

WORKING AGREEMENT BETWEEN THE TAX ADMINISTRATIONS OF THE REPUBLIC OF ESTONIA, THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA ON THE ORGANISATION OF SIMULTANEOUS TAX AUDITS

1. Introduction

To increase the efficiency of exchange of information and to deal more effectively with cases of tax avoidance and tax evasion, the tax authorities of Latvia, Lithuania and Estonia have decided to implement simultaneous tax audits of selected taxpayers carrying out business activities in these States.

The present agreement shall apply also to simultaneous audits where only two States participate.

In order to make the work more efficient, such simultaneous tax audits must be conducted in accordance with the following working agreement.

2. Definition

For purposes of the present Agreement simultaneous tax audit (hereinafter - simultaneous audit) means a simultaneous and independent examination of taxpayers whose tax compliance is of interest to the three (two) Contracting States (hereinafter – States), within the territory of each State, with the objective of exchanging any relevant information which they so obtain.

3. Legal basis

The legal basis for simultaneous audits is the Conventions "For The Avoidance Of Double Taxation And The Prevention Of Fiscal Evasion With Respect To Taxes On Income And On Capital" (see article 26) concluded bilaterally between the Republic of Estonia and the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, the Republic of Latvia and the Republic of Lithuania.

4. Financial provisions

Simultaneous audits are carried out as a regular part of the States tax control activities. Each State itself covers the costs of this work.

Valsts ieņēmumu dienests
Juridiskā pārvalde
"Sapņots"
1999. g. 3. 06
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5. Performance of simultaneous audits

The responsibility and management of simultaneous audits shall be exercised in accordance with the procedures of each State.

A simultaneous audit comprises identification and control of the problem areas of a specific case, e.g. transfer pricing.

However, information and experience should also be exchanged concerning matters ascertained in connection with the national tax audit and which may be important for or initiate examinations in the other States.

5.1. Responsibility and management

Organisation of simultaneous audits takes place on three levels (see the Appendix).

5.1.1 The heads of the tax administrations

The overall responsibility for arranging simultaneous audits lies with the heads of the tax administrations of the States.

5.1.2. The board of representatives of tax administrations

The board of representatives of tax administrations (hereinafter – the Board) consists of 3 persons - one Representative from the tax administration of each State concerned. The Board is set up by and is responsible to the heads of tax administrations. The Board is working permanently.

The work of the Board during a certain period is lead by the Chair-person - one of these three Representatives who is appointed at a meeting of the Board. At the same meeting the time frame for the Chair-person's activities is established (possibly - till the next meeting or next simultaneous audit, etc.).

Functions of the Chair-person :

- 1)organises the board meetings and exchange of information among representatives;
- 2)at the end of the year prepares a report on the performance in the area of simultaneous audits, submits it to the board and the heads of tax administrations.

The Board chooses the working language at its own discretion but all joint documents are drafted and signed in English. Each Representative may invite additional specialists to the board meetings, if needed.

The Board ensures that simultaneous audits are performed according to plans and

the simultaneous audits are carried out in an efficient and rational manner.

Functions of the Board:

- 1)discusses the proposed simultaneous audit objects;
- 2)selects simultaneous audit objects;
- 3)establishes the audit objectives, audit terms and period to be audited;
- 4)decides which State will be co-ordinator for the concrete simultaneous tax audit (usually it is the State which has initiated the simultaneous tax audit, but if the company has its main office in one of the States, it would be natural for that State to be the co-ordinator);
- 5)undertakes responsibility for the formation of a simultaneous audit group in their States;
- 6)conducts general procedural and organisational management of simultaneous audit process, sets the procedures of the exchange of information;
- 7)sets the time, place and objective for the next meeting of the board.

5.1.3. Simultaneous audit group

The simultaneous audit group (hereinafter - the audit group) consists of tax administration representatives of each State - simultaneous audit groups of each State, who will carry out the particular audit. One of the auditors of the respective State will be appointed by the State as the leading auditor in his/her State.

The leading auditor of each State is responsible for:

- 1)performance of simultaneous audit in his/her State;
- 2)organisation of exchange of necessary information;
- 3)regular information to project leader about the course of simultaneous audit;
- 4)preparation of the final report on audit results in his/her State and its submission to the project leader.

The State that is the co-ordinator appoints a person to be a project leader.

The project leader is responsible for:

- 1)drawing up proposals for a time schedule and the overall framework for performing a simultaneous audit. The time schedule shall be submitted to the Board;
- 2)convening and conducting of joint planning meetings; drawing up of minutes of the proceedings at all meetings;
- 3)selecting joint tax control areas;
- 4)ensuring collection and distribution of tax audit information (i.e. information concerning all States);
- 5)following the progress of the simultaneous audit in the States;
- 6)communicating information about the progress of the simultaneous audit, about successful and less successful tax audit initiatives;
- 7)if necessary organising participation of audit group representatives from one State

- in the simultaneous audit process of the other State;
- 8) identifying possible conflicts of interest between the participating States and contributing to a reasonable solution of such conflicts;
 - 9) reporting to the Board if the time schedule for the audit is not adhered to by one or more of the States;
 - 10) planning and convening the final meeting;
 - 11) holding a final meeting for the leading auditors, i.e. before the audit is completed in various States;
 - 12) preparing final report of a simultaneous audit.

The audit group chooses the working language at its own discretion.

5.2. Case selection

The tax officials of each State will identify independently the taxpayers it intends to propose for a simultaneous audit.

The objects of the simultaneous audit must be taxpayers that are of interest for three (two) States and whose business is related to three (two) States.

The factors considered in determining whether a case is selected will primarily be, but will not be limited to:

- 1) indication of tax avoidance and evasion;
- 2) indication of substantial non-compliance with the tax laws;
- 3) existence of transactions involving a "tax haven";
- 4) situations where the competent authorities consider it is in the interest of the tax administrations concerned in order to promote international tax compliance.

The case selection shall be based on motivated proposals from each State.

The Representative of each State submits a list of audit objects to the board for consideration.

The list should contain the name of the simultaneous audit object, its registration number and legal address, the period would be audited and motivation of selection. Other relevant information may contain particulars about founders, the shares they own, subsidiaries (associated enterprises), branches of activity, etc.

The Board selects the audit objects. Representatives analyse the submitted proposals, taking into consideration the information available to the tax administration of each State.

The number of selected audit objects is not limited.

5.3. Planning of the simultaneous audit

Prior to the planning meeting preliminary analysis should have been conducted in all participating States.

Before each State commences the actual simultaneous audit of the selected taxpayer, a joint planning meeting of the leading auditors shall be held, if necessary, during which more detailed guidelines for implementing the tax control are agreed upon.

It is recommended that the first approaches to the companies are made simultaneously in all States concerned, i.e. within the same week. The formal rules of the each State concerned should naturally be observed.

At a planning meeting the leading auditors should attempt to identify simultaneous audit areas that are of common interest and matters in which mutual assistance can be offered in connection with the simultaneous audit.

It should be agreed how and to what extent each State shall carry out simultaneous audits and to what extent tax control information shall be exchanged.

However, no exchange of formal audit plans will be carried out between the States.

Should the legislation of the States concerned so allow it can be decided the auditors from one State concerned can participate in the simultaneous audits in the other States.

A time schedule for the implementation of simultaneous audits shall be drawn up. This schedule shall set deadlines for concluding different steps of the audit, i.e. performance of the audit in the company, the holding of meetings and the conclusion of the case.

5.4. Communication among auditors

Exchange of information must take place in accordance with the provisions of the Conventions "For The Avoidance Of Double Taxation And The Prevention Of Fiscal Evasion With Respect To Taxes On Income And On Capital" (see article 26) concluded bilaterally between the Republic of Estonia and the Republic of Latvia, the Republic of Estonia and the Republic of Lithuania, the Republic of Latvia and the Republic of Lithuania.

It should be ensured that the leading auditors participating in the individual projects are continuously and fully informed as to how far each State has progressed with their audit work.

The leading auditors can communicate between themselves, but shall keep the project leader informed. The project leader shall be responsible that leading auditors participating in the case receive information about developments in the case. This can be done by, for example, sending out periodical information sheets, circular letters, newsletters, infos, etc.

Meetings of leading auditors shall be held as needed and if necessary with the auditors working on the case.

It is the project leader's responsibility to hold such meetings whenever needed.

6. Completion of the case

After completion of the simultaneous audit, but before the final negotiations with the taxpayer, a final meeting of the leading auditors should be held if necessary. At such a meeting the results of the simultaneous audit are discussed.

At this meeting the participants shall attempt to agree on a common attitude towards the company in the areas covered by the simultaneous audit, where there is a concurrence between the legislation of the States concerned.

7. Discontinuing the simultaneous audit

If one of the States concludes that it is no longer beneficial to continue the simultaneous examination of the case, it may withdraw by notifying the other State about its decision, but nevertheless it has the obligation of fulfilling the requests from the States concerned.

8. Final report

At the completion of the case an evaluation shall be made.

The leading auditor of each State shall prepare a separate final report on simultaneous audit results, submits (mails) it to the project leader who shall prepare a final report on the simultaneous audit and submit it to the Board and to the heads of tax administrations. Thus the submission of final reports shall be considered as the end of the simultaneous audit.

The reports are drafted in the English language.

These reports shall contain the following minimum amount of information:

- 1) on audited taxpayers;
- 2) on the period audited;

- 3) on tax auditors having carried out the audit;
- 4) on audit time schedule;
- 5) description of the subjects and areas in which the joint control was carried out;
- 6) assessment of the results can be attributed to the simultaneous audit;
- 7) the way of exchange of information between the States used; the type of information exchanged;
- 8) problems arisen as well as solutions proposed during the simultaneous audit;
- 9) proposals for the improvement of simultaneous audits organisation;
- 10) evaluation of the usefulness of simultaneous audits.

9. Final provisions

The present agreement is the basis for organisation of simultaneous tax audits by the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania

This text has been approved at the meeting of the heads of the Tax Administrations of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania in Tallinn on 3 June 1999.

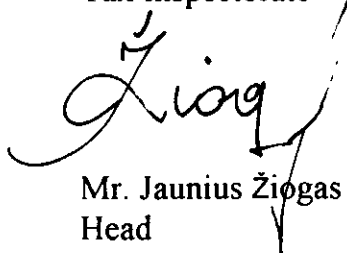
Concluded in Tallinn, 3 June 1999

On behalf of the
Latvian State
Revenue Service



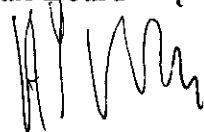
Mrs. Vaira Gromule
Deputy Director General

On behalf of the
Lithuanian State
Tax Inspectorate



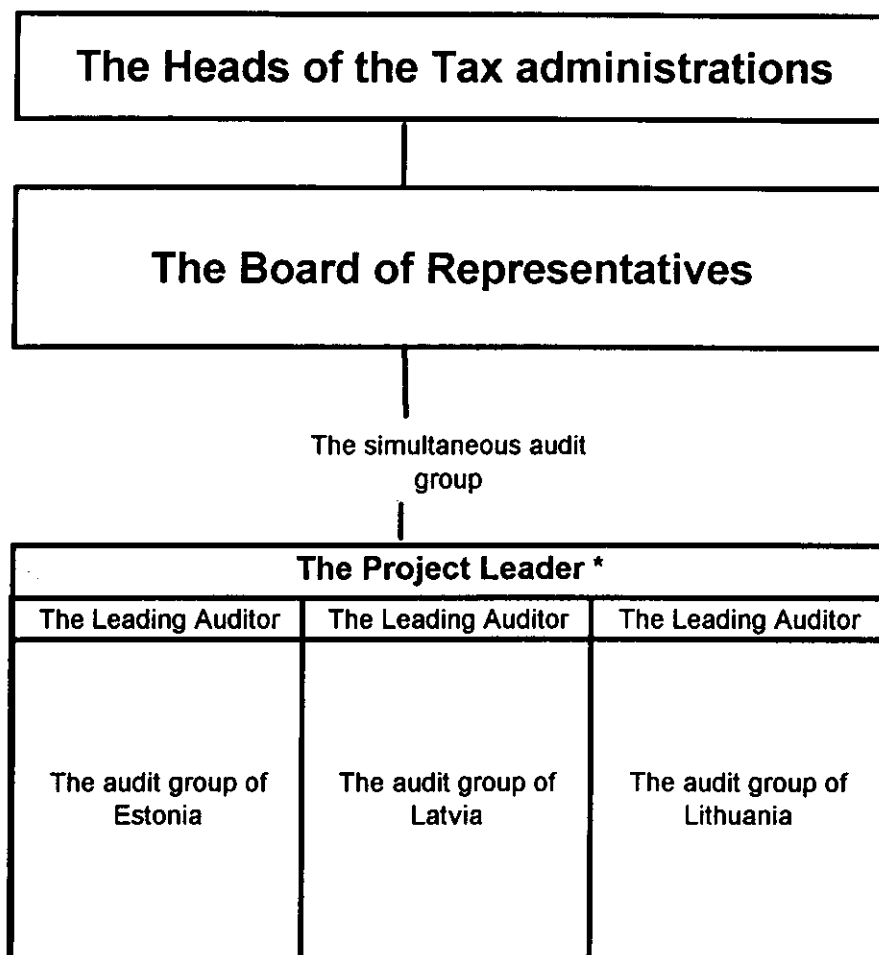
Mr. Jaunius Žiogas
Head

On behalf of the
Estonian National
Tax Board



Mr. Aivar Sõerd
Director General

Organisation of the simultaneous audit



* The Project Leader is one of the Leading Auditors.

**THE ROUND TABLE MEETING ON CO-OPERATION BETWEEN THE TAX
ADMINISTRATIONS OF THE BALTIC STATES**

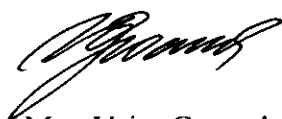
Tallinn, 3-4 June, 1999

**MEMORANDUM
On the organisation of simultaneous tax audits**

1. To increase the efficiency of information exchange and to deal more effectively with cases of tax avoidance and tax evasion, the tax administrations of the Republic of Estonia, the Republic of Latvia and the Republic of Lithuania have decided to implement simultaneous tax audits of selected taxpayers carrying out business activities in these States.
2. In order to make the work more efficient, such simultaneous tax audits should be conducted in accordance with the Working Agreement between the tax administrations of the Republic of Estonia, the Republic of Latvia, the Republic of Lithuania on the organisation of simultaneous tax audits signed at this meeting.
3. The Working Agreement is of great importance in the preparation of the Baltic States for EU accession.
4. Having regard to the Working Agreement, the Contracting Tax Administrations have decided :
 - 4.1. the activities for the implementation of simultaneous tax audits shall start of the autumn 1999;
 - 4.2. in order to monitor these activities, the Board of representatives of the Tax Administrations (hereinafter - the Board) shall be set up within a month after the Working Agreement has been signed;
 - 4.3. the Board shall start carrying out its functions, according to the provisions of the Working Agreement, by 1 September 1999;
 - 4.4. the first meeting of the Board shall be arranged by the Estonian National Tax Board.

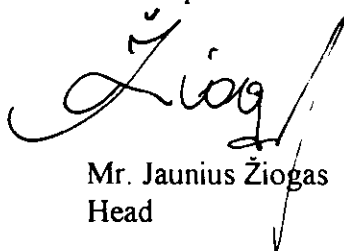
Concluded in Tallinn, 3 June 1999

On behalf of the
Latvian State
Revenue Service



Mrs. Vaira Gromule
Deputy Director General

On behalf of the
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Tax Inspectorate



Mr. Jaunius Žiogas
Head

On behalf of the
Estonian National
Tax Board



Mr. Aivar Sõerd
Director General