Employment A – Z for Lithuania (per April, 2013)

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1. Anti-discrimination regulations

Article 2 of Labour Code of the Republic of Lithuania (later – Labour Code) sets the main principles of legal regulation of labour relations. Part 1 point 4 of this article directly sets anti-discrimination principle in Lithuanian labour law. This point accents equality of subjects of labour law irrespective of their gender, sexual orientation, race, national origin, language, origin, citizenship and social status, religion, intention to have a child (children), marital and family status, age, opinions or views, political party or public organisation membership, factors unrelated to the employee's professional qualities. Part 2 of this article accents that the state shall support the exercise of labour rights and that the labour rights may be in exceptional cases restricted only by law or court judgement, if such restrictions are necessary in order to protect public order, the principles of public morals, public health, property, rights and legal interests.

There can also be other provisions on employment anti-discrimination regulations. For example, article 97 part 1 of Labour Code points out that restrictions on admittance to work may be imposed only by laws, article 188 part 3 of Labour Code points out that the same criteria shall be equally applied to both men and women when applying the work classification system for determining the wage and the system must be developed in such a way so as to avoid discrimination on the grounds of sex.

There also can be other provisions on employment anti-discrimination in laws. For example the Law on Equal Opportunities of Women and Men and others.

2. Business transfers

In such cases as changes of the owner of an enterprise, establishment or organisation, the subordination, founder or name thereof, any merger of company, institution or organization, division, partial division or connection thereof to another company, institution or organization, transfer of business or part of it can not be a legitimate reason to terminate the employment relationship.

In case of company, institution or organization, business or part of it is transferred despite the legal grounds of such transfers, employment relationship continues under the same terms and conditions in business successor' company, institution or organization.

It is prohibited to replace the working terms or to terminate the employment agreement on the grounds of transfer of the business or part of it. An employee must be notified in advance in writing no later than ten working days about the emerging transfer of the business or part of it.

3. Compromise agreements

One of the possibility to terminate labour contract according to the Labour Code is mutual agreement between the employer and the employee.

Termination by mutual agreement mostly is used by the employers, when it is necessary to terminate relationship with employee but there are no legal grounds for termination by notice.

Labour code prescribes following manner by using compromise agreement. One party to an employment contract may offer in writing the other party to terminate the employment contract by agreement between the parties. If the latter accepts the offer, it must, within seven days, notify thereof the party, which has put forward the offer to terminate the employment contract. Having agreed to terminate the contract, the parties shall conclude a written agreement on the termination of the contract. This agreement shall indicate the date when the contract shall be terminated as well as other conditions of the termination of the contract (compensation, granting of unused leave, etc.). If the other party fails to inform that it agrees to terminate the contract within seven days the offer to terminate the employment contract by agreement between the parties shall be considered rejected.

4. Employment contracts

An employment contract is an agreement between an employee and an employer whereby the employee undertakes to perform work of a certain profession, speciality, qualification or to perform specific duties in accordance with the work regulations established at the workplace, whereas the employer undertakes to provide the employee with the work specified in the contract, to pay him the agreed wage and to ensure working conditions as set in labour laws, other regulatory acts, the collective agreement and by agreement between the parties.

The content of an employment contract shall be the conditions of the contract agreed by the parties thereto, which define the rights and obligations of the parties. The parties may not establish working conditions, which are less favourable to the employee than those provided by Labour Code, laws, other regulatory acts and the collective agreement. If the conditions of the employment contract are contrary to Labour Code, law or the collective agreement the provisions laid down in Labour Code, laws, regulatory acts or the collective agreement shall apply. Any dispute concerning the application of the conditions of the employment contract shall be settled by labour dispute resolution bodies.
In every employment contract, the parties shall agree on the conditions of remuneration for work (system of remuneration for work, amount of wages, payment procedure, etc.) but on the essential conditions of the contract such as the employee's place of work (enterprise, establishment,

organisation, structural subdivision, etc.), and job functions, i.e. on work of a certain profession, speciality, qualification, or specific duties must be agreed. Other conditions of an employment contract may be established by agreement between the parties unless labour laws, other regulatory acts or the collective agreement prohibit doing so. In respect of certain types of employment contracts labour laws and collective agreements may also provide for other essential conditions, which shall be agreed by the parties in concluding such an employment contract.

Under Labour Code employment contracts may be:
1) non-term – the most common;
2) fixed-term – concluded for a certain period of time or for the period of the performance of certain work, but not exceeding five years;
3) temporary – concluded for a period not exceeding two months;
4) seasonal – concluded for the performance of seasonal work. Seasonal work shall be such work, which due to natural and climatic conditions is performed not all year round, but in certain periods (seasons) not exceeding eight months (in a period of twelve successive months), and is entered on the list of types of seasonal work;
5) on additional work, secondary job;
6) distance work – concluded for performing employee' work functions or part of them from place other than his workplace which is acceptable for the employee;
7) other – concluded for special porpoises.

5. Employee benefits

Lithuanian employment laws provides number of statutory benefits for employees. There is no one code that covers all of the benefits.
However, employee benefits can be classified as minimal benefits which are provided by the employer on the basis of the law and additional benefits, which depends on employee's length of continuous employment.
Minimum wage, minimum rate of the guaranteed salary, limitation of fixed-term employment, protection against dismissals, remuneration guaranteed while an employer is on sick leave can be describe as minimal benefits and which is guaranteed by the law.
Prolongation of holiday, increase of the severance pay, more social protection can be defined as additional benefits.

6. Handbook for employees

The provisions in the employment contract may be complemented by collective agreements**,** work rules, company handbooks or other local (internal) regulatory acts. Such acts may be adopted by enterprises', agencies', organisations' according to their respective competence and in the manner prescribed by laws. These acts may establish working conditions that are not regulated by labour laws and by other regulatory acts as well as granting work, social and everyday-life privileges to employees or their groups in addition to those established by laws and other regulatory acts.

7. Health and safety

Health and safety at work means all preventive measures intended for the preservation of the functional capacity, health and life of employees at work, which are applied or planned in all stages of the operations of an enterprise in order to protect employees from, or to minimise occupational risks.

Every employee must be provided with proper and safe working conditions posing no threat to health as set in the Law on Safety and Health at Work. It is the responsibility of an employer to ensure safety and health at work. Taking into account the size of an enterprise and risks to employees, an employer shall establish in his enterprise or hire a certified occupational safety and health service, or shall perform these functions himself.

The workstation and working environment of every employee must be safe, comfortable and non-harmful to health, as well as designed according to the requirements laid down in regulatory acts on safety and health at work. It is permitted to use only the work equipment, which is in good working order and satisfies the requirements established in regulatory acts on safety and health at work.

The local regulatory acts on occupational safety and health, regulatory acts on safety and health at work approved by an order, ordinance or other act of the employer are binding. Employees are introduced to them against signature. Failure to comply with the requirements laid down in regulatory acts on safety and health at work, rules for the organisation and performance of works and instructions constitutes a breach of labour discipline.

8. Sickness Allowances

Sickness allowances shall be granted to the persons entitled to this type of the allowance in the following cases:
1) to the insured persons who became temporarily incapacitated for work due to illness or trauma and therefore lost income from work, except for the cases of granting and payment of sickness allowances provided for by the Occupational Accidents and Occupational Diseases Social Insurance Law;
2) for nursing sick family members. This allowance shall be granted if on the doctor’s instruction it is necessary to nurse a sick family member of the insured;
3) to the insured removed from the job due to the outbreak of infectious diseases or epidemics;
4) to the insured undergoing treatment at the health care institutions providing orthopaedic and/or prosthetic services. This allowance shall be granted to the insured persons for the entire duration of treatment at the said institution as well as for the period of travel to and from the health care institution;
5) for child care if the regime for containing the spread of infection has been introduced in child care institutions;
6) for child care if the person who has been granted a maternity leave or a child care leave until the child is 3 years old (hereafter referred to as a child care leave) is unable to take care of the child due to her/his own sickness or trauma;
7) for the insured persons who have become temporarily incapable for work because of taking of the tissues, cells or organs for transplantation with the purpose of donation.

In order to get a sickness allowances an employee must apply to a respective local Social insurance fund board office not later that within 6 months from the end of sickness.
The sickness allowance for the first two calendar days of temporary incapacity for work which coincide with the employee's work schedule shall be paid by the employer (except for persons involved in nursing a family member and organ donors). The amount of such allowance cannot be less than 80 per cent and exceed 100 per cent of the appropriate employee's average remuneration.

The sickness allowance are paid from Social insurance fund board budget starting with the third day of temporary incapacity for work, from the third up to the seventh day (inclusive) – in the amount of 40 per cent, from the eighth day of temporary incapacity for work – in the amount of 80 per cent of the allowance recipient's reimbursed remuneration. The sickness allowance is payable for a working days only.

9. Immigration and work permits

A. Immigration

The alien to whom visa-free travel regime is applied shall be entitled to enter Lithuania and stay in it without a visa for up to three months within each half a year starting from the first day of entry into Lithuania. Visa-free regime is applied to all citizens of EU, EEA and Swiss Confederation and other 54 worldwide countries with some exemptions.

Citizens of other countries, travelling to Lithuania, require visas. There are such types of visas:

1. Schengen visa;
2. national visa – it might be single-entry or multiple-entry.

Schengen visa might be with limited territorial validity, i.e. valid only in one or some EU member states but not in all of them. Also airport transit visa is available.

B. Temporary residence permit

A temporary residence permit in the Republic of Lithuania (hereinafter referred to as a “temporary residence permit”) means a document granting an alien the right for temporary residence in Lithuania for a period specified in the permit. The alien has the right to choose his place of residence in Lithuania, to change it, to depart from and return to Lithuania during the period of validity of the residence permit. The alien must give a notice of a change in his place of residence to a migration office of a public police division at a territorial police agency and should not forget that, under the Law on Declaration of the Place of Residence, a person must declare his departure when leaving from Lithuania for a period exceeding 6 months.

A temporary residence permit in Lithuania is issued to an alien who is a citizen of a non-EU Member State. It is usually issued for a period of 1 year, though it may also be issued for a shorter period. In respect of the persons of the Lithuanian descent and the aliens who have retained the right to citizenship of the Republic of Lithuania, the temporary residence permit is issued for a period of 5 years.

An alien must submit an application for the issuance of an initial temporary residence permit and other documents to a diplomatic mission or a consular post of the Republic of Lithuania abroad, and an alien who is lawfully staying in Lithuania – to a migration office of a territorial police agency in the territory of which he intends to reside. However, the lodging of such an application does not entitle the alien to stay in the territory of Lithuania before the alien’s application has been examined and a decision on the issue has been taken. An application for the replacement of a temporary residence permit (issuance of a new one) is to be lodged by the alien with a migration office of a territorial police agency.

An alien’s application for the issuance of the first temporary residence permit must be considered not later than within 6 months from the lodging of the application with a relevant institution, and that of an alien in possession of a long-term resident’s residence permit issued by an EU Member State – within 4 months from the lodging of the application with a relevant institution.

To obtain permanent residence permit, alien who meets all requirements set by laws must submit an application and required documents. Before that an alien must pay State duty in the amount set by the Government for processing of documents to issue permanent residence permit. Alien‘s application to issue permanent residence permit must be processed not later than within 6 months from the day of submission to the Migration Department, when an application is submitted directly, or to the Migration service. The decision to issue an alien with permanent residence permit is valid for 6 months from the day the decision is taken with the possibility to extend but not for longer than 3 months.

During the period of validity of the decision to issue permanent residence permit, an alien can approach the Migration Service, in whose service area he/she has declared or intends to declare a place of residence or is registered as a person without a place of residence, with the request to execute permanent residence permit.

A permanent residence permit shall be executed for an alien for a period of 5 years. After this period the permit can be replaced.

C. Work permits

An alien who intends to work in Lithuania must obtain a work permit, except in the cases provided for in the Law on the Legal Status of Aliens, when the alien is exempted from the obligation to obtain a

work permit. An alien must obtain a work permit before entering Lithuania. A work permit may be issued to an alien if there is no specialist in Lithuania meeting the employer's qualification requirements. A work permit shall be issued to an alien taking into account the needs of the labour market of Lithuania and it shall be issued to an alien for a period of up to 2 years, specifying the job (position) and the enterprise, agency or organisation at which the alien will be employed. An alien's pay may not be less than that paid to a resident of the Republic of Lithuania for performing the same work.

A work permit shall be issued to an alien and withdrawn by the Lithuanian Labour Exchange. An alien's application to issue a work permit in Lithuania must be examined within 2 months from the date of receipt of the application at the Lithuanian Labour Exchange.

An alien may take up employment in Lithuania under a contract of employment or, if the alien's permanent place of employment is abroad, the alien may be sent for temporary employment in Lithuania. The contract of employment must be concluded and a copy thereof, approved in the manner established by legal acts, must be submitted by the employer to the local labour exchange office for registration within 2 months from the day of issue of the work permit.

10. Industrial action (strike)

According to the Labour code, a strike means temporary suspension of work by the employees or a group of employees of one enterprise, or several enterprises, or a particular sector in the event of a collective dispute not being settled, or in the event of failure to perform, or improper performance of, the decision adopted by the Conciliation Commission, Labour Arbitration or third party court, which is acceptable to the employees, or in the event of failure to resolve a collective labour dispute through a mediator, or in the event of failure to implement the agreement reached during the mediation process.
The right to adopt a decision to declare a strike is vested in the trade union according to the procedure laid down in its regulations or by labour council in some cases set by laws. A strike is declared if a corresponding decision is approved by secret ballot by:

1) more than half of enterprise employees who voted in favour of a strike in the enterprise;
2) more than half of structural subdivision of the enterprise employees who voted in favour of a strike in the enterprise.

The employer must be given an at least seven days written notice of the beginning of the intended strike by communicating to him the adopted decision. A warning strike lasting not longer than two hours may be held before the strike is declared. A warning strike can be declared also by trade union or labour council. The difference is that there is no need for employees' approval. The employer also must be given an at least seven days written notice of the warning strike.

A strike is lead by strike committee formed by trade union or labour council (it depends on which one made the decision to declare strike).

When a strike is called, the employer or the entity to which the demands have been submitted may apply to the court with a petition to declare the strike unlawful. The court shall hear the case within ten days. Upon the coming into effect of the court decision to recognise the strike as unlawful, the strike may not be commenced and the strike already in progress must be broken off immediately.

No one may be forced to join a strike or to refuse to take part in a strike. Where there is a strike, the performance of the employment contract with respect to striking employees is suspended, whereas their service is treated as continuous and they retain their social protection. Employees who are parties to a strike are not being paid any remuneration, they are released from their obligations to perform their work functions. An agreement may be reached during the negotiations for the breaking off of the strike that the striking employees will be paid the full amount or part of their wage or salary. Non-striking employees who are unable to perform their work by reason of the strike are being paid for the involuntary idle time or they are transferred upon their agreement to another job.

11. Non competition clause / other restrictive stipulations

Under the laws is not prohibited to make non competition agreements between an employer and employee. Non competition agreements can be made as:

1) separate (civil) non competition contract;
2) non competition clause or annex in an employment contract.

In case of such agreements employee undertakes not to compete with his former employer after the employment contract is terminated. This means that an employee undertakes not to work for entity which is competing with his former employer or not to participate in business which is competing with his former employer' business. Former employer commits to pay a fair compensation in a change.

Non-competition agreements are not regulated in labour legislation and the biggest part of regulation comes from case law.
According to the case law, non competition agreement can be made with such employee who during the term of employment contract can get information which can not be disclosed without making any harm to former employer. The non-compete agreement on non competition clause typically covers a fixed post-termination period, determination what kind of action of former employee can be treated as competition, and a compensation mechanism. Under the Civil Code the maximum period for non competition agreement can be two years but in practice it thought that non competition agreement shall be about one year duration.

12. Restructuring and redundancy

As a general rule, the employment contracts are binding to both parties. There are only very limited possibilities to adversely change the agreed conditions. An employer can change the conditions of an employment contract only in the event of changes in production, its scope, technology or labour organisation, as well as in other cases of production necessity. The essential conditions of an employment contract (see item 4 "employment contracts") may be changed with the prior written consent of an employee, except for the cases of emergency. An employer may change the conditions of remuneration for work without the written consent of an employee only in the case when remuneration for a specific sector of economy, enterprise or category of employees is changed by laws, Government resolutions or under the collective agreement. In the event of changes in the conditions of payment remuneration, wages can not be reduced without the written consent of an employee. For more information about business transfers or termination of employment see in items 2 "business transfers" and 17 "termination of employment".

13. Secondment of employees and expatriates

A. Secondment of employees

The secondment of employees under national laws is described as the situation whereby a company hires temporary staff from temporary work entities. The secondment of employees means that temporary employees are employed in temporary work entities with the purpose to send them work in the benefit of temporary work users and under their control after the temporary employment contract was made. The main restrictions for temporary work entities and temporary work users are:

- there can be no employment limitations of temporary employees at temporary work users;
- there can be no requests for temporary employees to compensate any expenditures on the grounds of making temporary employment contract, performing or terminating thereof.

Temporary employment users also must ensure healthy and safety work conditions (see item 7 “healthy and safety”), anti-discrimination provisions (see item 1 “anti-discrimination regulations”) and etc.

These employment contracts may be non-term or fixed-term. Secondment contracts also must include some essential provisions which are additional to those being set in Labour Code (see item 4 “employment contracts”). These provisions are:

1) procedure of starting, sending and cancelling employees from secondment;
2) procedure of giving information about the start and cancelation of the secondment;
3) wages and payment procedures;
4) working time regime.

If an employee works more than 5 working days in a row than his wage can not be less than the minimum wage set by the Government.

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B. Business trips

The employees on business trips are guaranteed that during the period of the business trip they retain their job/position and the wage. Moreover, they are paid per diem and the costs relating to the business trip shall be defrayed to them. These amounts and the manner of payment are determined by the Government. Pregnant women, women after the confinement and breast-feeding mothers, the employees raising a child before he has reached the age of three as well as the employees who and are raising, as single parents, a child before he has reached the age of fourteen or a child with disabilities before he has reached the age of eighteen may be sent on a business trip only subject to their consent. Additional guarantees are set for employees who have been sent to work abroad and expatriates who have been posted for a limited period to work in the territory of Lithuania by their foreign employers. These guaranties are applied regardless the law applicable to their employment relationships.

C. Social security on expatriates

With EU accession the EU Social Security Decrees (1408/71 and 574/72) became binding in Lithuania. Pursuant to these regulations, EU nationals working in Lithuania are subject to social security in Lithuania regardless of the place of employment. This does not apply to individuals who were sent to Lithuania on short-term secondments. They are allowed to stay in the home country system if the secondment period is less than 12 months (this can be extended to 2 years). Similar rules apply to Lithuanian nationals working in other EU countries.

For more information you can also see in items 4 “employment contracts”, 9 “immigration and work permits” and 14 “social security”.

14. Social security

The social security system in Lithuania is comprised of the social insurance system, the medical insurance system and the social support system. The most significant components of the State social security system are the social insurance system (including pension insurance) and the medical insurance system. Employers (i.e. Lithuanian economic entities or individuals that pay wages to employees) are required by law to pay or withhold contributions in full on behalf of their employees. Additionally, the law also provides for voluntary social insurance.

Employers must pay to the State Social Security Fund a mandatory social security contribution for every employee. The employer’s contribution equals about 31% of the employee’s gross wage: from 0.18% till 1.8% - labour accidents’ insurance, 3% - medical insurance, 23.3% - pension insurance;

3.4% - sickness and maternity or paternity insurance; and 1.1% - unemployment insurance. Therefore, social security contributions depend on the employee's gross wage which may not be less than the minimum wage set by the Government (from 1 January 2013 set at LTL 1000 (about EUR 290) per month). Employer's social security contributions are not withheld from the gross wage, but must be calculated separately on top of the gross salary and paid not later than the last working day before the 15th day of the following month. The State Social Security Fund transfers medical insurance contributions to the National Patients' Fund.

There is also the Guarantee Fund which main purpose is to ensure the payment of limited amount salaries to the employees of the enterprises that are under bankruptcy procedures or have been adjudged bankrupt. Employers must pay to the Guarantee Fund a mandatory contribution for every employee. The employer's contribution equals 0.2% of the employee's gross wage.

Employers must withhold 3% of the employee's gross wage as a social insurance contribution payable to the State Social Security Fund.

Insured individuals are entitled to the following benefits under the social and medical insurance system:

1) old-age pensions;
2) disability pensions;
3) widow, widower or orphan's pensions;
4) sickness or temporary disability benefits;
5) maternity or paternity benefits;
6) medical services
7) unemployment benefits;
8) compensation for occupational accidents (compensation for illness resulting from an occupational accident or occupational disease; single payment of compensation for work disablement; periodic payment of compensation for work disablement);
9) funeral benefits.

15. Specifics Lithuanian employment law

Issues concerning Lithuanian employment law are mainly regulated by the Labour Code. However, there are separate laws governing particular issues related to employment such as Law on Employment through Temporary Employment Entities, Law on Safety and Health at Work, Law on State Social Insurance and other social security laws or legal acts (social security law is not codified in Lithuania), various legal acts on labour of the Government and Minister of Social Security and Labour. Most of the provisions in the Labour Code are imperative or semi-imperative. This means that the terms of employment regulated in the Code can be changed only in favour of the employee or with his agreement. Provisions of the Labour Code are effective only towards persons performing their work under an employment contracts available under the Code. Provisions of the Labour Code do not concern persons rendering services based on civil-law contracts.

16. Tax matters

Individuals (natural persons) who get income during the tax period in Lithuania or outside it may be required to pay personal income tax in Lithuania. The tax period of income tax coincides with the calendar year.

A. Tax residence

The income tax of individuals must be paid on income derived by:

- residents of Lithuania,

- non-residents of Lithuania who pay the tax on income sourced in Lithuania.

The person (irrespective of whether he is a national of Lithuania or of a foreign state, or a person without nationality) shall be considered a resident of Lithuania in taxation sense during the calendar year, if he meets at least one criterion specified:

1) any natural person whose permanent place of residence is in Lithuania during the calendar year ***or***
2) any natural person who has more personal, social and economic interests in the calendar year in Lithuania than abroad ***or***
3) any natural person who is present in Lithuania for a period or periods in the aggregate of 183 days or more during the calendar year, ***or***
4) any natural person who is present in Lithuania for a period or periods in the aggregate of 280 days or more during two successive calendar years and who stayed in Lithuania for a period or periods in the aggregate of 90 days or more in any of such year (in this case the person shall be considered a resident of Lithuania during both years of his presence in Lithuania).
5) Any natural person who is a citizen of the Republic of Lithuania and who receives remuneration or whose costs of living are covered from the state budget of the Republic of Lithuania shall be considered a resident of Lithuania.

B. Taxable base

B.1. Resident's taxable base

Resident's taxable base is all income of a resident of Lithuania sourced inside and outside of Lithuania.

B.2. Non-resident's Taxable base

Resident's taxable base is all income of a non-resident of Lithuania sourced in Lithuania, i.e.: income from individual activities carried out through the fixed base, as well as income derived in foreign countries, which is attributed to the fixed base in Lithuania and related to the activities of a non-resident of Lithuania through the fixed base.

Income sourced in Lithuania and derived otherwise than through the fixed base:

1) income from interest;
2) income from distributed profit and annual payments (bonus shares) to members of the board of directors and of the supervisory board;
3) income from the lease of property immovable by nature located in Lithuania;
4) royalties;
5) income related to employment relationships or equivalent relationships;
6) income from sports activities, including income directly or indirectly related to such activities, irrespective of whether it is paid directly to an athlete or any third party acting on behalf of the athlete;
7) income from performing activities, including income directly or indirectly related to such activities, irrespective of whether it is paid directly to a performer or any third party acting on behalf of the performer;
8) proceeds from the sale or other transfer into ownership of movable property if that type of property is subject to legal registration under legal acts of the Republic of Lithuania and is (or must be) registered in Lithuania, as well as immovable property located in Lithuania;
9) compensations for infringements of copyright and related rights.

C. Tax rates

As from 1 January 2009, all income is subject to a uniform tax rate of 15%, unless otherwise provided for in Law of Personal Income Tax. Such cases are:

1) Rate of 20% is applied to income from distributed profit. Such income includes dividends (funds received by a member of an entity as a result of the distribution of the profit thereof or

the reduction of the authorised capital thereof, or the fair market value of property received). Income from distributed profit does not include income received by a member of an entity of unlimited civil liability.

2) Rate of 5% is applied to income from individual activities, except for income from free professions and from securities (including income from derivative financial instruments). (The provisions are applied to calculate and report income for 2010 and for subsequent tax periods)
3) The income tax of a fixed amount is paid to acquire a business certificate. The fixed amount is set by municipal councils.

D. Agreements for the Avoidance of Double Taxation

If the international agreement for the avoidance of double taxation prescribes more favorable conditions for the taxation of the income of non-residents than those provided by the national Law on Personal Income Tax, the provisions of the international treaty shall apply. One can apply for the tax incentives or exemptions arising from these tax treaties if he has certified his residence status to the tax authority, which can be done using the DAS Forms (available on the website of the STI). In the event that personal income tax has been withheld at a higher rate than prescribed in the tax treaty, one may apply to the STI within 5 years from the deadline for the payment of the tax for a refund of the overpaid tax amount.

17. Termination of employment

There are strict labour regulations on termination of employment contract in Lithuania. One party to an employment contract (employer or employee) may offer in writing the other party to terminate the employment contract by agreement between the parties. If the latter accepts the offer, it must, within seven days, notify thereof the party, which has put forward the offer to terminate the employment contract. Having agreed to terminate the contract, the parties shall conclude a written agreement on the termination of the contract. This agreement shall indicate the date when the contract shall be terminated as well as other conditions of the termination of the contract (compensation, granting of unused leave, etc.). If the other party fails to inform that it agrees to terminate the contract within seven days, the offer to terminate the employment contract by agreement between the parties shall be considered as rejected.

An employer may terminate a non-term employment contract with an employee only for valid reasons by giving him written notice thereof in accordance with the procedure established in Labour Code. The term of notifications is two months in advance. The dismissal of an employee from work without any fault on the part of the employee concerned is allowed if the employee can not, with his consent, be transferred to another work. Only the circumstances, which are related to the qualification, professional skills or conduct of an employee, shall be recognised as valid. An employment contract may also be terminated on economic, technological grounds or due to the restructuring of the workplace, as well as for other similar valid reasons, but not on those mentioned in item 2 “business transfers”. An employment contract with employees, who will be entitled to the full old age pension in not more than five years, persons under 18 years of age, disabled persons and employees raising children under 14 years of age may be terminated only in extraordinary cases where the retention of an employee would substantially violate the interests of the employer. All types of these employees must be given a written notice about termination four months in advance.

An employee is in much more favourable position because he can terminate employment contract much easier. An employee is entitled to terminate a non-term employment contract, as well as a fixed-term employment contract prior to its expiry by giving his employer written notice thereof at least fourteen working days in advance. Where employee‘s request to terminate the employment contract is justified by the employee’s illness or disability restricting proper performance of work, or for other valid reasons established in the collective agreement, or where the employer fails to fulfil his obligations under the employment contract, violates laws or the collective agreement, the term of notification on

termination is at least three days in advance. An employee is also entitled to withdraw his request to terminate the employment contract not later than within three days of the submission of the request. Afterwards he may withdraw his request only with the consent of the employer.

Fixed-term employment contract can be terminated upon the expiry of it by an employer or employee. If neither of the parties terminates the employment contract, the contract is considered to become non-term.

Contracts of employees with special protection against termination (i.e. handicapped persons, pregnant women) are subject to special regulations.

18. Trade Unions

Trade unions do not play an important role in employment relationships in Lithuania. According to official statistics, only 10% of the employees were members of trade unions in year 2011. All trade unions can operate freely, independently and have equal rights in Lithuania.

All employees have the right to join trade union and to participate in their activities. Employers or their authorized representatives operating in the company, institution or organization can not join the trade unions.

19. Works Council

A works council may be established when there is no trade union in an enterprise and no decision has been made at an employee meeting to transfer rights of representation and protection to the relevant sectorial trade union. An enterprise can have one works council only, irrespective of the number of branches or subsidiaries it may have.

A works council may be established in an enterprise that employs at least 20 employees, and is elected by an employee meeting. In smaller enterprises, the function of the works council is transferred to an employee representative elected by an employee meeting. The employee meeting that elects the works council or employee representative is considered to be quorate if at least half of the employees participate. The law gives employees the right to initiate the establishment of a works council. The employer must announce the election of the works council's members upon receipt of a written proposal to establish one, signed by at least one-tenth of the employees.

Depending on the number of employees in the enterprise, a works council may have a minimum of three and a maximum of 15 members. The term of office is three years. All employees of the enterprise who are at least 16 years old and have worked for the enterprise for at least six months may be elected onto works councils except those who works on fixed-term employment contract. The employer and its representatives have no right to works council membership.

The law gives works councils the right to participate in information and consultation procedures, conclude collective agreements, and bring court cases concerning the legality of employer decisions. However, works councils cannot undertake functions that are entrusted by law only to trade unions, such as calling a strike.

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