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Latvia
Vita Liberte and Jānis Zelmenis
BDO Law

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LATVIA

Law and Practice

Contributed by:
Vita Liberte and Jānis Zelmenis
BDO Law see p.20

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1. LEGAL SYSTEM

1.1 Legal System and Judicial Order

Latvia's legal system is based on the Roman-German continental legal system. The legislation of Latvia does not officially specify or define a comprehensive list of sources of law that apply on Latvian soil. They have mostly been discussed in the context of legal doctrine.

Hierarchy of Sources of Law

Separate regulations, such as the Law on Official Publications and Legal Information, the Constitutional Court Law, and the Administrative Procedure Law, enumerate and specify the hierarchy of sources of law, either for the sake of specific processes or the enforcement of legal certainty.

The Law on Official Publications and Legal Information prescribes the hierarchy of sources of law according to their legal force. The hierarchy is as follows:

- the constitution of Latvia;
- laws adopted by parliament;
- the Cabinet of Ministers' (cabinet's) regulations; and
- binding municipal regulations.

The primary sources of law in Latvia are laws and regulations – the sources of law are applied in accordance with their position in the hierarchy of legislative acts, starting with those with the highest legal status. Then there are general legal principles, which are used when a situation is not covered by a statute or regulation as well as in the interpretation of those laws and regulations. Finally, if a statute or other piece of legislation fails to provide an answer to the topic at hand, customary law is used to develop rights and interpret legal requirements.

Case law and legal doctrine are considered as subsidiary sources of law in the Latvian legal system. Their existence and binding nature, on the other hand, are not defined in any Latvian laws. The list of such subsidiary sources of law is not exhaustive. It should be noted that the above does not apply to the case law of the European Court of Justice, the European Court of Human Rights, and the Latvian Constitutional Court. Judgments of these court institutions contain universally obligatory norms of law.

Legislation of the European Union

With Latvia gaining membership of the European Union (EU) back in 2004, EU law has become an integral part of the legal system in Latvia, taking precedence over national laws.

Where EU regulations have been incorporated into Latvian legislation, the relevant Latvian laws make the essential reference to the relevant EU laws.

International Treaties

Latvia is a monist country, which means that its national legal system and international legal systems are combined into a single body of law, and all of Latvia's international law commitments are immediately applied.

Latvia has ratified the vast majority of international human rights treaties. As established in the Vienna Convention on the Law of Treaties and the Law on International Treaties of the Republic of Latvia, international law takes precedence over national law in Latvia.

All international agreements that deal with matters that must be considered by the legislature must be approved by the Latvian parliament, according to the Constitution of Latvia. As a result, the Latvian parliament has ratified all major international agreements.

Judicial System

Latvia has an independent judiciary, with a three-tiered court system. The Constitution states that judicial power is vested in the district and city courts, the regional courts, the Supreme Court and the Constitutional Court and, in the event of war or a state of emergency, also in the military courts.

2. RESTRICTIONS TO FOREIGN INVESTMENTS

2.1 Approval of Foreign Investments

There are no restrictions on foreign investments as such in Latvia, and no specific registration and approval procedures. There are generally no quotas for foreign investments.

However, there are several requirements and criteria for foreign investments in specific industries, as provided in the following regulations:

- National Security Law;
- Competition Law; and
- normative acts regulating specific institutions, such as financial institutions and insurance companies.

Exceptions in Accordance with National Security Law

Based on EU Regulation No 2019/452 of the European Parliament and the Council of 19 March 2019, establishing a framework for the screening of foreign direct investments (FDIs) into the EU, the National Security Law sets certain restrictions with regards to foreign investments into Latvian commercial companies in the following sectors: e-commerce, telecommunications, gas supply, and the production and transmission of electricity and thermal energy.

The National Security Law provides for screening procedures and requirements for permission from the Latvian cabinet on foreign investments into the above sectors, in order to preclude adverse influences or potential threats to national security.

Exceptions in Accordance with Competition Law

See **6.3 Cartels** and **6.4 Abuse of Dominant Position**.

2.2 Procedure and Sanctions in the Event of Non-compliance

Procedure and Consequences of Non-compliance with National Security Law Regulations

Permission of the Latvian cabinet is required where a person or several persons who act in a co-ordinated manner obtain a qualifying holding or decisive influence. Potential investors should submit an application to the Latvian Ministry of Economy. The Ministry of Economy and state security institutions may request additional information and documents from the applicant and the acquirer who is a foreign direct investor, as these are necessary for the evaluation of the application and provision of information to the European Commission and the member states. The Latvian cabinet must issue a decision within one month from the day of receiving an application. This time period may be extended up to four months.

If a person obtains a qualifying holding or decisive influence in a commercial company that is of significance to national security or becomes a member of such commercial company without receiving a permit, then the respective transaction concluded or the action that took place in Latvia is null and void.

A permit from the cabinet is required for each transition of an undertaking as a result of which, a person obtains ownership of such undertaking.

The commercial company of significance to national security is not entitled to make changes to the register of stockholders or shareholders if permission has not been received.

Procedure and Consequences of Non-compliance with the Competition Law

See **6.3 Cartels** and **6.4 Abuse of Dominant Position**.

If notification was not given in the cases specified in the Competition Law or an unlawful merger of market participants has occurred, the Competition Council is entitled to impose a fine on the new market participant, or on the acquirer of a decisive influence, of up to 3% of its net turnover in the previous financial year. This does not release the market participants concerned from the obligation to fulfil the provisions of the Competition Law and thus, the merger in question will not be allowed to proceed.

2.3 Commitments Required from Foreign Investors

See **2.1 Approval of Foreign Investments**.

2.4 Right to Appeal

The respective decisions with regard to the investments (see **2.1 Approval of Foreign Investments**) can be appealed to the Administrative District Court. The appeal of the decision does not suspend the operation of the decisions.

The Administrative District Court examines the case as the court of first instance. The case is examined by three judges. A judgment of the Administrative District Court may be appealed by submitting a cassation complaint to the Supreme Court of the Republic of Latvia. Appellation instance is not applicable in this case.

3. CORPORATE VEHICLES

3.1 Most Common Forms of Legal Entities

Limited Liability Company and Joint Stock Company

The most common types of corporate vehicles in Latvia are the limited liability company (LLC) and the joint stock company (JSC).

Share capital requirements

The minimum share capital required by an LLC is EUR2,800, while the minimum share capital required by a JSC is EUR35,000. Shareholders are not liable for an LLC's or a JSC's obligations.

Contributions to the LLC share capital can be made both in cash and in kind, whereas for a JSC they can only be in cash. For an LLC, at least 50% of the subscribed share capital must be paid up prior to incorporation and the rest, not later than within one year after incorporation. With regard to a JSC, at least 25% must be paid up prior to incorporation and the rest, not later than within one year after incorporation. The liability of both an LLC and a JSC is limited by the share capital of the company.

Shareholders

The number of shareholders of both an LLC and a JSC is not limited. There are also no requirements for a minimum number of shareholders (a company may be established with one sole shareholder).

The highest management body in both an LLC and a JSC is the meeting of shareholders. The meeting of shareholders is authorised to:

- amend the articles of association;
- increase or reduce the share capital of the company;
- elect or recall management board members or council members (if established);

- approve annual accounts and distribution of profits; and
- make other significant decisions.

A JSC is more suitable for companies with a larger group of shareholders, and such form is a prerequisite if a company is willing to be listed and its stock traded on a public exchange.

3.2 Incorporation Process

Incorporation consists of drafting the documents required by law, which usually takes up to two business days. Review of documents by the Latvian Register of Enterprises takes up to three business days.

The minimum required incorporation documents for both an LLC and a JSC are listed below:

- application form (signatures must be certified by a notary);
- memorandum of association;
- articles of association;
- bank statement or other document showing the payment of equity (if the share capital is paid in cash);
- appraisal report (if the share capital is paid in kind) – only for an LLC;
- shareholders' register (signatures must be certified by a notary) – only for an LLC;
- consent of each member of the council to hold the office (if a council is established);
- consent of each member of the board to hold the office, unless the consent is included in the application form (signatures must be certified by a notary);
- announcement of the board regarding the legal address;
- consent of the real property owner to the registration of the legal address of the company (not required if the owner is among the signatories of the application); and
- a receipt or its copy, or a printout of the payment order from an online bank, or information on the payment of the state fee.

All documents must be submitted to the Register of Enterprises in the Latvian language. Thus, if any of the information is in a foreign language, notarised translations must be prepared.

3.3 Ongoing Reporting and Disclosure Obligations

Private companies (both LLCs and JSCs) are required to report changes in a company's status. Any amendments to company documents and/or changes in the company must be reported to the Register of Enterprises, usually not later than ten days after the change has taken place. Inter alia, the following changes must be filed – change of legal address, composition of the management board, supervisory board or shareholders; amendments in the articles of association and/or memorandum of association; an increase or decrease in share capital; and changes in the ultimate beneficial ownership of the company.

Additionally, after the end of each financial year, a company must file an approved financial report, the management board's report on the company's activity, and the auditor's opinion (if required).

3.4 Management Structures

Both LLCs and JSCs have two-tier management structures, in line with Latvian commercial law. The management board manages the company's daily activities, whereas the supervisory board monitors the activities of the management board. It should be noted that in an LLC, a one-tier management form may be established instead of the mandatory two-tier model of a JSC.

A JSC, in contrast to an LLC, must establish a supervisory board, consisting of at least three members (or at least five members for publicly-traded joint stock companies). The supervisory board oversees the company's day-to-day activities, the activities of the management board and the overall compliance of the company's activities with the regulations of the Republic of Latvia.

3.5 Directors', Officers' and Shareholders' Liability

The concept of "piercing the corporate veil" is well known in Latvia with respect to the liability of the management board members towards the company.

The principal rule under Latvian commercial law is that both management board members and supervisory board members must act as decent and careful managers in the interests of the company. A management or supervisory board member is liable for losses that they have caused the company, unless they can prove that they acted as a diligent and careful manager. Several management board members and/or supervisory board members can be jointly liable.

At the same time, the liability of management and supervisory board members is assessed, taking into account the separation of roles within the board and the competence of each board member. Even slight carelessness on the part of one or more members may, however, lead to liability.

By contrast, shareholders are not personally liable for the company's obligations, unless shareholders' actions have brought a company to insolvency. Then, the shareholders would be liable to indemnify the losses to the company caused by their actions.

4. EMPLOYMENT LAW

4.1 Nature of Applicable Regulations

The legal enactments governing employment relationships are found in the constitution of the Republic of Latvia, the binding norms of international law, labour law, various cabinet regulations, collective agreements and working procedure regulations. Court practice also forms an important part of the rules that set various requirements for both employees and employers.

In Latvia, employers have the opportunity to enter into collective agreements, providing for more favourable provisions for employees than specified in labour law or other regulatory enactments. Collective agreements can be concluded at company, industry, national or even international level (global agreements). In companies where the number of employees exceeds ten persons, internal rules of procedure also serve as a source of law.

Employers are encouraged to develop comprehensive and thorough internal rules that can be amended from time to time, without changing the requirements of the employment contract.

4.2 Characteristics of Employment Contracts

General Information

An employment contract is deemed to be concluded from the moment the employee and the employer have agreed on the work to be performed and on the remuneration, as well as on subsequent observance by the employee of the working procedures and orders of the employer. However, it should be noted that the contract should be concluded in a written form and prior to commencing work.

In practice, there may be cases where the employment contract is concluded orally, but in

such a situation, the employee may require that it be expressed in writing. If the employee has started to perform the work duties, even though the agreement is not in a written form, it has the same legal consequences as an employment contract expressed in writing.

Conditions

Legislation provides for mandatory conditions in the labour contract: the amount of remuneration, the number of days of leave and the place of performance of work. Other issues, such as requesting paid leave, dress code and corporate culture requirements, may also be set out in the internal working rules of procedure. This is an effective way for the employer to monitor the establishment of, and compliance with, the various requirements in the company, without creating an administrative burden by developing new amendments to each employment contract.

As a result of the COVID-19 pandemic, the matter of the place of work has become topical, therefore it is recommended in contracts to generally provide that the work can be performed both remotely (if the specifics of the work allow it) and in person at the company's premises. Specific requirements related to the implementation of remote work may be specified in the internal rules of procedure.

Term

It is common practice to enter into employment contracts of indefinite duration. Fixed-term contracts are considered exceptional. Namely, a fixed-term contract is usually concluded if seasonal work, replacement of an absent or suspended employee, casual work, urgent work, or an internship is required.

The State Labour Inspectorate seeks to limit such situations where fixed-term contracts are used on a permanent basis by imposing significant fines. It is important to note that an employee with a fixed-term contract is subject to the same rules as an employee with a contract for a non-fixed term. Contracts of this type may be concluded for a period not exceeding five years.

Labour contracts can contain provisions with regard to the probation period, which may not exceed three months.

4.3 Working Time

General Requirements

Generally, the normal daily working time may not exceed eight hours, and the normal weekly working time, 40 hours.

There are also more risky conditions and security risks in different sectors. For this reason, the normal working hours of workers performing hazardous work must not exceed seven hours a day and 35 hours a week, provided that they are employed in this work for at least 50% of the normal daily or weekly working hours.

Overtime

Overtime is work performed outside normal working hours, ie, above 40 hours a week. The employee and the employer must agree on this in written form. In exceptional cases, the employer has the right to require the employee to work overtime without the employee's written consent. The law stipulates that overtime work may not exceed an average of eight hours in a seven-day period, calculated over a reference period not exceeding four months.

To ensure the maximum amount of overtime for employees working according to the organisation of aggregated working time, the employee's overtime is determined at the end of the reporting period by adding the overtime worked in the reporting period (not exceeding four months) and dividing it by the number of weeks in the reporting period.

Those who work overtime are entitled to a bonus of at least 100% of their hourly or daily wage rate. If a piecework salary has been agreed, then the employee is entitled to not less than 100% of the piecework salary for the amount of work performed. In practice, the possibility provided by law to replace the supplement with paid vacation is also used.

Exceptional Cases

If mutually agreed by the employer and the employee, working hours can be very short – even a few hours a week. It is important that the law does not prohibit this, but only limits the maximum working hours in order to ensure the right of employees to have a rest.

It is the employer's obligation to accurately record the hours worked by each employee as a whole, as well as separately overtime, night work, weekly rest and holidays. In case of disputes, this can serve as evidence, as well as facilitate the accounting of the company's efficiency processes.

4.4 Termination of Employment Contracts

General Requirements

Latvia's legislation in regard to employment cannot be characterised as at-will employment, but rather as contract employment. From a legal point of view, regardless of who terminates the employment contract, it is a unilateral legal transaction terminating the employment relationship. It is important that labour law determines the cases where it is possible to terminate the employment contract, moreover, both the employee and the employer have different requirements. The employer is therefore entitled to dismiss the employee only on reasonable grounds.

Upon termination of an employment contract, any employee must receive from their employer on the last day all amounts due to them in accordance with the law and the employment contract. Usually, it is a salary and compensation for unused vacation in proportion to the time worked. In some cases, the employee is entitled to severance pay.

Termination by the Employer

Reasonable grounds for giving notice are:

- the employee's behaviour, eg, the non-performance of work duties, which negatively affects the performance of work;
- the employee's abilities, eg, insufficient qualifications, health problems; or
- circumstances relating to the company's economic and production issues.

Termination notice must be expressed in a written form. It can be handed over to the employee in person, or delivered by messenger or by post.

Before terminating the agreement, the employer is obliged to verify whether the employee is a member of a trade union.

Termination by the Employee

The employee, in turn, can terminate the contract at any time of their own free will with one month's notice, irrespective of the provisions of the labour contract and internal regulations.

In exceptional cases, for reasons of morality and fairness, the contract may also be terminated earlier, ie, it may take effect immediately and the employment relationship may be terminated at once.

Collective Redundancies

Depending on the company's size, the following reduction in the number of employees, if made within a 30-day period, is regarded as collective redundancy:

- at least five employees, if the employer usually employs more than 20 but less than 50 employees;
- at least 10 employees, if the employer usually employs at least 50 but less than 100 employees;
- at least 10% of the number of employees, if the employer usually employs at least 100 but less than 300 employees; or
- at least 30 employees, if the employer usually employs 300 or more employees.

An employer who intends to make collective redundancies must notify the State Employment Agency and the local government in the territory in which the enterprise is located, in writing, not later than 30 days in advance. When calculating the number of redundancies, account must also be taken of cases of termination of the employment relationship where the employer has not terminated the employment contract, but the employment relationship has been terminated on other grounds not related to the employee's behaviour or ability, and facilitated by the employer. Only after the notification has been submitted and 30 days have elapsed, may the procedure for notification of termination be initiated.

An employer should also inform employee representative bodies (if applicable) before the collective redundancy. If the trade union does not inform the employer of its decision within seven working days, it shall be deemed that the trade union has agreed to the termination of the employment contract.

The above requirements with respect to collective redundancy do not apply to the public sector.

4.5 Employee Representations

General Information

The protection of the interests of employees is primarily in the hands of the employees themselves, however, it is possible to appoint representatives for more efficient operation. There are two types of representatives within the meaning of the law:

- worker's trade unions; and
- authorised employee representatives.

It is possible to elect employee representatives if the company has at least five employees. Where there are several trade unions in a company, they must authorise their representatives to negotiate jointly with the employer in proportion to the number of members of each trade union.

Obligation to Provide Information

There is a mandatory obligation for employers to consult with representatives in the following cases:

- before the start of collective redundancies, in order to give employee representatives the opportunity to submit proposals;
- in the case of a company transfer;
- at the request of the employee representatives regarding the possibility to employ part-time employees in the company;
- when the norms regulating the employment relationship need to be amended;
- when the employer adopts the rules of procedure;
- when setting a six-day working week, requiring shift work; and
- when drawing up a schedule of paid annual leave, etc.

The law does not specify the form of consultation – it can take place both orally and in written form. The main task, however, would be to

record this information so that it can later serve as evidence.

5. TAX LAW

5.1 Taxes Applicable to Employees/ Employers

Payroll taxes comprise of personal income tax and mandatory state social security contributions.

State Social Security Contributions (SSC)

SSC is a compulsory payment into a special budgetary account which entitles the insured person to social insurance services defined by the Law on State Social Insurance. SSC applies to gross income derived from employment relationships and self-employed activities. The employer's SSC contribution is added on top of the total gross salary stated in the employment contract. The employee's SSC contribution is deducted from the gross salary amount and is recognised as deductible allowance for PIT calculation purposes. The standard SSC rate is 34.09%, split between the employer (23.59%), and the employee (10.5%).

Annual income above EUR62,800 is exempt from SSC.

Personal Income Tax (PIT)

PIT is levied on income earned by a natural person, and is calculated and withheld by the employer from the income paid to its employee. Employees' SSC contributions are recognised as deductible allowance from their gross salary. Other tax exemptions and personal allowances might apply. After deduction of all allowances an employee is entitled to, the income subject to PIT is subject to progressive PIT rates:

- 20% – for a monthly income of up to EUR1,667 or an annual income of EUR20,004;
- 23% – for monthly income that exceeds EUR1,667 or annual income over EUR20,004;
- 31% – on annual income that exceeds EUR62,800.

Solidarity Tax

As mentioned in detail above, progressive PIT is implemented within three brackets. Solidarity tax applies to annual income in the upper tier of PIT bracket EUR62,800, at a rate of 25% (in 2021).

In employment relationships, solidarity tax is collected via the SSC mechanism. As mentioned above, employment income over EUR62,800 per annum is exempt from SSC. In employment relationships, the employer still applies SSC to income over EUR62,800; and the amount collected and paid to the budget is then reallocated to the solidarity tax account, and – partially – to the PIT account to compensate for the upper progressive PIT rate.

If, after the annual recalculation, solidarity tax has been overpaid, it will be refunded to the employer.

5.2 Taxes Applicable to Businesses

A company doing business in Latvia is liable to corporate income tax and value added tax.

Value Added Tax (VAT)

VAT is charged on all transactions made in the course of business (although exemptions apply, eg, to financial services and medical care services). Individuals or entities registered in Latvia with total taxable supplies of goods and services exceeding EUR40,000 in a 12-month period must register for VAT purposes in Latvia. Total supplies exclude the value of one-off capital or intangible asset supplies (once in the subse-

quent 12 months). Companies may opt to register for VAT and charge VAT on supplies made before the threshold is exceeded.

Legal entities and individuals registered in Latvia who carry out economic activities must register for VAT if they:

- make intra-community acquisitions of goods above EUR10,000 during the calendar year;
- receive services from foreign suppliers subject to reverse charge; or
- provide services subject to reverse charge in another EU member state.

Tax reporting is monthly or quarterly, depending on the taxpayer's specific criteria.

Corporate Income Tax (CIT)

Resident companies are taxed on their worldwide income.

CIT does not apply to retained earnings, and the tax point is deferred to the moment of dividend distribution or deemed profit distribution (see the list below).

The CIT statutory rate is 20%. Tax is assessed at a rate of 20%, applied to the amount derived by dividing the tax base by a co-efficient of 0.8 (the effective CIT rate constitutes 25%). No other taxes are charged on corporate income by the state or municipalities.

The taxable base depends on the type of profit distribution, ie, direct or deemed.

Direct distribution comprises dividends and other forms of profit distributions equivalent to dividends (ie, permanent establishment's profit distributions).

Deemed profit distribution comprises:

- non-business expenses – collective employee fringe benefits and gifts (not subject to PIT); fines, fuel expenses and representation expenditures above non-taxable thresholds; acquisition of assets not related to the activities of the business; donations (except for donations to public benefit organisations);
- loans to related parties (ie, loans from a subsidiary to shareholders), subject to conditional criteria;
- the adjusted amount of interest expense calculated on the basis of thin capitalisation rules;
- transfer pricing adjustments;
- bad debts and bad debt provisions, subject to conditional criteria; and
- liquidation quotas.

Latvia has no separate capital gains tax in the CIT system.

Withholding tax (WHT) applies to:

- income derived from the use of real estate located in Latvia – 5%;
- income derived from the sale of real estate located in Latvia (or real estate SPVs) – 3% on gross amount;
- income from management and consulting services – 20%; and
- any payments made to back-listed low-tax territories – 20%.

WHT can be reduced under a respective double tax treaty (DTT).

5.3 Available Tax Credits/Incentives

Foreign tax credit against CIT is chargeable on dividends. Tax credit must be confirmed by the foreign tax authority. Any unused tax credit may be carried forward.

Pass-through dividends do not attract CIT or WHT, unless paid to back-listed low-tax territories. They may be carried forward.

Income realised from the sale of capital shares reduces the dividend amount subject to tax, provided:

- the shares were held for 36 consecutive months; and
- the shares sold were not from a real estate SPV.

They may be carried forward.

Donation relief is available for donations made in favour of Latvian public benefit organisations or their equivalents in an EU/EEA member state or a country that has an effective DTT with Latvia. The donor is entitled to tax relief by using one of three methods:

- exclude donations from the tax base up to 5% of the net profit for the past year;
- exclude donations from the tax base up to 2% of total gross salary budget on which SSCs were paid in the past year; or
- pay CIT at the effective rate of 25% and then reduce the CIT charge on dividends by 85% of the donated amount, capped at 30% of the CIT charge on dividends.

Companies operating in the free ports and Special Economic Zones (SEZ) are entitled to CIT and Real Estate Tax (RET) rebates. Special areas include:

- the free port of Ventspils;
- the free port of Riga;
- the SEZ of Rezekne;
- the SEZ of Latgale; and
- the SEZ of Liepaja.

Qualifying companies may claim CIT relief up to 80% of the CIT charged on dividends. RET relief amounts to 80%. In addition, a municipality that issues binding rules in the special zone has the power to reduce the percentage of RET relief to 10% of the tax charge (without applying any other rebates).

Total CIT and RET rebates are limited to the amount of the company's qualifying investment made in the territory of the special zone. Depending on the size of the company, the total available tax relief ranges from 35% to 55% of the amount invested.

The start-up support regime promotes the incorporation of start-ups in Latvia and supports innovative entrepreneurs and research in the private sector. Start-ups have access to payroll support programmes with tax compensation of fixed tax payments.

5.4 Tax Consolidation

Tax consolidation is not available in Latvia.

5.5 Thin Capitalisation Rules and Other Limitations

Thin capitalisation rules are applicable in Latvia and excess interest charges are included in the CIT taxable base.

Thin capitalisation is assessed at a 1:4 debt equity ratio, where the equity amount is fixed on 1 January of a particular financial year, and is measured against the average debt amount during the year. The average debt amount is calculated using the tax authority's methodology, by summing up the outstanding amounts on the last day of each calendar month, and dividing the sum by the number of months the debt was in effect. The methodology accepted by the Latvian tax authority differs from mathematical average calculation.

Additional conditions to interest charges are imposed under Anti-tax Avoidance Directives (ATADs). Interest payments within a review year that exceed EUR3,000,000, the sum exceeding 30% of EBITDA (earnings before interest, taxes, depreciation and amortisation), must be included in the CIT taxable base. Where interest expense is subject to CIT under both thin capitalisation limitation and the interest amount limitation, the largest of these is included into the CIT taxable base. Neither thin capitalisation rules nor the EUR3,000,000 threshold apply to interest payments on loans received from:

- credit institutions that are residents of Latvia, the EU, EEA, or a country with which Latvia has entered into a DTT;
- the Latvian treasury;
- the Development Finance Institution;
- the Nordic Investment Bank;
- the European Bank for Reconstruction and Development;
- the European Investment Bank;
- the Council of Europe;
- the Development Bank;
- the World Bank Group;
- publicly traded debt securities of EU or EEA countries; and
- loans received directly or indirectly from state financing, external trading credits or a guarantee institution in a country with which Latvia has entered into a DTT.

5.6 Transfer Pricing

Latvia has introduced the OECD format of transfer pricing documentation, comprising a Master File and Local File.

It is mandatory to submit documentation to the tax authority if the reported related-party transactions amount (including the loan principal) carried out with non-residents exceeds EUR5,000,000 in the financial year. Transactions below the EUR20,000 threshold do not require documentation.

5.7 Anti-evasion Rules

Latvia has specific anti-avoidance rules, harmonised with the EU Anti-Tax Avoidance Directive. As a matter of principle, where the tax liability is not calculated or is calculated on a taxable basis that differs from the actual circumstances existing in reality, thereby avoiding the scope of the tax law, the tax liability is to be recalculated on the real taxable base ("substance-over-form principle").

6. COMPETITION LAW

6.1 Merger Control Notification

The authorisation of the Competition Council for the performance of a merger is necessary if:

- the total turnover of the participants in the merger in the previous financial year in the territory of Latvia was not less than EUR30,000,000; and
- the turnover of at least two members of the merger in the previous financial year in the territory of Latvia was not less than EUR1,500,000 each.

In certain cases, the Competition Council has the right to request the participants in the merger to submit a report on the planned or already occurring merger at least 12 months before the date of implementation of the merger, if:

- the merger is between direct competitors and, as a result of the merger, their combined market share in that market will exceed 40%; and
- the Competition Council has reasonable suspicions that a merger may result in or strengthen a dominant position or may sig-

nificantly reduce competition in the relevant market.

If the merger falls below the aforementioned notification criteria, the entity still has the option:

- to request written confirmation that the Competition Council will not exercise the right to request the merging parties to submit a merger report; or
- to submit, on its own initiative, a full or abridged report on the merger to the Competition Council.

6.2 Merger Control Procedure

After the submission of the report on the planned or already occurring merger:

- the Competition Council must, within one month from the date of receipt of the full or abridged report, take a decision regarding the authorisation or prohibition, or the authorisation of a merger with conditions or a decision regarding the commencement of additional research; and
- if the Competition Council has taken a decision to initiate an additional study, it must, within four months from the date of receipt of the full report or within three months from the date of receipt of the abridged report, take a decision regarding the authorisation or prohibition, or authorisation of the merger with conditions.

At the request of members of the merger, or on their own initiative, the Competition Council is entitled to extend the decision in the merger case by 15 working days in order to assess the binding provisions if the members of the merger have offered these.

6.3 Cartels

The formation of a cartel is regarded as one of the most serious infringements of Competition Law in Latvia and the Competition Council is dealing with this as a priority. The prohibition of such an agreement is laid down in Article 11 of the Competition Law.

The aim of the prohibited agreement is to prevent, restrict or deform competition in the territory of Latvia in one of the following ways:

- the determination of direct or indirect prices or tariffs in any form or in the rules for their formation, as well as for the exchange of information relating to prices or terms of sale;
- the restriction or control of production or marketing, markets, technical development or investment;
- the distribution of markets, taking into account the territory, purchasers, suppliers or other conditions;
- rules governing the conclusion, modification or termination of transactions with a third party are made conditional on the acceptance by that third party of obligations whose commercial use does not apply to the transaction in question;
- participation or non-participation in tenders or on the terms of this activity (omission), except in cases where competitors have publicly made a common offer and the purpose of this offer was not to hinder, restrict or distort competition;
- the application of unequal rules in equivalent transactions with third parties, giving them more competitive conditions; or
- the activities (omission) for which another market participant is forced to leave a particular market or is encumbered by the entry of a potential market participant into a particular market.

An agreement within the meaning of the Competition Law must be a contract of two or more market participants, or a concerted activity in which market participants participate, as well as

a decision taken by a registered or unregistered association of market participants (association, union, etc) or an official thereof.

A horizontal prohibited agreement between undertakings of one level of production or distribution is referred to as a cartel. Between companies representing different levels of production or distribution (eg, the producer and wholesaler, or wholesaler and retailer), there may be a vertical banned agreement.

6.4 Abuse of Dominant Position

The prohibition of abuse of a dominant position is laid down in Article 13 of the Competition Law.

A dominant position is defined as the economic position of a market participant or several market participants in a given market if that participant or those members are able to significantly impede, restrict or distort competition in any particular market over a sufficiently long period of time, acting in whole or in part, independently of competitors, customers, suppliers or consumers.

A dominant position is not, in itself, an infringement, but its abuse is prohibited.

The Competition Law lays down restrictions on the activities of dominant undertakings in order to prevent companies that are dominant in the market from restricting or distorting competition to the detriment of consumers and other operators.

7. INTELLECTUAL PROPERTY

7.1 Patents

According to the definition of a patent provided by the Patent Office of the Republic of Latvia: "A patent is a type of intellectual property that protects technical creative products or inventions."

A national patent provides protection for an invention for 20 years from the date of the patent application, and from the date of publication of the patent application until the date of granting of the patent, the invention is granted temporary legal protection.

According to the Patent Law, an invention must be new, it should not be obvious to a person skilled in the art, and it should be industrially applicable.

An application for a patent should be accompanied by a detailed description and examples of the invention, drawings explaining the invention and the legal definition of the invention, which defines the scope of protection, and a summary.

Within three months of acceptance of the application, the Patent Office will examine the application's compliance with the requirements and, if necessary, provide an additional period of three months for the elimination of deficiencies. The Patent Office makes the patent application public 18 months after the filing date or the earlier priority date.

7.2 Trade Marks

A trade mark is a sign used to distinguish the goods or services of one person from the goods or services of other persons.

A trade mark should consist of a sign which satisfies the following requirements:

- it has distinctive character; and
- it may be reproduced in the Register of Trade Marks in such a way that the subject matter of the protection conferred on the proprietor of the trade mark can be clearly and unambiguously determined.

The Latvian national trade mark protects the rights of the trade mark owner in the respective registered designation in the territory of the Republic of Latvia. The registration of a trade mark is valid for ten years and it may be renewed for another ten-year period when it expires.

The trademark must have a sufficiently distinctive character, and it must be possible to reproduce it in the trademark register so that the subject of protection granted to the trademark owner can be clearly and unambiguously determined.

When completing the registration form, the list of goods and services for which registration of the mark is sought must be included, under the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957.

In addition, it is possible to register European Union trade marks and international trade marks in accordance with the Madrid Protocol.

7.3 Industrial Design

Design is defined as the external appearance of a product or part of a product, resulting from the characteristics of the product or its decoration, in particular the characteristics of the lines, colour, shape, surface texture or materials used.

A design is granted legal protection if it is new and of an individual nature.

A design implemented or incorporated into a product which is part of a complex product, is considered to be new and of an individual character only if it meets the following conditions:

- the component included in the complex product is visible during normal use of the complex product, ie, when it is used by the actual user; and
- the visible features of the component comply with the requirements of novelty and individual character.

The registration of a design is valid for five years.

There is also the EU industrial design registration procedure for registering designs with the European Union Intellectual Property Office, and the Hague System for the International Registration of Industrial Designs.

7.4 Copyright

Object of Copyright

The object of copyright, regardless of the form and type of expression, is to protect the following works of authors:

- literary works (books, brochures, speeches, computer programs, lectures, appeals, reports, sermons and other similar works);
- dramatic and musical dramatic works, scenarios, and literary projects of audio-visual works; and
- choreographic works and pantomimes, etc.

The author has the right to allow or prohibit the use of their work and to receive remuneration for its use. Copyright is valid for the entire life of the author and for 70 years after the author's death.

Proof of Copyright

Proof of copyright does not require registration, special workmanship or any other formalities. The author or their successor in title may prove their right to the work with a copyright mark. Collective management organisations have also been set up to ensure collective management of copyright. The comparison of trade mark rights with each other or with other rights which may conflict with the registration of the trade mark, must take into account which of those rights is earlier. Proof of priority is the responsibility of the holder of the earlier right.

To protect their rights, copyright and related rights holders or their representatives, including collective management organisations, can go to court.

7.5 Others

Software Protection

Software protection is regulated in accordance with Copyright Protection Law (see **7.4 Copyright** for a further description).

Database Protection

A database is defined as a collection of independent works, data or other materials arranged in a systematic or methodical manner and individually accessible in electronic or other form. Database protection is regulated by the Copyright Law.

The maker of a database has the right to remove all or, qualitatively or quantitatively, significant parts of the contents of the database for:

- acquisition; or
- re-use.

The lawful user of a publicly accessible database has the right to obtain or re-use, for any purpose, an insignificant part of the contents of the database.

Legitimate users of the database may, without the consent of the maker of the publicly accessible database:

- obtain the content of a non-electronic database for personal purposes;
- obtain a substantial part of the contents of the database for the purposes of education or scientific research; and
- acquire or re-use a substantial part of the contents of the database for the purposes of national security, as well as for administrative or judicial purposes.

The protection of databases is valid for 15 years from the date on which the database is completed.

Trade Secret Protection

A trade secret is undisclosed information of an economic nature, or technological knowledge and information of a scientific or other nature, which meets all of the following characteristics:

- it is secret because it is not generally known or accessible to persons who normally use this type of information;
- it has actual or potential commercial value because it is secret; and/or
- the holder of the trade secret has taken appropriate and reasonable measures to maintain the secrecy of the trade secret in relation to the specific situation.

Acquisition of a trade secret is lawful if it is obtained in one of the following ways:

- as an independent discovery or as the result of a creative process;
- as a result of inspection, research, division into components or inspection of a product or object which is generally available to the public or the acquisition of which has not been restricted by the holder of a trade secret;
- employees or their representatives have exercised the right to obtain information and consult in accordance with regulatory enactments and existing practice; or
- on the basis of a contract or licence, etc.

An action against a person who has unlawfully obtained, used or disclosed a trade secret may be brought within three years from the date when the holder of the trade secret became aware, or should have become aware, of the unlawful acquisition.

8. DATA PROTECTION

8.1 Applicable Regulations

The main applicable regulation is the General Data Protection Regulation (GDPR) which sets guidelines for the collection and processing of personal information from individuals (data subjects) who live in the European Union. Also, Personal Data Processing Law is applicable, as well as certain specific additional requirements of certain category data processing can be found in other norms, eg, Law on the Rights of Patients regarding health data.

8.2 Geographical Scope

If a data subject (an individual) is a resident of the European Union, their personal data must be collected and processed in accordance with the GDPR and other applicable data protection local laws (eg, if a foreign medical clinic is providing telemedicine services in Latvia, it is mandatory to get informed consent from a patient (data subject) as stated in the Law on the Rights of Patients).

The same applies to websites that attract European visitors – even if they don't specifically market goods or services to EU residents, the GDPR applies to their data processing activities anyway.

8.3 Role and Authority of the Data Protection Agency

The Data State Inspectorate is the agency in charge of enforcing data protection rules in Latvia. The aim of the inspectorate is to protect fundamental human rights and freedoms in the area of data protection. It carries out the tasks specified in Article 57 of the GDPR, as well as other tasks specified in the Personal Data Processing Law.

9. LOOKING FORWARD

9.1 Upcoming Legal Reforms

Employment

Parliament is currently considering a draft amendment to the Labour Law, which is intended to change the current procedure in matters regarding remote work.

The amendments will stipulate that if the employee and the employer agree to work remotely, the employee's expenses related to remote working shall be borne by the employer if the employment contract or collective agreement concluded with the workers' union do not specify otherwise and such a collective agreement does not reduce the overall level of protection of employees.

Corporate Vehicles

The draft amendments to the Commercial Law and the Law on the Register of Enterprises of the Republic of Latvia will soon be submitted to parliament, to launch the implementation of the Digitalisation Directive in business. In practice, this will mean that the Latvian Register of Enterprises will become the leading institution in ensuring the publicity of the commercial register at the national and European Union level, ensuring the exchange of information with other EU commercial registers to reduce bureaucratic burden and to improve business transparency in cross-border cases. In fact, this means that the new entries in the commercial register will be published on the commercial register's website. These amendments are expected to facilitate access to information for the formation of new legal entities if the participants are EU citizens or their companies have already been established in other EU member states.

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AUTHORS

Vita Liberte is a managing partner of BDO Latvia and an attorney at law with more than 20 years of experience in the field of professional consulting services, providing clients with comprehensive support in financial, tax and legal matters, and dispute resolution. In addition to consulting in the field of commercial law, Vita specialises in commercial law, litigation, employment law, and competition law. Before establishing BDO Latvia in 2007, Vita acquired experience working in the PwC New York office, as well as at Deloitte. Vita holds a master's degree in international law from New York University.

Jānis Zelmenis is a BDO managing partner and a tax and legal advocate with more than 20 years' international experience in leading and providing professional services to a diverse range of clients, operating in various business sectors. He is known in the market as an authority with a focus on company mergers and acquisitions (M&A) and restructuring deals, company law and taxes. Thanks to Jānis's extensive expertise and knowledge of local and international legislation, he is one of the most frequently quoted Latvians in the wider media. Before establishing BDO Latvia in 2007, Jānis acquired experience working at PwC and Deloitte.

BDO Law

15-3 Kalku Street
Riga
LV-1050
Latvia

Tel: +371 6722 2237
Email: info@bdo.lv
Web: www.bdolaw.lv