying the selected method;

8.3. the degrees of comparability between financial indicators of controlled transactions and uncontrolled transactions or unrelated persons by including the comparability adjustment performed to exclude significant differences (if any) between them.

9. The transaction price (value) that would be set if the transaction was made between unrelated persons shall be determined by applying one of the methods referred to in Paragraphs 13, 14, 15, 16, and 17 of this Regulation or applying the technique of economic analysis of the transaction (for example, the technique of discounted cash flow within the framework of the comparable uncontrolled price method) within the framework of the methods referred to in Paragraphs 13, 14, 15, 16, and 17 of this Regulation if it may be applied in accordance with the external laws and regulations of the country of residence of the related person.

10. The functions performed, the risks assumed and controlled, the assets used in an arm’s length transaction or commercial or financial relations, and also other factors affecting transactions or commercial or financial relations shall be determined within the framework of the functional analysis.

11. In applying the methods for the determination of the market price of goods (products, services) or transaction value to identify comparable transactions or comparable performers of economic activity and to determine the income which the taxpayer would have been received or expenditure which the taxpayer would not have been incurred, the following shall be determined:

11.1. the comparability of the function performed, the associated risks assumed and controlled, and the assets used in an arm’s length transaction or a series of transactions, commercial or financial relations with the functions performed, the associated risks, and the assets used by an independent performer of economic activity in similar transactions in the relevant business sector and similar geographical market, and also determine comparability of other factors affecting the transaction price (value);

11.2. the comparability of the subject-matter of a transaction, namely the comparability of the goods (products) purchased or sold or services provided or received by a related person with relevant subject-matters of transactions (goods (products) purchased or sold or services provided or received) of unrelated merchants, and also of other factors affecting the transaction price (value).

12. In applying any of the methods for the determination of the market value of a transaction or market price of goods (a product, a service) referred to in Paragraph 13, 14, 15, 16, or 17 of this Regulation:

12.1. the comparable core functions shall be production, research, and development of a product, trade in and distribution of goods, advertising, marketing, and securing of financing, and also other functions;

12.2. depending on the functions performed, the comparable risks may be market risks, creditor and debtor risks, risks of losses associated with the storage of stocks of goods, risks of currency fluctuations, and risks of losses associated with the wear of production equipment or unfortunate investment in a specific research and development project of a product, insurance and guarantee risks, and also other risks;

12.3. a comparable uncontrolled transaction or a comparable unrelated person shall be selected if at least one of the following conditions is present:

12.3.1. the compared transaction or compared unrelated person is comparable with the controlled transaction or related person, and differences (if any) between the compared transactions or compared merchants do not have a significant impact on the price under conditions of unbridled competition;

12.3.2. mathematical calculations and reasonably accurate adjustments of financial data may be made to exclude a significant impact of such differences detected in the compared transactions or compared persons on comparability.

13. Comparable uncontrolled price method:

13.1. the essence of the method – the method within the framework of which the price applied to a transaction mutually made by related persons is compared with the price of a comparable transaction made by a related person and a person unrelated thereto or the price of a comparable transaction made by another unrelated person, or, if it is sufficiently comparable, with collected publicly available information on the prices of the transactions made by comparable unrelated persons and other factors affecting the price in comparable circumstances (see Paragraph 1 of Annex 2 to this Regulation for an example of the comparable uncontrolled price method);

13.2. the method shall be applied where transactions are made in goods or services the prices of which are comparable with the prices of the transactions made by unrelated persons, or where it is possible to make reasonably accurate adjustments to exclude a significant impact of differences of the transactions on the transaction value or price of goods, a product, or a service.

14. Resale price method:

14.1. the essence of the method – the method is based on the price at which goods (products) purchased from a related person (enterprise) is resold to an unrelated person. The respective price shall be reduced by gross profit from which the reseller is to cover selling and administrative costs making appropriate profit or profit margin by taking into account the functions performed to secure the transaction, the associated risks, the assets used, and other factors affecting the transaction value. What remains after deduction of the gross profit and other necessary adjustments of costs made in accordance with Sub-paragraphs 12.3.1 and 12.3.2 of this Regulation shall be deemed the market value of the transaction (or market price of goods, a product) (see Paragraph 2 of Annex 2 to this Regulation for an example of the resale price method);

14.2. the method shall be applied to transactions involving acquisition of goods of a reseller if the reseller resells the goods to an unrelated person without significantly increasing the value of the goods and preserving their identity.

15. Cost plus method:

15.1. the essence of the method – the method to determine the market price of a transaction for the direct and indirect costs of the production sold by the seller or of the services provided by the provider of services that are related to the sale of the product or provision of the service to a related person plus a reasonable mark-up of costs which the seller would apply to a comparable transaction with an unrelated person by taking into account the functions performed to secure the transaction, the associated risks, the assets used, and other factors affecting the transaction price (see Paragraph 3 of Annex 2 to this Regulation for an example of the cost plus method);

15.2. the method shall be applied to the transactions of the seller (producer) of goods (products) or provider of services if no significant and unique intangible property has been invested in the relevant subject-matters of the transactions.

16. Transactional net margin method:

16.1. the essence of the method – the method in which the transaction value (the price of goods, a product, or a service) is determined by assessing the net profit against appropriate base (for example, costs, revenue, assets, or another appropriate base) by taking into account the functions performed to secure the transaction, the associated risks, the assets used, and other factors affecting the transaction value or the price of goods (see Paragraph 4 of Annex 2 to this Regulation for an example of the transactional net margin method);

16.2. the method shall be applied in a manner similar to that of the resale price method or the cost plus method (in the cases referred to in Paragraphs 14 and 15 of this Regulation) if the comparison of the mark-up of direct and indirect costs or gross profit margin of a controlled transaction with the relevant financial indicators of unrelated persons does not provide a sufficiently credible result which is based on the factors affecting the transaction price (value) (Paragraphs 11 and 12 of this Regulation).

17. Profit distribution method – the method to determine the market price the use of which requires first to determine the profit of a controlled transaction to be distributed between related persons and then it is distributed between the related persons on the basis of economically feasible factor which approximates the distribution of profit to such distribution of profit that would occur between independent persons (see Paragraph 5 of Annex 2 to this Regulation for an example of the profit distribution method).

[*18 February 2021*]

17.1 In applying the profit distribution method, the references to profit contained in this Regulation shall apply equally to losses (the profit distribution method shall be applied irrespective of whether profit or loss arises from the relevant transactions).

[*18 February 2021*]

17.2 In selecting the profit distribution method in accordance with Paragraph 8 of this Regulation, it shall be taken into account that this method may be applied in the following cases:

17.21. both parties to a controlled transaction make a unique and valuable contribution in relation to this transaction (for example, in the form of a unique and valuable intangible property). In this case, the unique and valuable contribution shall mean a contribution which is not comparable to a contribution made by independent persons in comparable circumstances and the use of which in economic activity creates the major source for actual or potential economic benefit generating profit;

17.22. related persons implement a mutually highly integrated business model (for example, within the framework of a global value chain) in which the contribution of participants cannot be measured reliably by separating it from the contribution of other participants;

17.23. by this controlled transaction both parties to the transaction jointly take on one or more significant economic risks or each of the parties to the transaction independently takes on an economically significant risk but the significant economic risks taken on by the parties to the transaction are closely interrelated.

[*18 February 2021*]

17.3 In applying the profit distribution method, the following conditions shall be met:

17.31. the profit distribution and the choice of factors of profit distribution shall be consistent with the functional analysis of the relevant controlled transaction, in particular with the assumptions regarding economically significant risks taken by related persons;

17.32. the process of determining the distributed profit and the selected factors of profit distribution shall be measurable in a quantitative manner;

17.33. the profit distribution method shall be used by determining the market price (value) before commencement of the controlled transaction;

17.34. the profit distribution and the choice of factors of profit distribution shall be consistent through the entire life of the controlled transaction, except for the case where differences are economically feasible and appropriately documented;

17.35. in applying the profit distribution method, the earnings before interest and taxes (EBIT) are distributed but, taking into account the relevant factors and circumstances, gross profit may be distributed.

[*18 February 2021*]

17.4 The following approaches to profit distribution shall be used:

17.41. the contribution analysis. According to this approach, the profit between related persons shall be distributed on the basis of the relative value of contribution of each related person to the controlled transaction, where possible, justifying the analysis with external market data which demonstrate how independent persons would have distributed the profit in similar circumstances;

17.42. the remaining profit analysis. According to this approach, the profit to be distributed between related persons shall be divided into two categories:

17.42.1. the first category shall include profit attributable to a contribution in respect of which reliable comparable data are available on the actions of independent persons in a similar situation (usually it is the profit attributable to a less sophisticated contribution made within the framework of a controlled transaction). The value of the respective contributions included in the first category shall be usually determined by using any of the methods for determination of the market price of a transaction referred to in Paragraph 13, 14, 15, or 16 of this Regulation;

17.42.2. the profit included in the second category shall be determined by deducting the profit determined in accordance with Sub-paragraph 17.42.1 of this Regulation from all profits to be distributed between related persons assuming that the profit included (remaining) in the second category comprises profit from contributions made by both parties to the controlled transaction which are unique and valuable or attributable to a highly integrated business model and thus are not separately measurable, or attributable to an economically significant risk assumed jointly by both parties to the controlled transaction. The profit included in the second category shall be attributable to both parties to the controlled transaction by taking into account the relative role of each party to the controlled transaction in making contribution of the second category, where possible, justifying the analysis with external market data which demonstrate how independent persons would have distributed the profit in similar circumstances.

[*18 February 2021*]

17.5 Economically feasible factors according to which profit is distributed between related persons within the framework of the profit distribution method shall be as follows:

17.51. independent from the transfer pricing policy and based on objective data (for example, sales volume to independent persons in similar circumstances) rather than data which refer to the remuneration of related persons in relation to controlled transactions (for example, sales volume to related persons);

17.52. verifiable;

17.53. based on internal or external comparable data.

[*18 February 2021*]

17.6 Without prejudice to the factors listed in this Paragraph, depending on the key factor which creates value in a specific case, for the purposes of application of the profit distribution method, economically feasible factors of profit distribution shall be as follows:

17.61. the value of assets or the capital value;

17.62. the operating expenses;

17.63. the costs of the goods sold;

17.64. the research and development costs;

17.65. the volume of sales;

17.66. the remuneration of the employees performing the main functions which create value.

[*18 February 2021*]

18. In order to determine the market price (value) of goods (produce, service) or the market price (value) of a transaction more accurately, the methods for the determination of the market price (value) of a transaction (market price (value) of goods (a product), a service, an intangible property, and another subject-matter of the transaction) specified in this Regulation may be combined.

[*18 February 2021*]

18.1 If a taxpayer provides or receives the low value added services specified in this Regulation, the taxpayer is entitled to determine the taxable object referred to in Section 4, Paragraph two, Clause 2, Sub-clause “e” of the Law in accordance with the simplified procedures laid down in this Regulation. In this case, the taxable object is formed as a difference between the transaction price and the market value calculated in accordance with the procedures laid down in Paragraphs 18.7, 18.8, and 18.9 of this Regulation.

[*9 July 2019*]

18.2 Within the meaning of this Regulation, the low value added services shall mean services provided within the framework of a controlled transaction that meet the following criteria:

18.21. they are of the nature of support;

18.22. they are not part of the principal activity of a multinational enterprise group. The abovementioned fact shall not preclude a situation where low value added services constitute the principal activity of a commercial company within a multinational enterprise group that provides the relevant services to other commercial companies within the same multinational enterprise group;

18.23. the provision of services does not require the use of a unique and valuable intangible property and such intangible property also does not arise from the provision of services;

18.24. a taxpayer who provides a service does not assume and does not control significant risks in relation to the service and the taxpayer does not incur such risks as a result of the provision of this service.

[*9 July 2019*]

18.3 Within the meaning of this Regulation, the low value added services shall not be deemed the following:

18.31. services that do not meet the criteria referred to in Paragraph 18.2 of this Regulation;

18.32. research and development services;

18.33. production services;

18.34. procurement services if raw materials or other materials used in the production process are procured;

18.35. selling, marketing, or product distribution services;

18.36. financial services;

18.37. production, exploration, or processing of natural resources;

18.38. insurance and reinsurance services;

18.39. senior corporate governance services (except for the services which refer to governance and supervision of the low value added services specified in this Regulation).

[*9 July 2019*]

18.4 Without prejudice to the services listed in this Paragraph and taking into account conformity of each individual case with the criteria contained in this Regulation and with the essence of low value added services, the low value added services for which the transfer price corresponding to the market value may be determined in accordance with the simplified procedures may be as follows:

18.41. accounting and auditing services;

18.42. services related to staff management, for example, staff selection, induction of new employees, evaluation of employees, ensuring of safety requirements at work;

18.43. functions related to information technologies and telecommunications services which are not part of the principal activity of a multinational enterprise group, for example installation, maintenance, and restoration of information systems necessary for ensuring economic activity, support of information systems, training in the use of information systems, development of the guidelines for information technologies, and other similar services;

18.44. legal foundation provided by the internal legal department of commercial companies, for example, drawing up and evaluation of draft contracts, drawing up of legal opinions and other legal documents, provision of legal advice, representation of a commercial company in legal proceedings and in relations with public institutions, conduct of legal studies, administrative functions for the registration and protection of objects of intellectual property rights;

18.45. internal and external communication services, support services for public relations (except for specific advertising and marketing activities, and also development of associated strategies);

18.46. general administrative and support services.

[*9 July 2019*]

18.5 The simplified determination of the transfer price corresponding to the market value that has been provided for in this Regulation shall not be applicable to the low value added services which are also provided to independent persons, as a result of which information on comparable uncontrolled transactions is available to determine the transfer price corresponding to the market value.

[*9 July 2019*]

18.6 A taxpayer has the right to choose to apply the simplified determination of the transfer price corresponding to the market value that has been provided for in this Regulation in order to calculate the value of low value added services if the following conditions are met:

18.61. in relation to the relevant low value added services the taxpayer prepares the simplified transfer price documentation in accordance with the procedures laid down in tax laws and regulations;

18.62. in respect of specific low value added services insofar as legal arrangements of specific countries allow, simplified determination of the transfer prices corresponding to the market value for low value added services is applied consistently to all parties to the specific controlled transaction or type of transaction thereof;

18.63. the low value added services are considered to be provided in the following cases:

18.63.1. they provide an economic or commercial benefit to the taxpayer receiving them by improving commercial positions of the respective taxpayer. This is established by assessing whether an independent person in a comparable situation would be willing to pay for such services to another independent person or would have ensured the respective function himself or herself;

18.63.2. they do not constitute activities which are only carried out (usually by a parent commercial company) in relation to the interests resulting from holding in the share capital (usually of a subsidiary commercial company) (for example, consolidation expenditure of annual statements of commercial companies within a multinational enterprise group are attributed to the parent commercial company, while expenditure related to the audit (inspection) of statements of subsidiary commercial companies carried out in the interests of the parent commercial company are attributable to the parent commercial company);

18.63.3. they do not constitute activities which solely duplicate the activities that an enterprise within a multinational group has carried out itself to ensure its economic activity or has received them as a service from a third person.

[*9 July 2019*]

18.7 In calculating the market value of low value added services, a taxpayer shall first calculate the eligible expenditure by carrying out the following consecutive activities:

18.71. the first activity – the aggregate of direct and indirect costs of the reporting year which have been incurred by each commercial company within a multinational enterprise group in relation to the provision of each type of the value added services shall be calculated and indicated. Flow-through costs shall be indicated in the respective aggregate of costs, yet they shall not be taken into account when calculating the value of the low value added services;

18.72. the second activity – costs attributable to one commercial company within a multinational enterprise group in relation to the low value added services which it has provided directly to another commercial company within the multinational enterprise group shall be deducted from the aggregate of costs of the reporting year. As a result thereof, the costs incurred when providing low value added services to several commercial companies within the multinational enterprise group shall remain in the aggregate of costs;

18.73. the third activity – appropriate criteria for the distribution of costs shall be selected for each type of the low value added services in order to distribute the aggregate of costs of the reporting year calculated as a result of the activity referred to in Sub-paragraph 18.72 of this Regulation between taxpayers who receive the relevant low value added services. The criteria for the distribution of costs shall be selected depending on the nature of services – they shall reflect the benefit which the taxpayers, who receive the low value added services, gain or intend to gain from the relevant type of service. The criteria for the distribution of costs shall be used consistently for all costs of the same type of service. Depending on the nature of services, the criteria such as the number of service users, assets, turnover, share of the specific costs, number of transactions may serve as the criteria for the distribution of costs.

[*9 July 2019*]

18.8 The market value of low value added services attributable to a taxpayer who has received the service shall be calculated as follows:

18.81. a mark-up in the amount of 5 per cent shall be added to the costs referred to in Sub-paragraph 18.72 of this Regulation and attributable to one commercial company within a multinational enterprise group in relation to low value added services which it has provided directly to another commercial company within the multinational enterprise group;

18.82. a mark-up in the amount of 5 per cent shall be added to the share of the annual aggregate of costs which has been determined as a result of the activity provided for in Sub-paragraph 18.73 of this Regulation and which is attributable to the taxpayer, who has received the service, when applying the criterion for the distribution of costs.

[*9 July 2019*]

18.9 The market value of low value added services attributable to a taxpayer who has provided the service shall correspond to the market value due to it in accordance with Paragraph 18.8 of this Regulation as a payment for services from a taxpayer who receives the low value added service.

[*9 July 2019*]

19. Provided that it is not in conflict with the rights and obligations of a taxpayer and tax administration laid down in laws and regulations, the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations provided by the Organisation for Economic Co-operation and Development may be used as supplementary guidance in order to:

19.1. apply the techniques of determination and economic analysis of the market price (value) of a transaction (the market price (value) of goods, (a product), a service, an intangible property, and another subject-matter) specified in this Regulation, carry out the activities referred to in Paragraph 18 of this Regulation, and understand examples of the respective methods and techniques;

19.2. perform the functional analysis and the comparability analysis in accordance with Paragraphs 8, 9, 10, 11, and 12 of this Regulation;

19.3. facilitate cooperation between a taxpayer and tax administration and avoid double taxation;

19.4. justify a specific controlled transaction (services, cost contribution arrangements, intangible transactions, restructuring, low value added services, financial transactions) or the economic nature of commercial or financial relations and documentation thereof.

[*9 July 2019; 18 February 2021*]

20. In applying Section 4, Paragraph two, Clause 2, Sub-clause “g” and Paragraph eight of the Law, a permanent establishment of a non-resident that terminates its operation in Latvia shall include the value of all assets in the base taxable with the enterprise income tax, minus the remaining accounting value of such assets which the principal undertaking has transferred to the permanent establishment for ensuring its economic activity. The respective provision shall not be applicable if a non-resident whose permanent establishment it is has carried out reorganisation and the conditions laid down in Section 18 of the Law are met.

21. In applying Section 4, Paragraph twelve of the Law, a permanent establishment of a non-resident shall, for the enterprise income tax purposes, account for the revenue and expenditure associated with its activity and assets and liabilities respectively, separately from a non-resident whose permanent establishment it is.

22. In preparing a profit or loss account for the purposes of calculation of the enterprise income tax, profit of the permanent establishment shall also be reduced by the amount of expenditure or part of expenditure which is actually disbursed in the transactions between a non-resident whose permanent establishment it is and other persons, residents, or non-residents and which is directly related to the economic activity of the permanent establishment. The profit may only be reduced if the respective expenditure has been confirmed by supporting documents in written (paper or electronic) form and only to the extent the respective expenditure is attributable to the economic activity of the permanent establishment.

23. The income withdrawn in the taxation period from a permanent establishment of a non-resident in Latvia shall be deemed the following:

23.1. any payments made by the permanent establishment to the non-resident whose permanent establishment it is other than the expenditure of the non-resident related to the economic activity of the permanent establishment that have been referred to in Paragraph 22 of this Regulation or the consideration for supplied goods referred to in Paragraph 25 of this Regulation;

23.2. income which is earned directly by a non-resident using the permanent establishment in Latvia and which is attributable to the permanent establishment of this non-resident in Latvia.

24. Income withdrawn from a permanent establishment in the taxation period shall not be deemed an amount which does not exceed 10 per cent of the expenditure of a non-resident referred to in Paragraph 22 of this Regulation that are related to the economic activity of the permanent establishment and the consideration for supplied goods referred to in Paragraph 25 of this Regulation if the permanent establishment has a written (in paper or electronic form) confirmation at its disposal issued by the non-resident that such payments are necessary to cover such general administrative and operational expenses of the non-resident that are directly related to the economic activity of the permanent establishment and are not included in the cost price of the goods referred to in Paragraph 25 of this Regulation.

[*5 May 2020*]

25. In applying Section 4, Paragraph fourteen of the Law, if a non-resident supplies (transfers) goods to its permanent establishment for resale in Latvia, the permanent establishment shall indicate in the expenditure item of the profit or loss account the amount which an independent merchant would pay for the supplied goods to an intermediary (rather than the end trader) operating independently from the non-resident and purchasing the respective goods at market prices. The consideration paid by the permanent establishment to the non-resident whose permanent establishment it is for the supplied goods shall be deemed expenditure related to ensuring economic activity and shall not be included in the base taxable with the enterprise income tax as profit distribution (see Paragraph 2 of Annex 1 to this Regulation for an example of the assessment of the objects of a permanent establishment taxable with the enterprise income tax).

26. Paragraph 22 of this Regulation shall also apply to transactions with other units (permanent establishments) of the principal undertaking outside Latvia.

27. In accordance with Section 4, Paragraph four of the Law, expenditure which constitutes an object taxable with the enterprise income tax in accordance with the provisions of the Law shall be included in the taxable base when liabilities are created for such object of expenditure, irrespective of the time when the payment is made.

28. Section 5, Paragraph one of the Law shall be applicable if a non-resident earns revenue in Latvia without using a permanent establishment in Latvia. The payments made by a resident or permanent establishment to a non-resident and referred to in Section 5, Paragraph one of the Law shall be deemed the revenue earned by the non-resident in Latvia, irrespective of the place where the respective payments are made. Depending on whether or not the non-resident has a permanent establishment in Latvia, the same payments may be taxed in different manners. A payer shall withhold tax from the income disbursed to a non-resident, while the permanent establishment of the non-resident shall be the payer of the enterprise income tax. Withholding tax from the income of the non-resident shall not release the non-resident from the rights and obligations arising from the existence of the permanent establishment in accordance with the criteria established in the law On Taxes and Fees (see Paragraph 3 of Annex 1 to this Regulation for examples of the application of Section 5, Paragraph one of the Law).

29. A non-resident shall pay the tax on the payments referred to in Section 5, Paragraph one of the Law in accordance with the specified rates but the resident shall only withhold the tax and pay it into the budget. The tax shall also be withheld and paid into the budget by the taxpayers (except for natural persons) and permanent establishments that do not pay the enterprise income tax in accordance with Section 2, Paragraph two of the Law (including investment funds, alternative investment funds).

30. In accordance with Section 5, Paragraph one, Clause 1 of the Law, a service shall be qualified as a consultancy service by taking into account its economic content and essence rather than only its legal form and covering also preparation of different types of developments and materials (calculations, projects, business plans), provision of information on changes in accounting programs, market research and advertising, market for equipment and production technologies, and other issues which are related to the strategic development, production and sale of produce of the performer of economic activity, and research of economic activity of the performer of economic activity.

31. If the payments referred to in Section 5, Paragraph one, Clauses 1, 2, and 4 of the Law are disbursed to a non-resident but the tax convention specifies taxation of such payments in accordance with a reduced rate or an exemption from the taxation in Latvia has been determined, the recipient of the payment shall, not later than by the day of the submission of the enterprise tax income return in the last month of the reporting year, submit to the payer a completed resident certificate-submission of a specific form for the application of tax relief or the relevant document in accordance with the laws and regulations regarding the procedures for applying the tax relief specified in the tax convention.

[*5 May 2020*]

32. In applying Section 5, Paragraph one, Clause 2 of the Law, alienation of property located in Latvia shall also mean investing immovable property in the share capital.

33. A non-resident who alienates immovable property located in Latvia from another person who is not obliged to withhold the enterprise income tax is entitled not to impose Section 5, Paragraph three of the Law if the non-resident, in accordance with Paragraph 35 of this Regulation, submits to the Service, within 30 days from the day of alienation of the immovable property, a completed statement regarding calculation of the enterprise income tax for a non-resident referred to in Paragraph 34 of this Regulation and makes a tax payment for the income obtained by applying the rate of 20 per cent.

34. In applying Section 5, Paragraph four of the Law, a taxpayer who is a resident of a European Union Member State or a resident of a country with which Latvia has entered into the tax convention that has come into force and who has earned the revenue referred to in Section 5, Paragraph one, Clauses 1, 2, and 4 of the Law (including the revenue from the alienation of capital shares, the alienation of stocks, or the alienation of another type of holding that meets the conditions of Section 5, Paragraph two of the Law, and from which the enterprise income tax has been withheld at the moment of disbursement in the amount of 3 per cent and paid into the budget in accordance with the procedures laid down in the Law or for which the non-resident itself or an authorised representative thereof has paid the respective tax into the State budget) is entitled to submit to the Service a statement regarding calculation of the enterprise income tax for a non-resident by taking into account the amount of the expenditure associated with the revenue earned (Annex 3).

[*5 May 2020*]

35. The procedures for completing the statement regarding calculation of the enterprise income tax for a non-resident shall be as follows:

35.1. the procedures for filling in Chapter I, Table 1 “Calculation of the enterprise income tax for the income obtained from the alienation of immovable property” (to be completed if the income has been obtained from the alienation of immovable property or from the alienation of capital shares, the alienation of stocks, or the alienation of another type of holding that meets the conditions of Section 5, Paragraph two of the Law):

35.1.1. column 1 “Cadastre number or cadastral designation of the immovable property” shall indicate the cadastre number or cadastral designation indicated in the Land Register of the alienated immovable property. If capital shares, stocks, or another type of holding is alienated in accordance with Section 5, Paragraph two of the Law, data enabling identification of the respective holding shall be indicated;

35.1.2. column 2 “Revenue from the alienation of immovable property or alienation of holding” shall indicate the amount of the remuneration specified in the contract for the alienated immovable property or for the alienation of capital shares, stocks, or another type of holding;

35.1.3. column 3 “Remaining value of the immovable property in financial accounts or acquisition value of the share of the holding” shall indicate the remaining value of the immovable property in financial accounts or the acquisition value of the share of the holding as at the beginning of the taxation period in which the immovable property was alienated. If counting from the day of acquisition of the immovable property it has been accounted for as investment property and depreciation thereof has not been calculated in financial accounts, the acquisition value of such property shall be indicated in column 3. If the income has been obtained from the alienation of capital shares, stocks, another type of holding, or land, the acquisition value of the capital shares, stocks, another type of holding, or land shall be indicated in column 3;

35.1.4. column 4 “Other expenditure directly related to the alienation of immovable property or holding” shall indicate the expenditure directly related to the alienation of immovable property and justified by supporting documents, for example, the expenditure regarding services of a sworn notary if a taxpayer has incurred such expenditure. Alienation of immovable property shall be valued as alienation of a separate long-term investment, and the expenditure by which the revenue from the alienation of immovable property is reduced shall not include the current expenditure related to the maintenance and operation of such immovable property, for example, cosmetic repair, public utility payments, operating costs, payments of immovable property tax;

35.1.5. column 5 “Taxable object” shall indicate the taxable income obtained from the alienation of immovable property or capital shares, stocks, or another type of holding and treated as the distributed profit (gross) by applying the following formula: column 2 – column 3 – column 4;

35.1.6. column 6 “Tax calculated by applying the rate of 20 %” shall indicate the amount of the enterprise income tax calculated from the income from the alienation of immovable property or capital shares, stocks, or another type of holding by applying the rate of 20 per cent;

35.1.7. column 7 “Tax calculated by applying the rate of 3 %” shall indicate the amount of the enterprise income tax calculated from the revenue from the alienation of immovable property or capital shares, stocks, or another type of holding by applying the rate of 3 per cent;

35.1.8. column 8 “Tax paid in accordance with Section 5, Paragraph one, Clause 2 of the Law” shall indicate the enterprise income tax which has been withheld and paid into the State budget from the remuneration for the alienation of the immovable property located in Latvia or the alienation of capital shares, stocks, or another type of holding by applying the rate of the enterprise income tax in the amount of 3 per cent of the amount disbursed to a non-resident;

35.1.9. column 9 “Overpayment” shall indicate the amount of the enterprise income tax to be repaid to a non-resident which constitutes a difference between the enterprise income tax withheld from gross revenue and the calculated enterprise income tax on the income obtained by applying the following formula: column 8 – column 6;

35.2. the procedures for filling in Chapter II, Table 2 “Calculation of the enterprise income tax for the income obtained from the management and consultancy services”:

35.2.1. column 1 “Revenue earned” shall indicate the amount of the remuneration specified in the contract for management and consultancy services;

35.2.2. column 2 “Directly related expenditure” shall indicate the expenditure directly related to the earning of the revenue and justified by supporting documents. If the expenditure is attributable to both the management and consultancy services provided in Latvia and other transactions, the taxable income shall be reduced by the part of the expenditure which is related to the respective revenue if it may be separated justifiably (see Paragraph 4 of Annex 1 to this Regulation for an example of the attribution of the expenditure directly related to consultancy services);

35.2.3. column 3 “Taxable object” shall indicate the taxable income obtained from the management and consultancy services by treating it as the distributed profit (gross) which is calculated by applying the following formula: column 1 – column 2;

35.2.4. column 4 “Tax calculated by applying the rate of 20 %” shall indicate the amount of the enterprise income tax (applying the rate of 20 per cent) which has been calculated for the income obtained from the management and consultancy services;

35.2.5. column 5 “Tax calculated by applying the rate of 20 per cent” shall indicate the amount of the enterprise income tax calculated for the revenue earned from the management and consultancy services;

35.2.6. column 6 “Tax paid in accordance with Section 5, Paragraph one, Clause 1 or Clause 5 of the Law” shall indicate the enterprise income tax which has been withheld and paid into the State budget from the management and consultancy services;

35.2.7. column 7 “Overpayment” shall indicate the amount of the enterprise income tax to be repaid to a non-resident which constitutes a difference between the enterprise income tax withheld from gross revenue and paid into the State budget and the calculated enterprise income tax on the obtained income treating it as the distributed profit by applying the following formula: column 4 – column 6;

35.3. the procedures for filling in Chapter III, Table 3 “Calculation of the enterprise income tax for the income obtained from the renting or leasing of immovable property”:

35.3.1. column 1 “Cadastre number or cadastral designation of the immovable property” shall indicate the cadastre number or cadastral designation indicated in the Land Register of the rented or leased immovable property;

35.3.2. column 2 “Revenue from the renting or leasing of immovable property” shall indicate the amount of the remuneration specified in the contract for the rented or leased immovable property;

35.3.3. column 3 “Expenditure directly related to the obtaining of income” shall indicate the expenditure directly related to the renting or leasing of immovable property and justified by supporting documents;

35.3.4. column 4 “Taxable object” shall indicate the taxable income obtained from the renting or leasing of immovable property by treating it as the distributed profit (gross) by applying the following formula: column 2 – column 3;

35.3.5. column 5 “Tax calculated by applying the rate of 20 %” shall indicate the amount of the enterprise income tax calculated from the income from the renting or leasing of immovable property by applying the rate of 20 per cent;

35.3.6. column 6 “Tax calculated by applying the rate of 5 %” shall indicate the amount of the enterprise income tax calculated from the revenue earned from the renting or leasing of immovable property by applying the rate of 5 per cent;

35.3.7. column 7 “Tax paid in accordance with Section 5, Paragraph one, Clause 4 of the Law” shall indicate the enterprise income tax which has been withheld and paid into the State budget from the remuneration for the renting or leasing of the immovable property located in Latvia by applying the rate of the enterprise income tax in the amount of 5 per cent of the amount disbursed to a non-resident;

35.3.8. column 8 “Overpayment” shall indicate the amount of the enterprise income tax to be repaid to a non-resident which constitutes a difference between the enterprise income tax withheld from gross revenue and the calculated enterprise income tax on the income obtained by applying the following formula: column 8 – column 6.

[*5 May 2020*]

36. Concurrently with the statement referred to in Paragraph 34 of this Regulation, a non-resident shall submit the following:

36.1. a document issued by the Enterprise Register of the relevant country justifying the taxpayer’s right to sign;

36.2. an original power of attorney which meets the conditions referred to in Paragraph 37 of this Regulation if the tax calculation statement is submitted by the authorised person;

36.3. if a taxpayer completes Chapter I of Annex 3 to this Regulation:

36.3.1. documents confirming the acquisition and alienation of immovable property or capital shares, stocks, or another type of holding, and also confirm the acquisition and alienation value;

36.3.2. documents confirming the expenditure directly related to alienation;

36.3.3. documents confirming the value of the made and paid capital investments in the relevant immovable property (if such have been made);

36.3.4. a confirmation of a non-resident that the immovable property has not been accounted for as fixed assets (except for land) from the moment of acquisition thereof and the information provided is true. In addition to this, the non-resident shall submit information as to where the relevant annual statement of the non-resident which reflects the respective accounts is publicly available;

36.3.5. a statement issued by the tax administration of the relevant country to a non-resident and confirming the status of residence counting from the day when a payment for immovable property has been received to the day the statement is issued;

36.3.6. any other information affecting the value of immovable property or capital shares, stocks, or another type of holding for the calculation of the tax;

36.3.7. a confirmation that the information provided is true;

36.4. if a taxpayer completes Chapter II of Annex 3 to this Regulation:

36.4.1. the concluded contract which justifies the transaction made and the payment procedures;

36.4.2. documents and other information which confirm the expenditure directly related to the obtaining of income;

36.4.3. a statement issued by the tax administration of the relevant country to a non-resident and confirming the status of residence counting from the day when a payment has been received to the day the statement is issued;

36.4.4. a confirmation that the information provided is true;

36.5. if a taxpayer completes Chapter III of Annex 3 to this Regulation:

36.5.1. the concluded contract which justifies the renting or leasing of immovable property and the payment procedures;

36.5.2. documents and other information which confirm the expenditure directly related to the obtaining of income;

36.5.3. a statement issued by the tax administration of the relevant country to a non-resident and confirming the status of residence counting from the day when a payment has been received to the day the statement is issued;

36.5.4. a confirmation that the information provided is true.

[*5 May 2020*]

37. An authorised person of a taxpayer who is a non-resident may be a natural or legal person acting in accordance with one of the following powers of attorney:

37.1. a power of attorney issued and legalised in the issuing country unless the Document Legalisation Law stipulates otherwise;

37.2. a notarised power of attorney issued in a European Union Member State, a country of the European Economic Area, or in the Swiss Confederation;

37.3. a notarised power of attorney issued in the issuing country in accordance with the provisions of the contract if the Republic of Latvia has concluded a bilateral or multilateral agreement with such country on legal assistance and legal relationships.

38. If the Service has allowed not to apply Section 5, Paragraph six of the Law, the tax shall be withheld from the payments to the non-resident respectively in accordance with Section 5, Paragraph one, Clause 1, 2, or 4 of the Law.

[*5 May 2020*]

39. For the purpose of application of Section 5, Paragraph six of the Law, the concept of “payments” shall mean any payments which cause or will cause changes in financial indicators of the taxpayer, except for the calculated dividends. The concept of “payments” shall also include interest, author’s fee, payments for services, payments for reimbursement of actual expenditure, payments of insurance premiums, guarantee money, and earnest money as well as any advance payments. If an account has been opened with a credit institution registered in the Republic of Latvia for a person located, set up, or established in a tax-free or low-tax country or territory, and the relevant person makes payments from the respective account the recipient of which is another person located, set up, or established in a tax-free or low-tax country or territory, it shall be deemed that the respective payments are made by the taxpayer and Section 5, Paragraphs six and eight of the Law shall not be applicable thereto.

40. If payments made by the Latvian taxpayer to persons located, set up, or established in a tax-free or low-tax country or territory are not exempted from the withholding of tax in accordance with Section 5, Paragraph six of the Law, but the taxpayer believes that the purpose of the payment is not to reduce artificially the base taxable with the enterprise income tax in Latvia, and Section 5, Paragraph nine of the Law is applicable to such payments to the respective persons, the taxpayer shall, prior to making the payments, submit to the Service a submission–request (Annex 4) for non-application of Section 5, Paragraph six of the Law to its payments to the respective persons.

41. Paragraph 40 of this Regulation shall not be applicable to the following payments:

41.1. payments for consultancy services (Section 5, Paragraph one, Clause 1 of the Law);

41.2. dividends (Section 5, Paragraph six of the Law);

41.3. interest payments (Section 5, Paragraph eight, Clause 1 of the Law);

41.4. payments for intellectual property (Section 5, Paragraph eight, Clause 2 of the Law).

42. Without prejudice to Sub-paragraph 41.2 of this Regulation, dividends shall also be included in the base taxable with the enterprise income tax of the taxpayer who makes the payment in accordance with Section 4, Paragraph two, Clause 1 of the Law in the taxation period in which they are calculated.

43. The taxpayer shall indicate in the submission–request referred to in Paragraph 40 of this Regulation the nature, essence, and applicable prices, explain what circumstances have given rise to the need to make a transaction with a person from any of the respective countries or territories, confirm that the respective transaction is not made to reduce the base taxable with the enterprise income tax or not to pay taxes in Latvia and that the taxpayer or related persons thereof, or a merchant (or a permanent establishment) is not a direct or indirect holder in the person who is the recipient of the payment, identify documentarily the persons who, directly or indirectly (though holding in another person, several other persons, or otherwise), are persons that are actual owners of the recipient of the payments, and also provide any other relevant information which facilitates taking of a decision by the Service. Upon request of the Service, the taxpayer shall, after performance of the transaction, submit documents (for example, contracts, customs declarations, bills of lading) or copies thereof which confirm actual performance of the transaction.

44. The Service shall examine the submission–request referred to in Paragraph 40 of this Regulation and, not later than within a month after receipt thereof, issue to the taxpayer a written authorisation (in paper or electronic form) not to withhold the tax or refusal to issue the respective authorisation.

45. The Service shall indicate specific transactions and parties thereto (recipients of payments) and also the period of validity of the authorisation in the authorisation referred to in Paragraph 44 of this Regulation.

46. Only after receipt of the written authorisation (in paper or electronic form) of the Service, the taxpayer is entitled not to withhold the tax from the payments indicated in the authorisation or from the payments for the performance of the transactions referred to in the authorisation.

47. In applying Section 5, Paragraph nine of the Law and determining whether the payments referred to in this Paragraph of the Section are not made to reduce the taxable base of the taxpayer and to reduce or not pay the taxes payable in Latvia, the Service shall take into account the following:

47.1. whether making of the payments is based on an actual economic activity;

47.2. whether the need of the taxpayer to establish economic relations with persons located, set up, or established in tax-free or low-tax countries or territories arises from the specific character of its economic activity carried out;

47.3. whether the transaction value would be equivalent to the value if the taxpayer was a taxpayer who is a resident or a permanent establishment in Latvia;

47.4. whether the taxpayer or related persons thereof are not direct or indirect holders in a legal person located, set up, or established in a tax-free or low-tax country or territory;

47.5. whether the taxpayer and a person located, set up, or established in a tax-free or low-tax country or territory are not deemed to be related persons;

47.6. other actual circumstances in which the relevant transactions occur, or conditions affecting them and on the basis of which a decision may be taken not to withhold the tax in accordance with Section 5, Paragraph nine of the Law.

48. If during application of Section 5, Paragraph nine of the Law the Service has performed the verification referred to in Paragraph 47 of this Regulation in respect of the payments made by the taxpayer to non-residents, and it is expected that the transactions made by the taxpayer in the future will be of uniform character and the parties to the transaction during the taxation period will be the same persons, the Service is entitled to issue an authorisation not to withhold the tax from the payments to a specific non-resident by setting a period of validity of the authorisation which does not exceed 12 months.

49. If during application of Section 5, Paragraph nine of the Law the Service withdraws the issued authorisation not to withhold the tax, the late payment charge for the late payment of tax shall be calculated starting from the day when the payment is made from which the tax had to be withheld.

50. In applying Section 5, Paragraph eleven of the Law, if the payer has not withheld the tax in the specified amount from the payments to a non-resident or could not withhold it, the payer shall calculate the payable amount of the tax in accordance with Paragraph 51 of this Regulation and shall make payment by the twentieth day of the month following the last month of the reporting year.

51. The enterprise income tax to be paid into the State budget and referred to in Paragraph 50 of this Regulation shall be calculated by dividing the amount paid to a non-resident by the coefficient of 0.8 and multiplying it by the tax rate of 20 per cent (see Paragraph 1 of Annex 5 to this Regulation for an example of the determination of the tax base if the payment has been made to a non-resident).

52. In applying Section 6, Paragraph one of the Law, the taxpayer shall have a confirmation of the tax administration of a country of residence of the payer of dividends (a certificate of residence) or another document (for example, an enterprise income tax return of the payer of dividends and a payment order regarding the payment of tax) at its disposal justifying that the payer of dividends is a resident of the other country who pays the enterprise income tax in the country of residence thereof, or a document which confirms that the tax has been withheld from dividends.

53. In applying Section 6, Paragraph one of the Law, the taxpayer is not entitled to reduce the base taxable with the enterprise income tax by dividends received from an enterprise which does not pay the enterprise income tax in its country of residence, for example, it has been registered in the relevant country of residence as an international business company that does not have the right to perform entrepreneurial activities in its country of residence.

54. Section 6, Paragraph three of the Law shall ensure that Section 6, Paragraph one of the Law is not applied if the dividends to be received are qualified as a type of expenditure in the country of payment thereof by which the payer thereof is entitled to reduce the taxable income, for example, are deemed interest on the loan.

55. In applying Section 6, Paragraph five of the Law, the taxpayer is not entitled to apply the exemption specified in Section 6, Paragraph one of the Law if any of the persons involved is deemed to be an artificially established structure (see Paragraph 2 of Annex 5 to this Regulation for an example of the use of the artificially created structure).

56. In applying Section 7 of the Law, when increasing the share capital of a capital company from the retained profits (or the reserve created from the retained profits), payment of the enterprise income tax shall be suspended until the moment when the share capital is reduced or liquidation occurs, or the capital company decides to become a micro-enterprise taxpayer from the next reporting year. Section 7 of the Law shall also be applicable to conditional dividends that have been invested, as a result of reorganisation, in the share capital of an acquiring company in the form of assets of a reorganised company.

[*5 May 2020*]

57. In applying Section 7 of the Law, a capital company that decides to become a micro-enterprise taxpayer shall include in the base taxable with the enterprise income tax the value of the equity, less the value actually invested in the share capital by its shareholders. The respective base taxable with the enterprise income tax shall be indicated in the return of the last month of such reporting year in which the capital company ceases to pay the enterprise income tax in accordance with the law.

58. The base taxable with the enterprise income tax shall not be formed in respect of the capital companies that are obliged to create share capital in accordance with the Commercial Law if holders of capital shares change without making any changes in the amount of the share capital or the value of shares. As regards other taxpayers, payment of the enterprise income tax on the share of the retained profits by which the invested share was increased shall be suspended until the moment when the owner of such shares withdraws from the company or a right rises for such owner to the due share of investment.

59. Section 8, Paragraph two, Clause 5 of the Law shall not be applicable to investment property that is held for sale or is not used for personal needs of the taxpayer, its family members, or employees, including to provide a place of residence without a lease or rental at market prices.

60. In applying Section 8, Paragraph two, Clauses 5 and 6 of the Law, if the taxpayer carries out reconstruction, improvement, or renewal of leased fixed assets which is not stipulated in a lease contract, the taxpayer shall include the respective expenditure in the lease period in the base taxable with the enterprise income tax.

61. In applying Section 8, Paragraph two, Clause 7 of the Law:

61.1. the taxpayer who has registered in the reporting year shall take into account the total gross work remuneration in the reporting year when specifying the gross work remuneration for a period until the taxation period in which the representation expenditure and expenditure for sustainable activities of personnel has been incurred, and shall make a recalculation by submitting a return of the last month of the reporting year;

61.2. the part of the amount of the value added tax paid for the respective expenditure and not included in the input tax shall be included in the amount of the representation expenditure and expenditure for sustainable activities of personnel.

62. In applying Section 8, Paragraph two, Clause 8 of the Law, the taxable base shall include the acquisition value of a representative car. If the representative car is used on the basis of an operating lease contract, the base taxable with the enterprise income tax shall include expenditure related to the respective contract in such period of lease.

63. Section 8, Paragraph two, Clause 8 of the Law shall not be applicable to taxpayers whose commercial activities include the provision of passenger car hire services and whose revenue from such commercial activity accounts for not less than 90 per cent of the turnover. Within the meaning of this Paragraph, the revenue from the provision of passenger car hire services shall be understood as the amount of revenue which consists of the revenue from the provision of passenger car hire services, the revenue which is earned from the provision of additional services thereof that are directly related to the lease of passenger cars, and also the revenue from the alienation of passenger cars as objects of lease.

64. Fines, contractual penalties, and monetary penalties and also sanctions which are imposed by State authorities and do not exceed the amount of the lawful interest set by the Civil Law shall be considered proportionate expenditure in respect of the transaction value when applying Section 8, Paragraph two, Clause 10 of the Law. The respective provision shall not be applicable if a specific private individual who is guilty of committing an offence is not required to compensate for the damage caused (for example, the base taxable with the enterprise income tax includes a fine which has been paid for a violation of road traffic regulations committed by the taxpayer if the employer does not exercise the right to claim against an employee who has committed the violation).

65. In applying Section 8, Paragraph four of the Law, the expenditure for sustainable activities of personnel shall include expenditure incurred by organising collective events for employees (for example, an enterprise organises a Christmas party for all employees).

66. Without prejudice to Section 8, Paragraph four of the Law, the expenditure related to the economic activity shall include the following:

66.1. the mandatory payments to employees in accordance with laws and regulations;

66.2. the compensations paid by the taxpayer for the damage caused to employees or parties to transactions in accidents in accordance with laws and regulations;

66.3. the amount of expenditure which the employer has paid to ensure performance of the duties laid down in the Labour Protection Law, and also regarding the expenditure which is related to preventive health protection measures in sectors where working conditions so require (for example, the expenditure related to vaccination against tick-borne encephalitis for those employed in the forest or vaccination against infectious diseases for employees of pharmaceutical and health care institutions);

66.4. the expenditure incurred when ensuring purchase of drinking water for employees at the workplace and also when equipping and maintaining recreational areas for employees at the workplace (for example, to make tea or coffee or have a meal at the workplace) if the equipment of such areas can be considered compliant with the general modern understanding of good working conditions;

66.5. the catering expenses paid by the employer and stipulated in a collective agreement that are not taxable with the personal income tax in accordance with the provisions of the law On Personal Income Tax.

67. Expenditure of a public advertising campaign, if it conforms to the requirements referred to in Section 8, Paragraph seven, Clauses 2 and 3 of the Law, shall be deemed the expenditure related to the economic activity, and objects or a gift card added to goods or service shall not be deemed expenditure the recipient of which must be identified. The expenditure related to the economic activity shall also be deemed the expenditure related to an advertising campaign:

67.1. regarding winnings or prizes (without exceeding the value of a low-value article) won, drawn, or gifted during competitions which are organised by the performer of economic activity for advertising purposes and the results of which are reflected in the mass media;

67.2. in providing prizes (without exceeding the value of a low-value article) for public competitions organised by other legal persons if advertising of the relevant performer of economic activity is displayed at the venue of such competitions, and competitions are organised to expand markets for their products or services, and the range of participants in such competitions are not limited otherwise than by stipulating that a participant must purchase the relevant product or service or answer a question;

67.3. regarding the prizes granted in a lottery of goods or services if they are granted in a lottery organised by the taxpayer and conducted in accordance with the Law on Lotteries of Goods and Services.

68. In applying Section 8, Paragraph six, Clause 3 and Paragraph seven of the Law, when using low-value articles for advertising or representation purposes (or gift cards of the taxpayer itself) where the value of such objects does not exceed EUR 20, the economic nature of a transaction shall be assessed by separating an advertising activity from a representation activity (see Paragraph 3 of Annex 5 to this Regulation for an example of the use of low-value articles for representation and advertising activities). If the low-value article is presented to the buyer of service within the framework of an advertising campaign without breaching the restrictions laid down in Section 8, Paragraph seven of the Law, the low-value articles may be recognised as advertising expenditure. If a low-value article is used for representation purposes and the value thereof does not exceed EUR 20, a person receiving it need not be identified. If the value of a representation object exceeds EUR 20, it shall not be deemed a low-value article and the respective expenditure shall not be recognised as related to the economic activity if a person receiving the object is not identified and the personal income tax is not paid.

69. The base taxable with the enterprise income tax shall include the monetary prizes used within the framework of an advertising or representation campaign if the taxpayer cannot identify the recipient of this money (for example, notes are in the package of goods) or the personal income tax cannot be withheld in the cases specified in the law On Personal Income Tax.

70. In accordance with Section 8 of the Law, the losses of stocks (goods) and the value of written-off stocks (goods) exceeding standards of the planned losses of the taxpayer for the reporting year shall be included in the expenditure which is not economically related to economic activity. Standards of the planned losses for the reporting year shall be calculated on the basis of the value of the actual losses of stocks in the previous three reporting years. Taxpayers who have registered in the reporting year, and also performers of economic activity whose type of activity, used raw materials, or range of stocks (goods) to be sold has significantly changed, shall calculate standards of the planned losses on the basis of the forecast for the reporting year of the relevant merchant and in line with the specific nature of the economic activity. If the standard of losses of stocks (goods) has been specified in a law or regulation, the taxpayer shall determine the standard of losses of stocks (goods) in accordance with laws and regulations.

71. Stocks and fixed assets of the taxpayer lost due to *force majeure* shall be deemed expenditure related to economic activity of the taxpayer.

72. Amounts of losses incurred by the taxpayer due to shortage or theft shall be deemed expenditure related to the economic activity of the taxpayer if the taxpayer has taken all reasonable measures to recover values lost due to shortage or theft but, where the losses exceed EUR 50, the taxpayer has immediately informed an investigative institution of the situation and it has taken a decision to initiate criminal proceedings or to refuse to initiate criminal proceedings.

73. Section 9, Paragraph one of the Law shall also be applicable to the portion of debts taken over under an assignment contract or factoring without subrogation actions.

74. Within the meaning of Section 10, Paragraph one of the Law, debt obligations shall only be deemed the debt obligations in respect of which interest payments have been calculated in the relevant taxation period.

75. Within the meaning of Section 10, Paragraph one of the Law, the average amount of debt obligations shall be deemed the annual weighted average of debt obligations which is calculated by adding up the value of debt obligations on the last day of each month (except for the last month of the reporting year), plus half of the value of debt obligations at the beginning of the reporting year and half of the value of debt obligations at the end of the reporting year, and then dividing the obtained amount by the number of months in the reporting year. If there are no debt obligations with a specific creditor for the whole reporting year, the average amount of debt obligations shall be calculated by adding up the value of debt obligations on the last day of each month (except for the last month of the reporting year or the month when obligations lapse (if they lapse in the middle of the reporting year)), plus half of the value of debt obligations at the beginning of the reporting year or in the month when obligations arise (if they arise in the middle of the reporting year) and half of the value of debt obligations on the last day of the month of the reporting year or the last day of the month when obligations lapse (if they lapse in the reporting year), and then dividing the obtained amount by the number of months in the reporting year in which specific obligations are present (see Paragraph 4 of Annex 5 to this Regulation for an example of the calculation of average debt obligation).

76. Section 10, Paragraphs one and three of the Law shall be applicable to all types of interest payments for any type of debt obligations, including interest payments which are paid for the transactions involving financial lease (leasing) and factoring with right of subrogation, and other expenditure that is economically equivalent to interest and costs incurred in relation to the acquisition of funds, including payments according to loans in relation to profit participation, interest calculated on instruments such as convertible bonds, capitalised interest which has been included in the balance sheet value of the relevant assets, amounts which are calculated by using return on financing in accordance with the rules for the determination of the market price, a financial mechanism for guarantee fees, administrative fees, and similar costs related to borrowed monetary funds.

77. Section 10, Paragraph one of the Law shall also be applicable to a taxpayer whose annual statement reflects the amount of the equity as negative. In making the calculations specified in Section 10, Paragraph one of the Law, a taxpayer whose annual statement reflects the equity as negative shall conditionally accept figure “0” in the calculations of the equity.

78. The financial supervision and issue of a special permit (licence) to financial institutions in the Republic of Latvia that have been specified in Section 10, Paragraph two, Clause 2 of the Law shall be carried out in accordance with the Consumer Rights Protection Law.

79. In applying Section 10 of the Law, the calculation of interest costs shall not include such interest payments made by credit institutions which a credit institution pays on the deposits of clients made by credit institutions.

80. In determining the average amount of debt obligations of the reporting year, loans received both in euros and foreign currencies shall be taken into account.

81. In applying Section 11, Paragraph two of the Law, credit institutions shall not include in the base taxable with the enterprise income tax the loans issued to related persons if the loans have been issued under general credit conditions that do not provide for more favourable conditions or a different interest rate than that which would have been determined in respect of a person not related to the taxpayer.

82. In applying Section 11, Paragraph four, Clauses 1 and 3 of the Law, the taxpayer shall include in the base taxable with the enterprise income tax the amount of a loan issued in the reporting year to the extent this amount exceeds the total amount regarding a borrowing from a person who is not a person related to the taxpayer, and the registered share capital minus the total amount of loans issued in the previous reporting years and not returned at the end of the reporting year.

83. In applying Section 11, Paragraph four, Clause 3 of the Law, the registered share capital shall not include the capital share which has been increased from the retained profits of the taxpayer.

84. The reduction in the enterprise income tax calculated from dividends that has been specified in Section 12, Paragraph one, Clause 3 of the Law shall also be applicable to the calculated enterprise income tax on the disbursements equivalent to dividends.

85. The taxpayer is not entitled to apply the relief specified in Section 12, Paragraph one of the Law if the recipient of payment referred to in Section 12, Paragraph one of the Law hands over the received funds to another person (namely acts only as an intermediary), except for the case where:

85.1. the recipient of a donation hands over the donation or part thereof to another public benefit organisation whose field and objectives of public benefit activity correspond to the field and objectives of public benefit activity of the recipient of the donation by indicating in the contract the purpose of the use of the specific donation or part thereof which corresponds to the field and objectives of activity of both the recipient of the donation and the public benefit organisation, and the purpose of the use of property or financial resources which is related to activities of the public benefit organisation that have been referred to in a decision to grant the status of a public benefit organisation to the relevant organisation;

85.2. the funds are handed over to a natural person for his or her medical treatment or rehabilitation if the recipient of a donation has provided a confirmation to the donor by the end of the reporting year regarding the use of the respective funds for this purpose.

86. In applying Section 12, Paragraph one, Clause 1 of the Law, the taxpayer whose previous reporting year does not cover a 12-month period shall divide the profits from the previous reporting year by the number of months counting from the month of registration to the last month of the previous reporting year and multiply it by 12 when determining the profits for the previous reporting year for the purpose of application of relief.

87. In applying Section 12, Paragraph one, Clause 2 of the Law, the taxpayer who has registered in the reporting year shall take into account the gross work remuneration calculated for employees in the reporting year when determining the calculated work remuneration for a period until the taxation period in which the donation was made and make a recalculation by submitting a return of the last month of the reporting year.

88. Budget institutions shall, by 1 March of the post-taxation year, submit to the Treasury a report on the amount of donations received, donors, and use of donations and shall publish it on its website.

89. A capital company that performs State culture functions delegated by the Ministry of Culture (hereinafter – the State culture capital company) and has received donations shall:

89.1. record the received and used donations separately from other revenue and expenditure;

89.2. submit to the Service a report (in free form) on the received and used donations by 31 March of the next reporting year. The report shall contain the following information:

89.2.1. the name and registration number of the donor;

89.2.2. the amount of the received donation;

89.2.3. the amount of the received donation which has not been used to meet the cultural needs of the public (in particular groups of the poor and socially vulnerable persons) or to stage a concert, a performance, or an opera, except for expenditure of the State culture capital company incurred by providing informative materials regarding its organised concert, performance, or opera (leaflets, posters, and informative materials displayed in the mass media) that do not include advertising of the donor.

90. Sub-paragraph 89.2.3 of this Regulation shall not be applicable to the payment of wages (including State social insurance contributions made by the employer) or author’s fee to natural persons who ensure staging of the concert, performance, or opera organised by the State culture capital company.

91. The State culture capital company shall, by 31 March of the next year, pay into the State budget the amounts received in the form of donations that have not been used to meet the cultural needs of the public (in particular groups of the poor and socially vulnerable persons) or to stage a concert, a performance, or an opera.

92. In applying Section 12, Paragraph six, Clause 2 of the Law, the following expenditure shall also demonstrate a donation which includes the activity of a compensatory nature:

92.1. a donation to a company with an open or hidden aim to provide benefit to a person who is an employee, a member of the board, or a member of the family of the donor, thus gaining more favourable conditions in the company or another benefit in comparison with other shareholders of this company;

92.2. the donor or related person thereof has a possibility to visit paid events free of charge that have been organised by the recipient of the donation (including providing invitations, free tickets or offering specifically a discount on entrance tickets for donors).

93. In applying Section 12, Paragraph six, Clause 3 of the Law, a tax debt shall not be deemed the amount of tax payable additionally which has arisen as a result of adjustment to the return of the relevant taxation period which has been submitted in the reporting year or the previous reporting year if the taxpayer has paid the tax calculated additionally and late payment charges in due time.

94. In applying Section 12, Paragraph six, Clause 4 of the Law, the taxpayer has the right to apply the relief specified in Section 12, Paragraph one of the Law in the following cases:

94.1. the recipient of donations advertises the donor and a reciprocal contract has been entered into for such service, and a compensation for such service has not been stipulated only seemingly;

94.2. each indication of the donor (brand thereof) included in the public information on donors prepared by the recipient of the donation does not exceed 1/20 of the text area, namely it occupies the smallest possible part of all information in the relevant area and it is not aimed at promoting the donor according to its economic nature but is a small part of the overall information.

95. In applying Sub-paragraph 94.1 of this Regulation, the relief specified in Section 12, Paragraph one of the Law may not be applied to the whole amount donated if, in addition to the advertising services provided for in the contract for advertising services, the recipient of the donation also provides other advertising services (irrespective of the provided scale of advertising in relation to the total donated amount received) that are aimed at promoting the donor (see Paragraph 5 of Annex 5 to this Regulation for an example of other advertising services targeting promotion of the donor).

96. Without prejudice to Paragraph 94 of this Regulation, a donation shall not be deemed an amount which is paid by the taxpayer to the person referred to in Section 12, Paragraph one of the Law if the name of the recipient of the payment contains an obvious indication to the payer’s brand or elements or name thereof.

97. Section 13, Paragraph one of the Law shall only be applicable to the alienation of such stocks which, in accordance with the Commercial Law or a law or regulation equivalent thereto abroad, gives the right to receive dividends. Section 13, Paragraph one of the Law shall not be applicable to debt obligations which give the right to receive the disbursements equivalent to a dividend and specified in this Law (for example, relief shall not apply to the contributions made to a partnership).

98. The reduction in the base taxable with the enterprise income tax specified in Section 13, Paragraphs one and two of the Law in respect of the calculated dividends shall also be applicable to the base taxable with the enterprise income tax which has been calculated on the disbursements equivalent to dividends.

99. Within the meaning of Section 14 of the Law, aid shall be considered aid in accordance with the Law on Agriculture and Rural Development.

100. In applying Section 14 of the Law, the base taxable with the enterprise income tax shall be reduced in the reporting year in which a decision has been taken to grant funds, irrespective of the records made in accounting and the year of receipt of the actual payment (see Paragraph 6 of Annex 5 to this Regulation for an example of application of the relief for the received State aid for agriculture).

101. The taxpayer is not entitled to apply the relief specified in Section 14 of the Law for such proportion of the received aid which has not been used in accordance with the decision to grant it, and it shall be repaid in accordance with a decision of the grantor of the aid.

102. Provisions of Section 15 of the Law shall be applied if double taxation is not prevented in accordance with Section 6 of the Law.

103. Section 15, Paragraph one of the Law shall not be applied to the tax which has been paid by the permanent establishment of the taxpayer abroad if Section 15, Paragraph four of the Law is applied.

104. In applying Section 15, Paragraph four of the Law, double taxation is prevented in respect of the income of the foreign permanent establishment of the taxpayer by excluding the income, which the taxpayer has received from the permanent establishment abroad in the taxation period in form of cash or otherwise, from the dividends included in the base taxable with the enterprise income tax of the taxpayer.

105. In applying Section 15, Paragraph four of the Law, the dividends to be included in the taxable base of the taxpayer shall not be reduced by the income of the foreign permanent establishment which has been withdrawn from the permanent establishment in the taxation period in form of cash or otherwise if the permanent establishment abroad (for example, in Estonia) has paid the tax only on the expenditure not related to economic activity if a model for the calculation of the enterprise income tax of the relevant country is essentially similar to that existing in Latvia.

106. In applying Section 15 of the Law, the taxpayer who has not submitted, at the moment of submitting the enterprise income tax return, the relevant document which confirms payment of the tax abroad may submit the respective document concurrently with the return of the last taxation period of the reporting year.

107. In applying Section 16, Paragraph one of the Law, the moment of disbursement of income shall be deemed the moment when liabilities of a creditor who is a non-resident are reduced in the accounting of the taxpayer, namely when the amounts referred to in Section 5, Paragraph one, six, or eight of the Law are disbursed or from the moment when liabilities of a creditor who is a non-resident are reduced by performing mutual account entries of the taxpayer and the non-resident in accounting registers of the taxpayer, or in the case a creditor is changed or a new contract for novation is entered into. If the non-resident has invested immovable property in the share capital, the moment of disbursement of income shall be deemed the moment when the non-resident obtains property rights to capital shares.

108. In applying Section 16, Paragraph two of the Law, the disburser of the income shall:

108.1. submit to the Service by the twentieth day of the next month an enterprise income tax statement regarding the income obtained by a non-resident, and also the tax paid in the Republic of Latvia (Annex 6) and the income from which the enterprise income tax has been withheld at the moment of disbursement. Information on the income on which the tax is to be withheld at the moment of disbursement but has not been withheld in conformity with the requirements of the tax convention, and also on other income obtained by the non-resident in the Republic of Latvia from which the tax is not to be withheld at the moment of disbursement shall be included in the statement (Annex 6) and submitted to the Service together with the enterprise income tax return of the last month of the reporting year. The statement shall also include information on the transactions made in the manner of set-off. The statement shall include information on the income which has been obtained by a non-resident and from which the tax is not to be withheld if the total income of the relevant type obtained by the non-resident in the reporting year exceeds EUR 5 000. The statement shall not include information on the payments made by credit institutions to the European Central Bank and the Single Resolution Fund, and also information on the payments to non-residents from which the tax is not to be withheld at the moment of disbursement if the disburser of the income provides such information to the Service in accordance with the procedures laid down in laws and regulations by performing automatic exchange of information on financial accounts;

108.2. issue a confirmation to the non-resident regarding the income obtained and the enterprise income tax paid in the Republic of Latvia (Annex 7). Where necessary, the Service shall affirm the confirmation.

109. In applying Section 6, Paragraph seven and Section 16, Paragraph three of the Law, an investment fund registered in Latvia (including an investment fund of another country which has registered its permanent establishment in Latvia), and also an alternative investment fund (including an alternative investment fund of another country which has registered its permanent establishment in Latvia) shall submit to the Service the following information on the investor:

109.1. the name;

109.2. the taxpayer’s registration code or personal identity number;

109.3. the country of residence;

109.4. the address in the country of residence (street, number, city, populated area, postal code);

109.5. the type of the payment disbursed by the investor:

109.5.1. interest income;

109.5.2. dividends;

109.5.3. income from the renting and leasing of immovable property;

109.5.4. other payments, including repurchase of investment fund certificates;

109.5.5. the date of disbursement;

109.5.6. the amount of payment (EUR).

110. In applying Section 17, Paragraph three, if the taxpayer ceases to pay the tax during the reporting year due to liquidation or reorganisation, the enterprise income tax return for the last month of the relevant reporting year (for which an extraordinary (a closing or liquidation) balance sheet has been prepared), together with the extraordinary (closing or liquidation) balance sheet and profit or loss account of the relevant reporting year, shall be submitted and the calculated enterprise income tax shall be paid not later than by the 20th day of the month following the month when the extraordinary (closure or liquidation) balance sheet is approved.

[*5 May 2020*]

111. In applying Section 17, Paragraph nine of the Law, the reporting year of the permanent establishment need not coincide with a calendar year if its reporting year corresponds to the beginning and end of the reporting year of the principal undertaking and does not exceed 12 months.

112. In applying Section 17, Paragraph seventeen of the Law, the moment of transaction shall be deemed the day when the payment is made for the provided management and consultancy services, and also for the alienation of immovable property or capital shares, stocks, or another type of holding. A statement regarding calculation of the enterprise income tax for a non-resident (Annex 3) shall be submitted to the Service within 12 months counting from the day of making the payment. If the non-resident receives remuneration in several payments, the statement regarding calculation of the enterprise income tax for a non-resident (Annex 3) shall be submitted to the Service within 12 months counting from the day of making the first payment but in respect of future payments the non-resident shall submit corrections to the respective statement in accordance with the law On Taxes and Fees.

113. In applying Section 17, Paragraph eighteen of the Law, according to the statement submitted by the non-resident in respect of the calculation of tax which has been made in accordance with Section 5, Paragraph four of the Law, the calculated overpayment of the enterprise income tax shall be examined and repaid in accordance with the following procedures:

113.1. upon receipt of the statement regarding calculation of the enterprise income tax for a non-resident (Annex 3), the Service shall verify whether the following conditions have been met:

113.1.1. the submitted statement regarding calculation of the tax has been prepared in conformity with the requirements of this Regulation;

113.1.2. the documents referred to in Paragraph 36 of this Regulation have been submitted;

113.2. the Service shall take a decision to repay the amount of the overpaid tax or to refuse to repay the tax. The respective decision shall be taken within a month after receipt of the statement regarding calculation of the tax (Annex 3) or receipt of the revised statement submitted in future periods in accordance with the law On Taxes and Fees;

113.3. the Service has the right to extend the time period referred to in Sub-paragraph 113.2 of this Regulation by a maximum of 75 days if the Service requests, within one month, in writing (in paper or electronic form) to provide revised or additional information which is to be submitted within 15 days after receipt of the request;

113.4. the Service shall, within 10 days after taking of the decision, repay the overpaid amount of the tax into the bank account indicated by the taxpayer.

[*5 May 2020*]

114. In applying Section 18 of the Law, if after reorganisation the activity is continued in Latvia by using the assets transferred to the permanent establishment in Latvia as a result of the reorganisation, the object taxable with the enterprise income tax shall be included in the base taxable with the enterprise income tax when the obligation to pay the enterprise income tax arises in accordance with general provisions of the Law.

115. In applying Section 18 of the Law, the acquiring company is entitled to reduce the amount of the dividends included in the base taxable with the enterprise income tax to the extent to which the company to be acquired as a result of merger would have the right, in accordance with Section 6, Paragraph two of the Law, to continue reducing the amount of the dividends to be included in the base taxable with the enterprise income tax by the dividends received.

116. Provisions of Section 19 of the Law shall also be applicable to the permanent establishments in Latvia.

117. In applying Paragraph 3, Sub-paragraph 2 of the Transitional Provisions of the Law, irrespective of the start and end date of the reporting year, the taxpayer shall, by 20 July 2018, submit one return for the taxation periods from January to June 2018.

118. If the reporting year of the taxpayer does not coincide with a calendar year, in preparing the enterprise income tax return for the remaining months in 2018 of the reporting year which started in 2017, namely for the period from 1 January 2018 to the last month of the reporting year, when determining the amount not taxable with the enterprise income tax as accepted in Section 8, Paragraph two, Clause 7, and also Section 12, Paragraph one, Clauses 1 and 2 of the Law, the indicators of the reporting year which started in 2016 shall be taken into account and divided by the number of months of the reporting year which started in 2016 and multiplied by the number of months for the period from 1 January 2018 to the last month of the reporting period.

119. If the reporting year of the taxpayer ends before June 2018, in applying Paragraphs 117 and 118 of this Regulation when determining the amount not taxable with the enterprise income tax as accepted in Section 8, Paragraph two, Clause 7 and also Section 12, Paragraph one, Clauses 1 and 2 of the Law, the indicators of the reporting year which started in 2016 shall be taken into account and divided by the number of months of the reporting year which started in 2016 and multiplied by 6 (namely the number of months for the period from 1 January to June 2018).

120. In applying Paragraph 5 of the Transitional Provisions of the Law, if an advance payment exceeds the calculated enterprise income tax for a period from 1 January 2018 to 31 December 2018, starting from 21 January 2019, the overpaid enterprise income tax may be repaid in accordance with the procedures laid down in Section 17, Paragraph thirteen of the Law.

121. The taxpayer has the right not to pay or, according to the authorisation issued by the Service, pay reduced advance payments referred to in Paragraph 5 of the Transitional Provisions of the Law if the taxpayer has submitted to the Service the information on the recalculation of the advance payment by 10 January 2018 and if:

121.1. the taxpayer has initiated insolvency proceeding or liquidation proceedings on 1 January 2018 or its economic activity has been suspended;

121.2. the taxpayer carries out agricultural activity and obtains 90 per cent of the income of the period from the sale of agricultural products and agricultural services;

121.3. the taxpayer is entitled to apply the enterprise income tax rebate for the investments made in the free port or special economic zone in accordance with the law On the Application of Taxes in Free Ports and Special Economic Zones;

121.4. the taxpayer has obtained income as a result of one transaction in the reporting year which started in 2016 (for example, immovable property was alienated in 2016) and is entitled to reduce the calculated advance payments by 50 per cent;

121.5. the Service has taken a decision regarding the taxpayer in 2017 to reduce advance payments for the first months of 2018 in accordance with Section 23, Paragraph 1.1 of the Enterprise Income Tax Law.

122. The reduction in the base taxable with the enterprise income tax specified in Paragraph 8 of the Transitional Provisions of the Law shall also be applicable to the base taxable with the enterprise income tax which has been calculated on the disbursements equivalent to dividends.

123. Paragraph 13 of the Transitional Provisions of the Law shall be applicable to the losses which have been indicated in the enterprise income tax return (except for the losses incurred by capital companies to which the status of a start-up company has been granted) and which may not have been attributed to members of the taxpayer (for example, members of partnerships).

124. The reduction in the enterprise income tax calculated from dividends that has been specified in Paragraph 13 of the Transitional Provisions of the Law shall also be applicable to the calculated enterprise income tax on the disbursements equivalent to dividends (except for disbursement of the profit share of a partnership).

125. Paragraphs 17 and 18 of the Transitional Provisions of the Law shall be applicable to the provisions indicated in the balance sheet as at 31 December 2017 and made in accordance with the laws and regulations stipulating establishment of provisions, and made for the performance of specific activities on the basis of a court ruling, a contract or a practice.

126. The taxpayer who, in accordance with Paragraph 20 of the Transitional Provisions of the Law, is entitled to continue applying the rebate not used but specified in Section 17.2 of the Enterprise Income Tax Law, is not entitled to apply the enterprise income tax rebate specified in the law On the Application of Taxes in Free Ports and Special Economic Zones (namely it is not entitled to apply the rebate specified in Paragraph 23 of the Transitional Provisions of the Law).

127. In applying Paragraph 26 of the Transitional Provisions of the Law, the base taxable with the enterprise income tax shall include the amount of depreciation or the amount of the reduction in the value included in the expenditure regarding a representative car which has arisen as a result of revaluation thereof, or the remaining value thereof if the car has been excluded from accounting records.

128. Without prejudice to Paragraph 36 of the Transitional Provisions of the Law, the taxpayer who ceases to pay the tax from 1 January 2018 to June 2018 due to liquidation or reorganisation shall submit the enterprise income tax return (in free form) for the last month of the relevant reporting year together with the closing financial statement and pay the calculated enterprise income tax not later than by the last day of the month in which the closing financial statement has been approved.

129. The Regulation shall come into force on 1 January 2018.

Prime Minister Māris Kučinskis

Minister for Finance Dana Reizniece-Ozola

**Annex 1**

Cabinet Regulation No. 677

14 November 2017

**Examples of the Application of the Provisions of the Law**

**1. Determination of the tax base**

The rate of the enterprise income tax shall be determined in the amount of 20 per cent of the taxable base which is divided by the coefficient of 0.8. The taxable base in turn shall derive from tax objects. The coefficient of 0.8 shall be applied to calculate the gross base of the enterprise income tax from the amount of the disbursed (net) dividends.

The retained profits of the taxpayer are EUR 300 as at 31 December 2017 but, in 2018, the taxpayer has earned the profit in the amount of EUR 2 000. In accordance with a decision of shareholders, the profit amounting to EUR 400 is channelled to dividends.

The profit share in the amount of EUR 300 which is distributed as dividends shall be deemed the profit share to which the enterprise income tax has already been applied until 31 December 2017, and it shall not be included in the base taxable with the enterprise income tax.

An element of the base taxable with the enterprise income tax is EUR 100 (net), i.e. the amount which will be disbursed to the holders of capital shares.

Thus the enterprise income tax is EUR 25 (EUR 100: 0.8 x 20 %).

**2. Assessment of the objects of a permanent establishment taxable with the enterprise income tax**

A foreign commercial company (non-resident) XCO uses a natural person J. Bērziņš (a resident in Latvia) as a sales agent of XCO in Latvia. J. Bērziņš has been empowered to enter into contracts on behalf of XCO and J. Bērziņš is exercising such powers on a regular basis. Thus XCO has a permanent establishment in Latvia. The annual profit from activity of the permanent establishment is EUR 10 000. The taxable object is not formed in respect of the permanent establishment until the moment when the permanent establishment distributes profit. If customers purchase goods through J. Bērziņš as a representative of XCO and transfers money to XCO that has not separated individual accounting records for the permanent establishment (including, for example, by creating a separate account in Latvia for the permanent establishment) or if J. Bērziņš transfers the money received from a customer to XCO rather than to the permanent establishment in its separate account, the full amount of revenue shall be included in the base taxable with the enterprise income tax in respect of the permanent establishment. If expenditure is eligible and accounted for in separate accounting but the payment for goods has been received by XCO, the taxable base of the permanent establishment shall include the disbursement equivalent to a dividend in the amount of the profit, i.e. EUR 10 000. The tax shall be paid in the taxation period in which the payment has been made (XCO has received revenue). It should be taken into account that when including the income obtained directly by the non-resident XCO in the taxable object of the permanent establishment, the value of the taxable object shall be divided by the coefficient of 0.8. The permanent establishment shall reserve the right to make an adjustment to the taxable object in relation to the expenditure which is related to the activity of the permanent establishment or general administrative and operational management expenses in the amount of 10 % of the payments to the non-resident.

**3. Application of Section 5, Paragraph one of the Law**

3.1. A capital company XCo which is a resident of the country X (that is not a low-tax or tax-free country) provides consultancy and management services to a capital company LCo which is registered in Latvia. Consultations are provided in the country X to which LCo representatives come on a regular basis. Thus LCo makes payments to XCo for the provided services. Since the activity of XCo does not constitute a permanent establishment in Latvia, LCo shall withhold the tax from the payments for the provided services by applying a rate of 20 per cent in accordance with Section 5, Paragraph one, Clause 1 of the Law.

3.2. A capital company XCo which is a resident of the country X (that is not a low-tax or tax-free country) provides consultancy and other services to a capital company LCo which is registered in Latvia. Consultations are provided in Latvia to which XCo representatives come on a regular basis. Thus LCo makes payments to XCo for the provided services – both consultancy and, for example, technical services. The presence of XCo in Latvia corresponds to the conditions of Section 14, Paragraph eight, Clause 3 of the law On Taxes and Fees which stipulates that where a non-resident provides services, including consultancy, management, and technical services by using its employees or engaged personnel, it shall be deemed that the non-resident XCo has a permanent establishment in Latvia. In this case, the base taxable with the enterprise income tax in respect of the permanent establishment shall be determined in accordance with the provisions of law governing the taxable base. If a non-resident has not registered a permanent establishment which had to be registered, the non-resident shall pay the tax on the entire income that would be attributable to the non-registered permanent establishment in Latvia taking into account the tax withheld in accordance with Section 5, Paragraph one, Clause 1 of the Law.

**4. Attribution of the expenditure directly related to consultancy services**

A commercial company A (non-resident) provides consultancy services to a commercial company B (a resident in Latvia) by sending its employee to Latvia. The commercial company A includes in the expenditure directly related to the service the proportion of the work remuneration of the person who has provided the consultation and this proportion refers to the provided management and consultancy service in Latvia, a daily allowance for an official trip calculated in accordance with the provisions specified in the laws and regulations of the relevant country, and also travel expenses from the country of residence of the commercial company A to Latvia and back, and hotel expenses. All the respective costs shall be justified by supporting documents.

The expenditure that is deemed to be directly related to the revenue from the provision of consultancy services shall only include the proportion of the work remuneration of an employee from which the personal income tax has been withheld in accordance with the provisions of the law On Personal Income Tax or the proportion of the work remuneration from which the personal income tax has not been withheld if the employee is a resident of a country with which the tax convention has been entered into and come into force. The expenditure covered by the recipient of the service, and also administration expenditure and other expenditure that ensure independent activity of the commercial company may not be attributed to the expenditure that is deemed to be directly related to the revenue from the provision of the consultancy services.

Minister for Finance Dana Reizniece-Ozola

**Annex 2**

Cabinet Regulation No. 677

14 November 2017

**Examples of the Determination of the Market Price or Transaction Price of Goods (Products, Services)**

[*18 February 2021*]

**1. Comparable uncontrolled price method**

*SIA* (limited liability company) A supplies the same raw materials in similar amounts in accordance with similar supply provisions at the same prices both to the related person *SIA*B and independent person *SIA*C. *SIA*B is required to pay for the supply of goods within 90 days but *SIA*C – within 30 days. It has been calculated that any delay in the receipt of payments within a 60-day period costs 1.5 % of the delayed amount to the related enterprise. Thus, taking into account that the same rules must be applied to the transactions between related persons as those applied to the transactions between persons that are not related, an adjustment to the transaction value shall be made by increasing the price of the goods supplied to *SIA*B by the relevant amount.

**2. Resale price method**

A producer A from a country B sells its produced goods in Latvia to a related person *SIA*S and an independent person *A/S* (joint stock company) N which is a person that is not related to the producer A. Both Latvian commercial companies purchase goods from the producer at the same price – EUR 5 per unit. In carrying out a thorough analysis of the provisions of contracts, it has been discovered that the price of the goods supplied to *A/S*N already includes transport costs but *SIA*S shall additionally pay EUR 1.5 for supply. Transport costs increase the acquisition costs of goods of the related enterprise by EUR 1.5 per unit. Both Latvian commercial companies sell goods at the same price – EUR 12.5.

In order to determine the market price of the goods in transaction (X) between the producer A and *SIA*S, from the resale price of goods which is EUR 12.5 the gross profit, consisting of expenditure of *A/S*N as the reseller and appropriate profit (12.5 –5 = EUR 7.5) by taking into account the necessary adjustments to differences in respect of transportation costs (EUR 1.5):

X = 12.5 – (7.5 + 1.5)

Thus the market price of the goods in transaction of the producer A and *SIA*S is EUR 3.5.

**3. Cost plus method**

*SIA*A produces different articles of wood and sells these products to a related person abroad that is a commercial company B. The stated transaction value between the related persons is EUR 1 050. Yet *SIA*X, *SIA*Y, and *A/S*Z are persons that are not related to *SIA*A and produce similar goods, but in contrast to *SIA*A, they sell wood products to persons that are not related. Production costs of wood products of *SIA*A are EUR 1 000 (including indirect costs which are related to the repair of facilities used for production of different wood products). Taking into account the average value of mark-ups of costs of the comparable capital companies (8 %, 9 %, 10 %) and its characteristics, a mark-up of costs appropriate for an unrelated merchant of the taxpayer is determined as 9 %. In order to determine the market value of a transaction between *SIA*A and its related person B, the average value of mark-up of costs of the comparable capital companies (unrelated merchants) in the amount of 9 % shall be added to the production costs of *SIA*A in the amount of EUR 1 000 thus resulting in EUR 1 090.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Capital companies | *SIA*A | *SIA*X | *SIA*Y | *A/S*Z |
| Direct and indirect costs of the products sold, EUR | 1 000 | 900 | 800 | 1 200 |
| Gross profit, EUR | 50 | 72 | 72 | 120 |
| Mark-up of costs (gross profit: direct and indirect costs of the products sold x 100) | 5 % | 8 % | 9 % | 10 % |

**4. Transactional net margin method**

*SIA*A produces and sells wooden furniture. Since *SIA*A has spare administrative premises, they are leased to persons that are not related, and the revenue generated and the respective costs are indicated in the profit and loss statement as other revenue and costs of the economic activity. In order to finance modernisation of production facilities, *SIA*A felt the need to borrow monetary funds from a bank in respect of which interest payable to the bank has been determined. *SIA*A sells wooden furniture to a related person abroad – a commercial company B. The determined transaction value of *SIA*A and the commercial company B amounts to EUR 1 050. Yet *SIA*X, *SIA*Y, and *A/S*Z are persons that are not related and produce similar goods, but in contrast to *SIA*A, they sell furniture to persons that are not related. The direct and indirect costs of the product of *SIA*A to be sold are EUR 1 020. Taking into account the average value of mark-ups of net profit of the comparable capital companies (5.4 %, 6.3 %, 7.3 %), a mark-up of net profit appropriate for the taxpayer is determined as 6.3 %. In order to determine the market value of transactions between *SIA*A and the foreign commercial company B, a mark-up of net profit in the amount of 6.3 % (EUR 64.26) shall be added to the operational costs of *SIA*A in the amount of EUR 1 020 thus resulting in EUR 1 084.26.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Seller | *SIA*A | *SIA*X | *SIA*Y | *A/S*Z |
| Net turnover, EUR | 1 050 | 972 | 872 | 1 320 |
| Production costs of products sold, EUR | 1 000 | 900 | 800 | 1 200 |
| Gross profit, EUR | 50 | 72 | 72 | 120 |
| Production costs, EUR | 10 | 9 | 8 | 13 |
| Administrative costs, EUR | 7 | 11 | 11 | 14 |
| Other revenue from economic activities, EUR | 2 |  |  |  |
| Other costs of economic activity, EUR | 1 |  |  |  |
| Interest payments, EUR | 3 | 2 | 1 | 3 |
| Result of sale of the product – profit or loss before tax (not taking into account result of other economic activities), EUR | 30 | 50 | 52 | 90 |
| Total costs of product sold (costs of operational activity), EUR | 1 020 | 922 | 820 | 1 230 |
| Mark-up of net profit (profit or loss before tax : total costs x 100) | 2.9 % | 5.4 % | 6.3 % | 7.3 % |

**5. Profit distribution method**

Success of an electronic product on the market is related to the creation of innovative technologies in both its electronic processes and the key component. Such component is created and produced by a related person A which further transfers it to a related person B that creates and produces parts of the relevant product. The final product is distributed by a related person C. Taking into account the information available on comparable uncontrolled transactions, a remuneration of the related person C for the distribution functions, assets, and risks is determined in accordance with the resale price method referred to in Paragraph 14 of this Regulation by including the respective remuneration in the transaction within the framework of which the related person B sells the final product to the related person C.

The comparable uncontrolled price method referred to in Paragraph 14 of this Regulation should be used to determine the transaction price for the transfer of the component from the related person A to the related person B if information was available as to the relevant comparable uncontrolled transactions. However, taking into account that the component which is transferred by A to B comprises an innovative technology that was brought on the relevant market by A, the related persons in this example establish, upon carrying out the functional and comparability analyses, that it is not possible in this case to find information on comparable uncontrolled transactions which should be used for the comparable uncontrolled price method. In calculating the mark-up of production costs of the related person A, it is possible to make an estimate of the element of profit by which the production functions of the related person A will be compensated for, but not taking into account the element of profit which would compensate for its unique and valuable contribution made. In making similar calculations in respect of the related person B, an estimate may be made in respect of profit due to B in relation to its production function, but not taking into account the element of profit which would arise in respect of its unique and valuable contribution made. Since the transaction price at which the related person B sells the final product to the related person C is known and has been recognised as corresponding to the market price, the remaining profit may also be determined which will be attributed to the related persons A and B together in relation to their unique and valuable intangible property. However, a proportion of the remaining profit, i.e. how much of the remaining profit will be due to the related person A but how much to the related person B, has not been determined yet at this stage.

The remaining profit may be distributed by analysing such facts and circumstances that could indicate how an additional remuneration would be distributed between unrelated persons in a similar situation. Research and development performed by each related person are aimed towards development of the same type of technologies and it is assumed that, taking into account facts and circumstances of the specific situation, the relative share of research and development expenditure of each (A and B) related person allows to determine reliably the relative value of the contribution made by each person. This means that the unique and valuable contribution made by each related person to the electronic product may be assessed reliably by taking into account the amount of the relative expenditure incurred by each person in research and development. If the expenditure incurred by A in research and development is 15, but the expenditure incurred by B in research and development is 10, the total research and development expenditure amounts to 25, thus the remaining profit should be distributed by attributing the fraction of 15/25 to the related person A but 10/25 to the related person B.

Figures for an illustrative example by taking into account the situation described in the example:

***a) Profit and losses of the related persons A and B***

|  |  |  |
| --- | --- | --- |
|  | A | B |
| Revenue |  | 50 |  | 100 |
| Minus: |  |  |  |  |
| acquisition costs |  | (10) |  | (50) |
| production costs |  | (15) |  | (20) |
| Gross profit |  | 25 |  | 30 |
| Minus: |  |  |  |  |
| research and development | 15 |  | 10 |  |
| operational costs | 10 | (25) | 10 | (20) |
| Net profit |  | 0 |  | 10 |

***b) Determination of the routine profit of the related persons A and B from the production and also calculation of the total remaining value***

In analysing comparable uncontrolled transactions, it is established that, in comparable circumstances, producers that do not have unique and valuable intangible property at their disposal shall apply the mark-up of production costs (without taking account of the acquisition costs) in the amount of 10 % (proportion of net profit to direct and indirect production costs). Production costs of the related person A are 15, thus the production mark-up resulting from the costs and attributable to A is 1.5. Production costs of the related person B are 20, thus production mark-up resulting from the costs and attributable to B is 2.0. Taking into account the abovementioned facts, the remaining profit is 6.5 that results from deducting the profit from production functions in the amount of 3.5 which is attributable to both related persons from the total net profit of both related persons in the amount of 10.

***c) Attribution of the remaining profit***

Attribution of the initial profit (1.5 to A but 2.0 to B) compensates for the production functions of the related persons A and B but does not take into account the respective unique and valuable contribution of such persons to the high technology product. Since it has been established in this case that the relative share of the total research and development costs of the related persons (A and B) attributable to the product is deemed to be a reasonable indicator to determine the relative unique and valuable contribution of each person, the remaining profit may be distributed between A and B on the basis of such indicator. The remaining profit is 6.5 and the fraction of 15/25 may be attributed to A but 10/25 – to B, distributing the remaining profit respectively as follows:

the profit share attributable to the related person A = 6.5 x 15/25 = 3.9;

the profit share attributable to the related person B = 6.5 x 10/25 = 2.6.

***d) Recalculation of profit***

Taking into account the abovementioned facts:

the profit of the related person A would be 1.5 + 3.9 = 5.4;

the profit of the related person B would be 2.0 + 2.6 = 4.6.

|  |  |  |
| --- | --- | --- |
|  | A | B |
| Revenue |  | 55.4 |  | 100 |
| Minus: |  |  |  |  |
| acquisition costs |  | (10) |  | (55.4) |
| production costs |  | (15) |  | (20) |
| Gross profit |  | 30.4 |  | 24.6 |
| Minus: |  |  |  |  |
| research and development | 15 |  | 10 |  |
| operational costs | 10 | (25) | 10 | (20) |
| Net profit |  | 5.4 |  | 4.6 |

Minister for Finance Dana Reizniece-Ozola

**Annex 3**

Cabinet Regulation No. 677

14 November 2017

[*5 May 2020*]

|  |  |
| --- | --- |
| Name of the recipient of the payment |  |
| Legal address |  |
| Number and date of issue of the registration certificate |  |

**Statement Regarding Calculation of the Enterprise Income Tax for a Non-resident**

**I. Calculation of the enterprise income tax for the income obtained from the alienation of immovable property**

Table 1

|  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Cadastre number or cadastral designation of the immovable property\* | Revenue from the alienation of immovable property or the alienation of holding\*\* | The remaining value of the immovable property in financial accounts or the acquisition value of the share of the holding\*\* | Other expenditure directly related to the alienation of immovable property or holding\*\* | Taxable object | Tax calculated by applying the rate of 20 % | Tax calculated by applying the rate of 3 % | Tax paid in accordance with Section 5, Paragraph one, Clause 2 of the Law | Overpayment |
| (column 2 – column 3 – column 4) | (column 5 x 0.20) | (column 2 x 0.03) | (column 8 – column 6) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 |
|  |  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |  |

Notes.

1. \* If capital shares, stocks, or another type of holding is alienated in accordance with Section 5, Paragraph two of the Law, data enabling identification of the respective holding shall be indicated.

2. \*\* Capital shares, stocks, or another type of holding.

**II. Calculation of the enterprise income tax for the income obtained from the management and consultancy services**

Table 2

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Revenue earned | Directly related expenditure | Taxable object | Tax calculated by applying the rate of 20 % | Tax calculated by applying the rate of 20 % | Tax paid in accordance with Section 5, Paragraph one, Clause 1 of the Law | Overpayment |
| (column 1 – column 2) | (column 3 x 0.2) | (column 1 x 0.2) | (column 4 – column 6) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

**III. Calculation of the enterprise income tax for the income obtained from the renting or leasing of immovable property**

Table 3

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Cadastre number or cadastral designation of the immovable property | Revenue from the renting or leasing of immovable property | Expenditure directly related to the obtaining of income | Taxable object | Tax calculated | Tax paid in accordance with Section 5, Paragraph one, Clause 4 of the Law | Overpayment |
| when applying the rate of 20 % | when applying the rate of 5 % |
| (column 2 – column 3) | (column 4 x 0.20) | (column 2 x 0.05) | (column 5 – column 7) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 |
|  |  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |  |

Please transfer the overpaid amount to the following account: \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_ \_

SWIFT/BIT code of the bank \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |
| --- | --- | --- |
| Taxpayer – non-resident (authorised person) |  |  |
|  | (signature) |  |

Minister for Finance Dana Reizniece-Ozola

**Annex 4**

Cabinet Regulation No. 677

14 November 2017

**Submission–Request for Non-application of Section 5, Paragraph six of the Enterprise Income Tax Law**

**I. Taxpayer**

|  |  |
| --- | --- |
| Name | Taxpayer’s registration code |
|  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |

|  |  |  |
| --- | --- | --- |
| Street, number | City, populated area | Postal code |
|  |  |  |

**II. Type and recipient of the payment**

|  |  |  |  |
| --- | --- | --- | --- |
| Type of payment | Recipient of payment(Name, given name, surname, address, registration number, account number, credit institution) | Applicable prices(EUR) | Persons or enterprises related to the taxpayer |
|  |  |  |  |

**III.** Justification (circumstances determining the need to make a payment (transaction))

|  |
| --- |
|  |

**IV. Confirmation of the taxpayer**

I hereby confirm that the purpose of the payment (transaction) is not to reduce the taxable income of the taxpayer or to avoid the tax in the Republic of Latvia.

I hereby confirm that the taxpayer or persons or enterprises related thereto are not direct or indirect holders in the person that is recipient of the payment.

**V. Other information**

|  |
| --- |
|  |

|  |  |
| --- | --- |
| I hereby confirm that the information provided in the submission–request is complete and true. (given name, surname, signature of the responsible official) (date) | Approval of the SRS.Submission–request has been received. (given name, surname, signature of the tax examiner) (date) |

Minister for Finance Dana Reizniece-Ozola

**Annex 5**

Cabinet Regulation No. 677

14 November 2017

**Examples of the Application of the Provisions of the Law**

**1. Determination of the tax base if the payment has been made to a non-resident**

An investment fund makes a payment to a non-resident in the amount of EUR 10 000. The enterprise income tax has not been withheld from the respective payment, although it had to be withheld.

Thus the investment fund must pay the enterprise income tax into the State budget in the amount of EUR 2 500 (EUR 10 000: 0.8 x 20 %).

**2. Use of the artificially created structure**

A Latvian cosmetic manufacturing enterprise A which has successfully developed its brand expects a significant increase in its profit in the future years. The owner of the enterprise who is a natural person and a resident in Latvia performs restructuring of the enterprise by distributing the profit in dividends in order to avoid the enterprise income tax. The enterprise A is expected to transfer its copyright (trademark) to a related enterprise B established abroad which in turn belongs to an enterprise C (a resident of a European Union Member State). The enterprise C is a subsidiary of the enterprise A. In the future, the enterprise A will make a payment for the exercise of the copyright to the enterprise B which, taking into account the favourable tax regime of its country of residence, exempts the income of author’s fee from taxes. The enterprise C receives dividends from the enterprise B and exempts them from taxes in accordance with tax provisions of the country of residence of the enterprise C. Since the enterprise C is an enterprise income taxpayer and disburses dividends from the profit which is exempt from tax, the recipient of the dividends which is the enterprise A intends to receive dividends and apply Section 6, Paragraph one of the Law: in disbursing dividends the enterprise A would reduce the taxable base by the dividends received from the enterprise C. The sole function of the enterprises B and C is to hold capital shares and the copyright (trademark), and the legal presence of the enterprises and associated requirements (financial statements, legal address, right to sign) shall be ensured by using outsourcing.

Since the main purpose of the restructuring and the creation of the relevant structure of the respective enterprise has been to use the exemption specified in Section 6, Paragraph one of the Law and the exemption from inclusion in the taxable base in respect of dividends as specified in the law On Personal Income Tax, and the creation of the structure has no other reasonable economic purpose, Section 6, Paragraph four of the Law shall be applied.

**3. Use of low-value articles for representation and advertising activities (Section 8 of the Law)**

3.1. A taxpayer purchases branded mugs (the value of each mug is EUR 10).

Within the framework of a public advertising campaign, in order to promote the sale of a product and advertising of the enterprise, the mugs are added to the coffee packages offered for sale, presenting it as a set of the sold product (or giving the mug to a customer at the cash register if the customer has purchased a specific coffee package containing the relevant indication (with or without conditions) of an opportunity to receive the mug).

Thus a low-value article has been attached to the product (or purchase volume), and therefore the mug added to the product (or purchase volume) may be deemed an advertising activity of the taxpayer (Section 8, Paragraph seven, Clause 2, Sub-clause “a” of the Law) and the value of the mug is, according to its economic nature, equivalent to a discount determined for the product (or purchase volume), while income is not formed when a purchaser of the coffee receives a branded mug because of the purchase of the coffee.

If for the purpose of promoting itself to the potential customers or cooperation partners, the taxpayer issues the mugs not used during the advertising campaign without selling the specific product, the mugs issued shall be deemed representation expenses and the total amount of the value of the mugs issued to the customers per month (counting from the beginning of the reporting year) constitutes the object taxable with the enterprise income tax (except for the amount referred to in Section 8, Paragraph two, Clause 7 of the Law).

The value of the mug (a low-value article with a value of up to EUR 20) which is received by a natural person within the framework of the representation campaign shall not be deemed the income of a natural person.

3.2. The taxpayer organises a public event for children by providing information on its website or in similar manner regarding the course of the event and a possibility to receive prizes. It is expected in the announced event that the winner who is the first to find hidden indications in shop windows will be given a gift card by the organiser of the event in the amount or EUR 20 that may be used to receive the service provided by the organiser of the event or to purchase the goods sold. The second winner in turn will be issued a gift card of another merchant in the amount of EUR 20.

If the value of the gift card does not exceed EUR 20 and it is possible to use the gift card to pay for the goods sold or services provided by the taxpayer itself, the value of the gift card shall be deemed a discount on the goods sold or service provided within the framework of the advertising activity (Section 8, Paragraph seven, Clause 3 of the Law) and shall not be included in the base taxable with the enterprise income tax, and also shall not be deemed the income of the customer. If the value of the gift card exceeds EUR 20 and the recipient of the gift card is not identified, the base taxable with the enterprise income tax shall include the value of the gift card in accordance with Section 8, Paragraph two, Clause 1 of the Law.

The taxpayer shall include in the base taxable with the enterprise income tax the value of such gift card that may be used to pay for the goods sold or services provided by another merchant if the recipient of the gift card has not been identified.

3.3. The marketing policy of an enterprise provides for a possibility for customers of the enterprise to earn bonus points for each purchase which may be used by a customer (with a loyalty card issued by the taxpayer) to purchase the goods of the specific enterprise. In addition to that, the taxpayer issues money to individual customers for a specific amount of the purchased goods or services or for receipt of the necessary information from the customer.

Taking into account that the customer is to purchase other goods by using the earned bonus points awarded thereto upon assessing the total value of the purchased goods, the enterprise does not have an object taxable with the enterprise income tax, since the reduction of the purchase amount by the awarded bonus points is deemed to be a discount. The bonus points awarded to customers also does not generate income of a natural person who is a customer, since the customer has purchased a specific amount of the goods or services.

If the taxpayer, however, issues money to the customer (irrespective of the amount) which is not personalised, the base taxable with the enterprise income tax shall include the income obtained by the customer but not taxed with the personal income tax, i.e. the money received by the customer.

**4. Calculation of the average debt obligation (Section 10 of the Law)**

The reporting year of *SIA* LATCO coincides with the calendar year. At the beginning of the reporting year (as at 1 January), obligations of *SIA* LATCO amounted to EUR 2 200. On 7 February of the reporting year, the debt obligations were covered for the entire amount. On 22 August of the reporting year, *SIA* LATCO incurred new debt obligations in the amount of EUR 5 000. The average value weight of the debt obligations in the respective year was calculated in accordance with the following procedures:

|  |  |  |
| --- | --- | --- |
| 1 January | ½ x 2 200 = | EUR 1100 |
| 31 January |  | EUR 2200 |
| 28 February  | ½ x 2 200 = | EUR 1100 |
| 31 March |  | EUR 0 |
| 30 April |  | EUR 0 |
| 31 May |  | EUR 0 |
| 30 June |  | EUR 0 |
| 31 July |  | EUR 0 |
| 1 August | ½ x 5 000 = | EUR 2500 |
| 31 August |  | EUR 5000 |
| 30 September |  | EUR 5000 |
| 31 October |  | EUR 5000 |
| 30 November |  | EUR 5000 |
| 31 December | ½ x 5 000 = | EUR 2500 |

The average value weight of the first debt obligation: 4 400 : 2 = EUR 2 200.

The average value weight of the second debt obligation: 25 000 : 5 = EUR 5 000.

**5. Other advertising services targeting promotion of the donor**

5.1. *SIA*A donates EUR 20 000 to the association *Čība* which has received the status of a public benefit organisation.

The public benefit organisation *Čība* posts a public indication on its website displaying information on the grantors of aid in a small area (7 x 12 cm) in addition to the information on the public benefit organisation, for example: Grantors of aid:

*SIA*A;

*SIA Lauksaimnieks*;

*a/s LABA*.

The taxpayer has the right to apply the relief specified in the law if the recipient of the donation has included the name of the donor in the list and the donor has been indicated as one of the grantors of aid without emphasising its activity.

5.2. *SIA LAUVA* donates EUR 20 000 to the association *LAUVAS fonds* which has received the status of a public benefit organisation. The founder of the association is *SIA LAUVA* and the name of the association *LAUVAS fonds* contains a clear visual similarity to the brand of the founder.

The taxpayer who collects a donation for its founded public benefit organisation does not have the right to apply the enterprise income tax relief, since the use of the name of this organisation is, according to its nature, promotion of the donor.

**6. Application of the relief to the received State aid for agriculture**

*SIA*A ends year 2020 with profit in the amount of EUR 5 000 and decides in 2021 to disburse dividends in the amount of EUR 2 000. The decision to allocate funds in the amount of EUR 6 000 has been taken in November 2021, while an amount of EUR 1000 has been recorded in accounting in the revenue item in 2021, but an amount of EUR 5 000 has been recorded as the revenue of the following years. Irrespective of the records made, in accordance with Section 14 of the Law, it is possible in the reporting year of 2021 to qualify for the enterprise income tax relief in respect of the amount of EUR 3 000 (i.e. in the amount of 50 % of the sum of the State aid specified in the decision), while in the reporting year of 2022 there is no right to apply the relief regarding the share of the unused State aid.

Minister for Finance Dana Reizniece-Ozola

**Annex 6**

Cabinet Regulation No. 677

14 November 2017

**Enterprise Income Tax Statement Regarding the Income Obtained by a Non-resident and the Tax Paid in the Republic of Latvia**

**for Year 20\_\_**

(month)

|  |  |  |
| --- | --- | --- |
| Name of the payer | Taxpayer’s registration code | Address |
|  |

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
|  |  |  |  |  |  |  |  |  |  |  |

 |  |

|  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| No. | Name of the non-resident who is the recipient of income | Registration certificate number | Type of income (code)\* | Country of residence | Address in the country of residence (street, number, city, populated area, postal code) | Type of income (code)\*\* | Date of disbursement | Amount of income(*EUR*) | Tax rate(%) | Amount of tax(EUR) |
| 1 | 2 | 3 | 4 | 5 | 6 | 7 | 8 | 9 | 10 | 11 |
|  |  |  |  |  |  |  |  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Position | Given name, surname | Signature | Date |
|  |  |  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| \* Code of type of the recipient of income:01 – natural person02 – capital company03 – partnership04 – business structure other than a commercial company or partnership | 05 – government or international institution06 – other07 – unknown | \*\* Code of the type of income:6 – income from the use of immovable property7 – income from commercial activity (including remuneration for management and consultancy services)10 – dividends | 11 – interest12 – income from intellectual property or income from the use of movable property13 – income from the alienation of immovable property located in the Republic of Latvia21 – other income |

Minister for Finance Dana Reizniece-Ozola

**Annex 7**

Cabinet Regulation No. 677

14 November 2017

**APLIECINĀJUMS**

**par gūtajiem ienākumiem un samaksāto uzņēmumu ienākuma nodokli**

**Latvijas Republikā**

***CERTIFICATE***

***on income received and income tax paid in the Republic of Latvia***

**I. Ienākumu guvējs/*Recipient of income***

|  |  |
| --- | --- |
| Saņēmēja nosaukums*Name of recipient* | Reģistrācijas apliecības numurs, izdošanas datums*Registration certificate number, date of issue* |
|  |  |

|  |  |  |  |
| --- | --- | --- | --- |
| Valsts*Country* | Pilsēta, apdzīvota vieta*City or populated area* | Iela, numurs*Street, number* | Pasta indekss*Postal code* |
|  |  |  |  |

**II. Ienākumu izmaksātājs/*Payer of income***

|  |  |
| --- | --- |
| Nosaukums*Name* | Nodokļa maksātāja reģistrācijas kods*Taxpayer’s registration code* |
|  |  |
|  |  |  |  |  |  |  |  |  |  |  |  |  |
|  |

|  |  |  |  |
| --- | --- | --- | --- |
| Valsts*Country* | Pilsēta, apdzīvota vieta*City, populated area* | Iela, numurs*Street, number* | Pasta indekss*Postal code* |
|  |  |  |  |

**III. Gūtie ienākumi un samaksātais ienākuma nodoklis/*Income received and income tax paid***

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Ienākuma veids*Type of income* | Maksājuma datums*Date of payment* | Ienākumu summa*Amount of income*(*euro*) | Nodokļa likme*Tax rate*(%) | Samaksātais nodoklis*Tax paid*(*euro*) |
|  |  |  |  |  |
|  |  |  |  |  |

**IV. Ienākumu izmaksātāja apliecinājums/*Certificate of the payer of income***

Apliecinu, ka šā apliecinājuma II un III daļā sniegtā informācija ir pilnīga un pareiza.

*I declare that the particular information given in part II and III of this certificate is correct.*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Z. v.*Official seal* |  | Amats*Position* | Vārds, uzvārds*Name, surname* | Paraksts*Signature* | Datums*Date* |
|  |  |  |  |

**V. Nodokļu administrācijas apliecinājums/*Certificate of the Tax Administration***

Apstiprinām, ka saskaņā ar Latvijas Republikas nodokļu administrācijas rīcībā esošo informāciju šajā apliecinājumā minētais ienākumu saņēmējs Latvijas Republikā ir saņēmis \_\_\_\_\_\_\_\_\_\_\_ *euro* lielu ienākumu un ir samaksājis nodokli \_\_\_\_\_\_\_\_\_\_ *euro a*pmērā.

*We confirm that, according to the information available to the Tax Administration of the Republic of Latvia, the recipient of the income referred to in this Certificate has received EUR\_\_\_\_\_\_\_\_\_\_\_ of income in the Republic of Latvia and has paid EUR \_\_\_\_\_\_\_\_\_\_ of tax.*

|  |  |  |  |
| --- | --- | --- | --- |
| Amats*Position* | Vārds, uzvārds*Name, surname* | Paraksts*Signature* | Datums*Date* |
|  |  |  |  |

Minister for Finance Dana Reizniece-Ozola