Rödl & Partner

Tax Toolbox

29. April 2020

Nordic-Baltic region

Content

Introduction

Dear readers,

In times of crisis, every company is looking for opportunities to increase immediate liquidity as well as planning for long term solutions. While authorities in many countries are offering immediate tools and remedies, such as tax holidays, interest free loans and other state aid measures, it is still mostly optional to defer immediate payments and once the situation will improve, all outstanding liabilities will be payables again. This will grant relief to the company's immediate cash flow needs, however, there will be a need for long term tools. In this brochure, we compiled some basic ideas how to utilize the existing tax law in order for companies to increase their liquidity long term. More importantly, those tools will be able to reduce payable taxes instead of deferring tax liabilities.

In the following part we will discuss in more detail a few opportunities we have recognized:

Accelerated input tax deduction

The value added tax system grants opportunities to get more time before having to pay VAT, for example, by issuing an invoice to a customer in advance. Some countries may not recognize that VAT is payable at the moment of cash flow, but rather later in time - after an actual transaction takes place and the final invoice is issued to the customer. In contrast, in some countries VAT law allows to deduct input VAT from the advance payments made before an actual delivery of goods or services that takes place. This means that there is a possibility to refund input VAT at an earlier stage.. One of the issues that companies may not pay enough attention during the good times is the additional paperwork of some expenses that will be requested in order to explore the input VAT deductions fully. For example, some types of expenses, that have not taken place yet, require internal orders, instructions or policies. Such administrative burden may be awarded with additional refunds, both during and after the crisis.

The process of checking incoming invoices should be sped up as fast as possible regarding the substantive, legal and formal assessment of whether an input tax deduction can be made. The deduction should be made very soon after receiving the receipt of the invoice in order to claim the input tax amounts in the current VAT declaration.

Outstanding claims and debtors/adjustment to lost debts

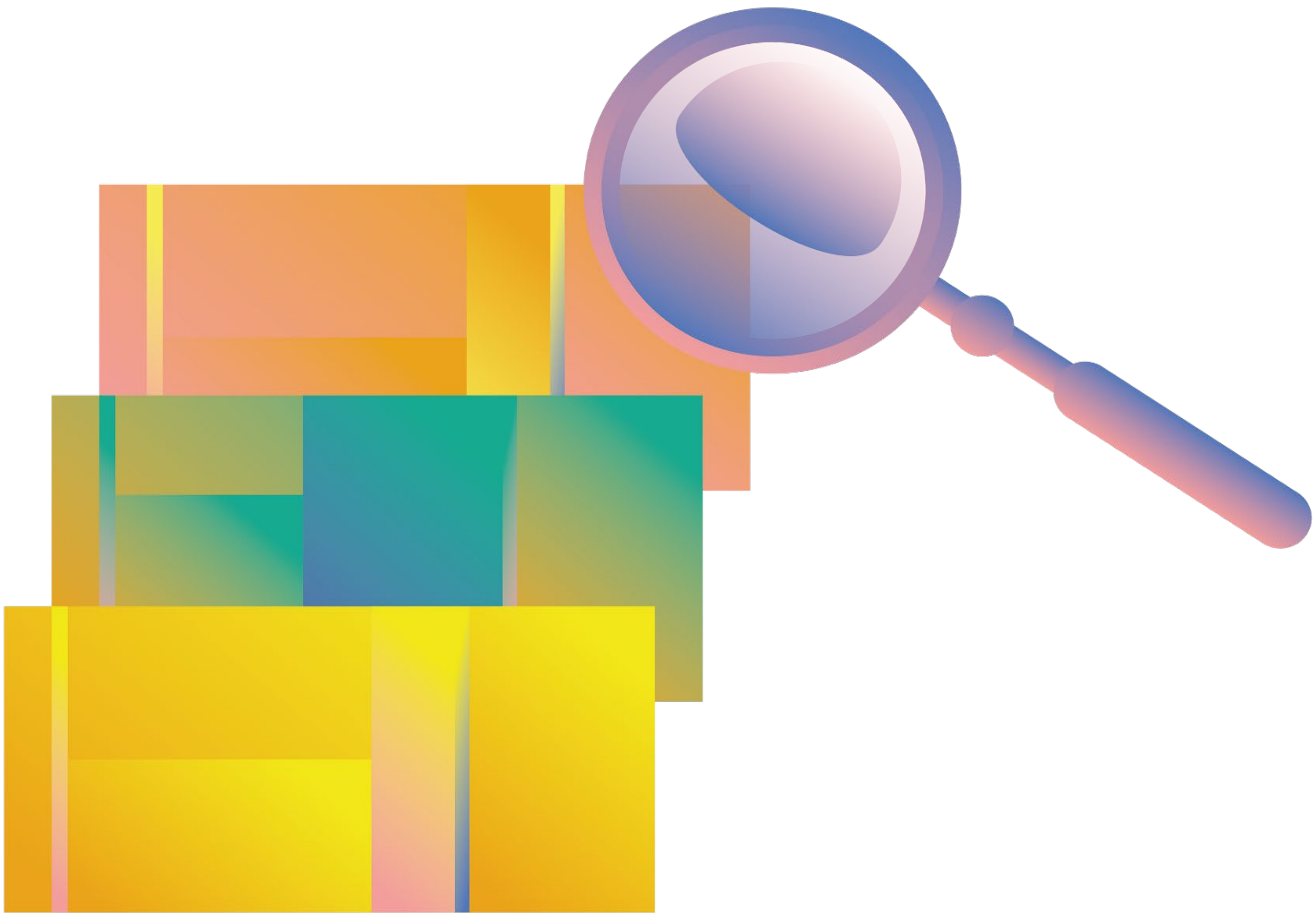
Since the seller is obliged to report and pay VAT, i.e., VAT should be pre-financed, even if a customer has some degree of a delay with the payments, outgoing invoices should be issued as soon as possible after the service has been rendered, in order to increase liquidity. Entrepreneurs should consider the payment deadlines agreed with their customers, possible purchase in instalments, etc.

In addition, almost all countries provide special regulation in order to make adjustments to already completed tax payments in cases where the payment of the debt is uncertain or lost. To get the opportunity to decrease (or even refund) VAT obligations from such debts, in addition to the process of checking open receivables and liquidity controlling, the reminder process must also be geared towards possible positive VAT (cash) effects. Under current VAT regulations, a certain list of criteria shall be fulfilled by companies to gain positive impact on cash flow. It is likely that certain additional administrative burden may arise prior to the award of VAT refund. It is important to note that similar regulations may be in place for some CIT purposes as well.

Similar to the regulation described regarding the input VAT deductibility, certain tools work for CIT purposes as well. For an example, there is an option to deduct certain types of expenses for tax purposes only if proper internal documentation is in place. This documentation might be additional orders, policies or other documents required to avoid the payment of Corporate income tax because of non-deductibility of such costs should be mentioned.

Countries with a regular CIT system (except Estonia and Latvia) grant special regulation on certain options to accelerate depreciation of fixed assets for tax purposes, thus achieving certain tax benefits by decreasing the taxable base.

For Latvia and Estonia, it is advisable to double check if under domestic regulations on CIT, certain types of expenses or transactions would not be deemed as profit distribution and thus trigger CIT payment. For example, Latvia has a right to tax loans to related parties if they are longer than 12 months („cash pool" agreements may trigger taxation as well).



Transfer pricing risks and opportunities

In many countries, tax law provides an obligation to impose corporate income tax if, as a result of transfer pricing transactions, expenses of a local company are too high, or the revenue is too low, provided that such expenses would have been lower or such revenue would have been higherif such a transaction had taken place between unrelated persons.

In a multinational group of enterprises (hereinafter – a MNE) some entities assume the risk of selling goods or services (i.e. it will be possible to sell in the planned quantity and time) and credit risk (i.e. there will be sufficient working capital to settle debts). Risk management may be entrusted to another entity of a MNE, or it may be outsourced to an unrelated party.

A counterparty of a transaction would, for its benefits during the crisis, seek a remuneration covering the financial risks, in order to secure the continuity of economic activity. Consequently, funding and liquidity play an important economic role at time of crisis, as opposed to other factors which can be looked at as secondary. This legal concept allows an enterprise to not only be able to exploit survival opportunities during the crisis, but also develop.

A more prudent decision would be to choose a strategy for a certain period of time to achieve a reasonably certain result, by following a predetermined consistency and by avoiding any significant deviations from the chosen strategy (hindsight). Such decision provides a possibility to manoeuvre in line with the market changes and to set the calculation of expenses and revenue for transfer pricing transactions in order to achieve the said strategic objective.

Therefore, for the sake of security of a local company and the group of related companies, a comprehensive and contemporaneous transfer pricing documentation is required.

Double taxation risks and opportunities

During the crisis, it might be important to initiate actions that may bring benefits long term, thus achieving advantages in comparison to competitors. Such additional actions may be associated with a well-grounded application to the tax authority to avoid double taxation due to regulations of double tax treaties. Treaties may help to prevent double taxation, which would create additional and serious damage to the cash flow situation. For example, it is advisable to avoid any application of withholding tax abroad to the possible extent, or to reduce it by requesting and receiving residence certificates – permission to apply benefits of tax treaty between countries.

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These are just a few examples to be considered in terms of taxes, in order to secure liquidity and optimize cash flow in the company. Contact us to go over the possible ideas in the individual tax types. We are more than happy to help.

Yours truly,

Elīna Putniņa
Certified tax consultant
Head of the tax department

Tax toolbox

LATVIA

Value added tax

- Options on possible later recognition of payable VAT;
- Options on possible earlier deduction of input VAT;
- Rights to deduct input VAT in specific situations;
- Options to increase deductibility of input VAT on costs not related to commercial activities;
- Review on risks related in cross border transactions.

Corporate income tax

- Options on deduction of long term investments in leased assets in certain cases;
- Options to reduce tax base on costs not related to commercial activities, i.e. possibilities to decrease non deductible costs;
- Options to avoid withholding tax abroad;
- Reducing possible double taxation risks in cross border transactions.

Debtors

- Options to adjust payable taxes (VAT and CIT) in cases of bad debts/lost debts;
- Analysis on preconditions for tax adjustments, i.e. refund on taxes paid on lost debts;
- Reduce the risks to pay CIT on bad debts / lost debts.

Transfer pricing

- Analysis on applied transfer prices, adjustment to comply with current market and economic situation;
- Shifting risks assumed within the group of companies;
- Choosing appropriate method to calculate transfer price;
- Analysis on applicable interest rates in the group transactions (adjust according to market situation);
- Rights to evaluate proper transfer pricing method and documentation to reduce possible tax risks for the upcoming taxation periods.

– Rights to tax deferrals

Tax toolbox

ESTONIA

Value added tax

- Options on possible earlier deduction of input VAT;
- Exploring the rights to deduct VAT on purchase of immovable property.

Debtors

- Explore options offered by tax law in order to gain benefits in case of bad debts / lost debts.
- Reduce the risks to pay CIT on bad debts / lost debts.

Corporate income tax

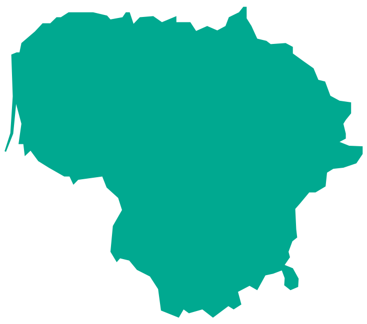
- Options to avoid withholding tax abroad;
- Reducing possible double taxation risks in cross border transactions.

Transfer pricing

- Rights to change the Transfer pricing policy during the year to comply with current market and economic situation;
- Shifting risks assumed within the group of companies;
- Rights to choose appropriate method to calculate transfer price;
- Analysis on applicable interest rates in the group transactions (adjust according to market situation);
- Rights to evaluate proper transfer pricing method and documentation to reduce possible tax burden for the upcoming taxation periods.

Tax toolbox

LITHUANIA



Value added tax

- Options on possible later recognition of payable VAT in case if actually services are provided or goods are supplied and the final invoice is issued not later than within 12 months after the advance payment is received;
- Options on possible earlier deduction of input VAT;
- Rights to deduct input VAT in specific situations;
- Options to increase deductibility of input VAT on costs not related to commercial activities.

Debtors

- Options to adjust payable taxes (VAT and CIT) in cases of bad debts / lost debts

Corporate income tax

- Options on acceleration on deduction of depreciation of fixed assets after the Tax authority permission, if the period actually used for tax purposes is longer than the minimum period required by the tax legislation;
- Options to reduce tax base on costs not related to commercial activities, i.e. possibilities to decrease non deductible costs;
- Options to avoid withholding tax abroad;
- Reducing possible double taxation risks in cross border transactions.

Transfer pricing

- Analysis on applied transfer prices, adjustment to comply with current market and economic situation;
- Shifting risks assumed within the group of companies, but only if the company assuming the risks takes control of the transaction, performs real functions and has assets to assume the possible risk;
- Analysis on applicable interest rates in the group transactions (adjust according to market situation);
- Rights to evaluate proper transfer pricing method and documentation to reduce possible tax burden for the upcoming taxation periods.

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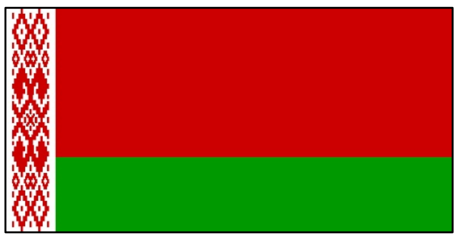
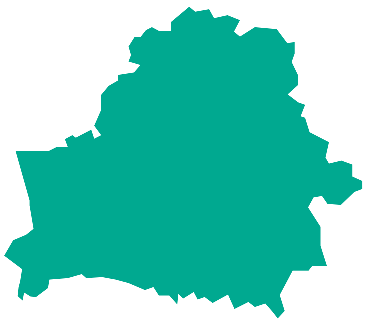
BELARUS





Value added tax

- Accrual principle can be used to postpone the payment of VAT: prepayments do not trigger any tax obligation;
- VAT from purchase of intangibles and fixed assets will be deductible in full during the next year; input VAT related to export activities of revenues taxed at a preferential 10% rate is always deductible in full;
- Certain measures (internal orders, proper documentation) can be taken to reduce non-deductible costs and VAT;
- Import VAT exemptions apply in several cases, such as e.g. purchase of machinery for a production entity, which is situated outside big cities.

Debtors

- Bad debt reserves are tax-deductible;
- The taxpayer, who has no money on the account to pay the taxes as on the due date, to submit a note to the tax inspectorate with a list of his debtors, who do not pay. Upon review of the respective documents, the accounts of the debtors will be charged automatically.

Corporate income tax

- Loss carry forward applies for 10 years for each type of activities separately. The carry forwards generally survive change of ownership of the enterprise and reorganisations;
- Investment bonus amounting to 15-30% is granted upon commissioning of a purchased or constructed fixed asset. Conditions: fixed assets for production purposes only, no rented assets, no sale or other retirement 3 years after commissioning;
- Options to avoid withholding tax abroad. Residence certificate should be provided before the purchase of services takes place, otherwise the tax is payable and will be reimbursed in Belarusian roubles upon submission of the residence certificate.

Transfer pricing

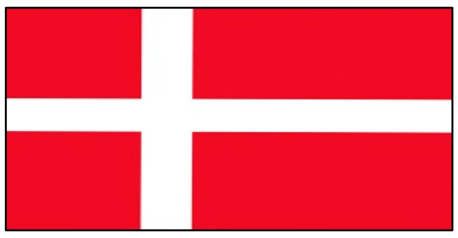
- Rights to use Transfer pricing documentation with some adjustments for three years in a row (i.e. TP documentation for 2019 can be used for 2020 and 2021);
- The Transfer pricing documentation for 2020 cannot be requested before June 1, 2021. Currently any information about the comparables in 2020 will be not reliable or not full, thus it is advisable to prepare Transfer pricing documentation for 2019 and adjust them after the end of 2020 by using the CPI in accordance with the law;
- Interest rates are not subject to Transfer pricing regulation, however the thin capitalisation rules should be observed.

Social security payments

- Most of the enterprises may opt for the quarterly (and not monthly) social security payments.

Tax toolbox

DENMARK



Value added tax

- VAT reporting and payment has been postponed by law.

Debtors

- Options to adjust payable taxes (VAT and CIT) in cases of bad debts/lost debts when debtor is in difficulties;
- Bad debt loss is deductible both for VAT purposes and for CIT purposes.

Corporate income tax

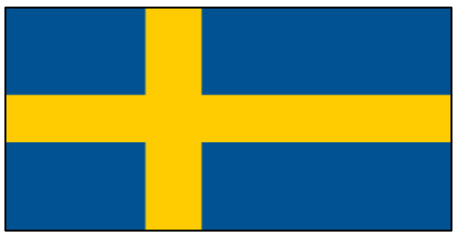
- Fixed assets are depreciated by the declining method; i.e. 25 % of residual value;
- Options on deduction of long term investments in leased assets, depending on leasing conditions.

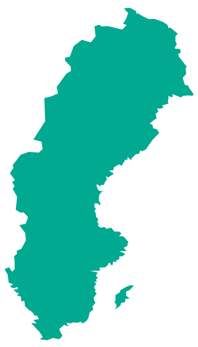
Transfer pricing

- Analysis on applicable interest rates in the group transactions (adjust according to market situation).

Tax toolbox

SWEDEN





Value added tax

- Options on possible later recognition of payable VAT;
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- Rights to deduct input VAT in specific situations, if certain criteria is met.

Debtors

- Options to adjust payable taxes (VAT and CIT) in cases of bad debts / lost debts, if certain criteria is met;
- Analysis on preconditions for tax adjustments, i.e. refund on taxes paid on lost debts.

Corporate income tax

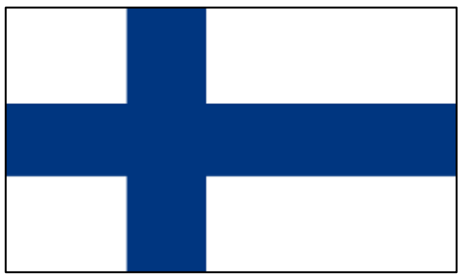
- Options to reduce tax base on costs not related to commercial activities, i.e. possibilities to decrease non deductible costs;
- Options to avoid withholding tax abroad;
- Reducing possible double taxation risks in cross border transactions.

Transfer pricing

- Adjustments of profit margin for the local company should normally be accepted by the Tax Agency, if it can be demonstrated that the whole Group of companies is experiencing a reduced profit level or loss caused by the corona crisis;
- Shifting risks mainly related to financing within the group of companies;
- Analysis on applicable interest rates in the group transactions (adjust according to market situation);
- Rights to evaluate proper transfer pricing method and documentation to reduce possible tax burden for the upcoming taxation periods.

Tax toolbox

FINLAND



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About us

Rödl & Partner in the Nordic-Baltic region

As attorneys, tax advisers, management and IT consultants and auditors, we are present with 109 own offices in 49 countries. Worldwide, our clients trust our 5,120 colleagues.

Rödl & Partner is not a collection of accountants, auditors, lawyers, management and tax consultants working in parallel. We work together, closely interlinked across all service lines. We think from a market perspective, from a client's perspective, where a project team possesses all the capabilities to be successful and to realize the client's goals.

Our interdisciplinary approach is not unique, nor is our global reach or particularly strong presence among family businesses. What truly distinguishes us is devotion to comprehensively supporting German businesses, wherever in the world they might be.

Rödl & Partner has been present in the Baltic States for more than 25 years. As the leading consulting company of German origin, Rödl & Partner supports via its offices in Riga, Tallinn and Vilnius some of the most important investment and major transaction projects by foreign companies in the region.

More than 130 employees in the Baltics offer legal, tax and economic advice from a single source and thus provide local know-how, worldwide experience in international matters.

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