

9th annual seminar
Expatriate Tax Planning 2011
in the Baltics

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LAW FIRM
GENCS VALTERS

Riga, March 10, 2011

Avoidance-acceptable

Evasion-non acceptable

Al Capone

The granddaddy of 'em all. Legend has it that the notorious gangster once remarked that tax laws were a joke because "the government can't collect legal taxes on illegal money."

The IRS charged the infamous Chicago mob boss with failure to pay four years' worth of taxes. Capone was sentenced to 11 years in jail and an \$80,000 fine in 1931.



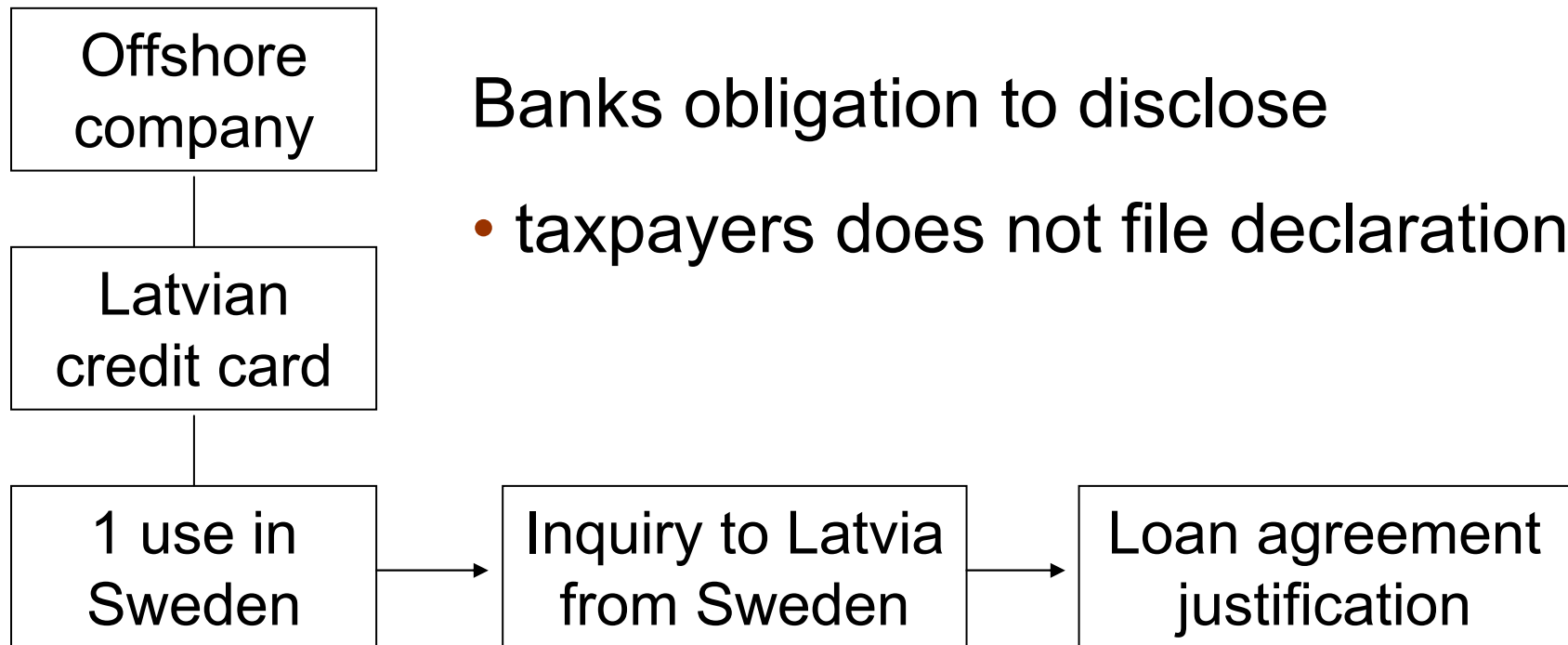


U.S. Indicts Four Credit Suisse Bankers in Increasing Crackdown on Offshore Accounts: Time for Voluntary Disclosure Running Out

From 1953 - Bank Leumi (Israel), Bank Frey (Swiss), Maerki Baumann (Swiss) charged with:

- causing U.S. customers to travel outside the United States,
 - opening secret accounts for U.S. customers in the names of nominee tax-haven entities;
 - advising U.S. customers to structure withdrawals from their secret accounts in amounts less than \$10,000 in an attempt to conceal the secret accounts and the transactions from U.S. authorities; and
 - advising U.S. customers to utilize offshore credit and debit cards linked to their secret accounts
- and providing the customers with such cards, including cards issued by American Express, VISA and Maestro.

Detection of offshore accounts



Banks obligation to disclose

- taxpayers does not file declarations



Suspect transactions

- Cash LVL 40000 (except salary, pension and social fee)
- Cash LVL 1000 change of small nominal
- Cash LVL 10000 traveler checks purchases
- LVL 10000 lump-sum payments
- Currency exchange more than LVL 5000 in cash
- Transfers for LVL 40000 without opening account or taking from account
- Prohibition to execute cash transaction exceeding LVL 10000 (not applicable to natural persons)
- Cash declaration from April 14, 2007 exceeding LVL 3000
- Penalty 5% on non-declared cash transactions exceeding LVL 3000
- Penalty 15% of whole transaction amount on cash transactions exceeding LVL 10000 (except bank account payments).

Capital Income Tax 10%

- Deposits, account balance
- Tax point- when is accesible
- Foreign interest- declaration
- Deposit before 1 Jan, 2010- taxable based on December 6, 2010
Constitutional Court decision- On cash bases



Capital Gains Tax- 15%

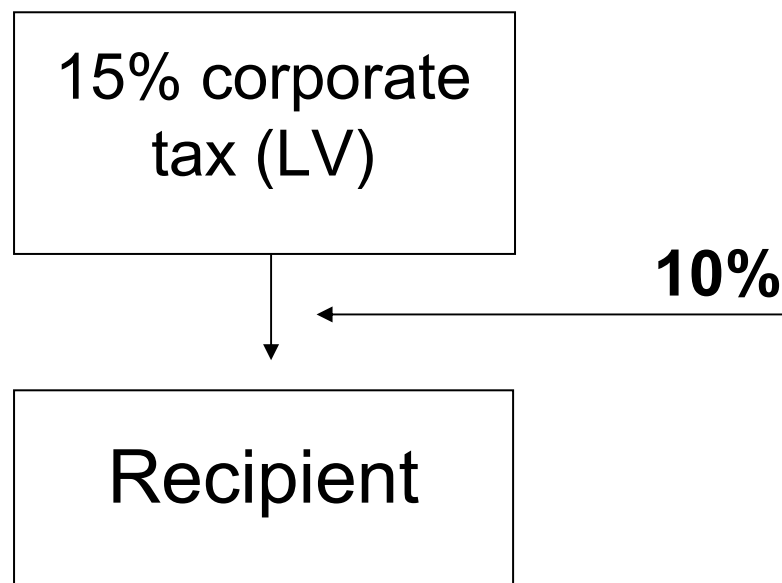
- Gains exceeding LVL 500-once a month to declare
- Less LVL 500- quarterly to declare

Personal Income Tax- 25%

- Gifts- **25%** from natural persons (LVL 1000 exemption)



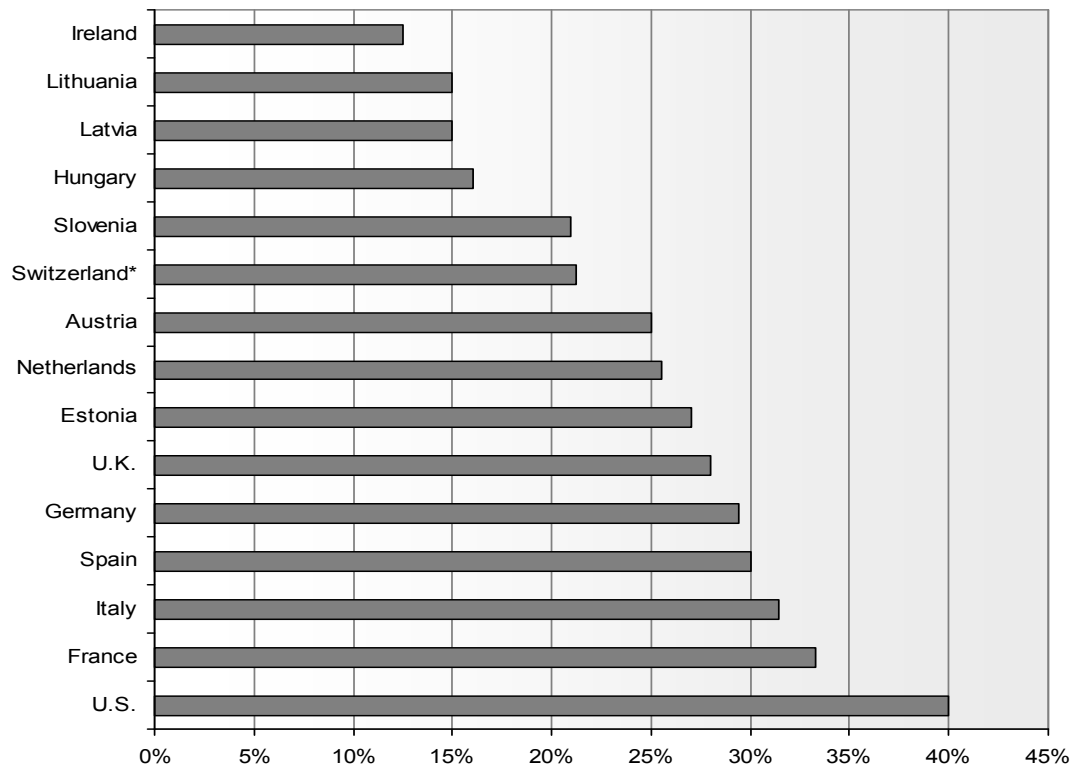
Dividends - 10%



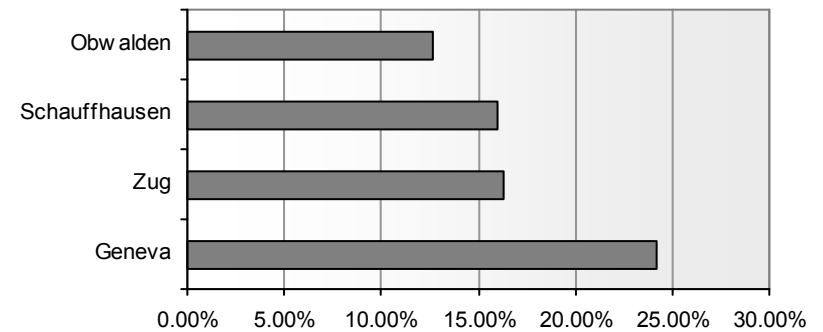
Total tax burden – 25%



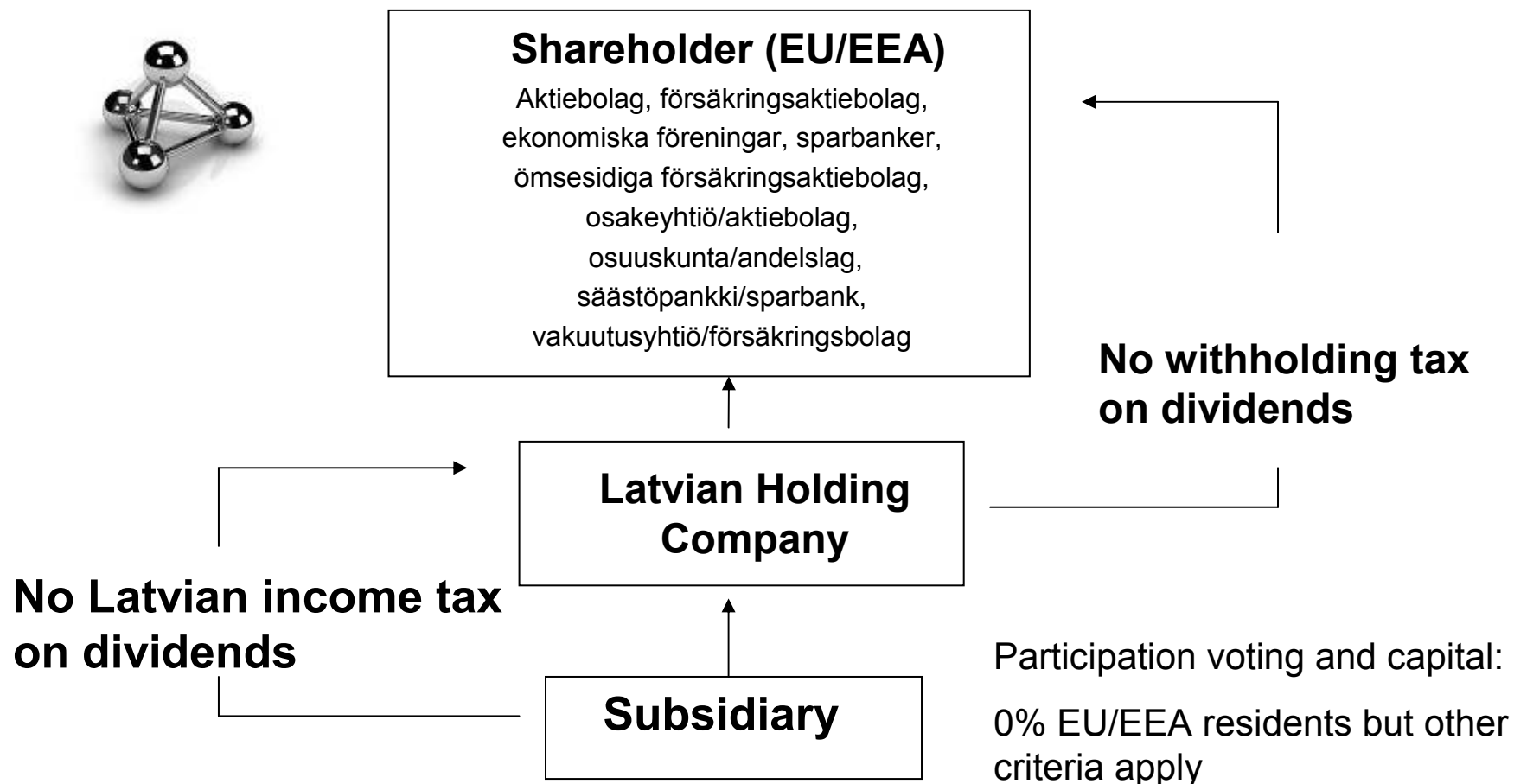
Average tax rates applied to corporate income



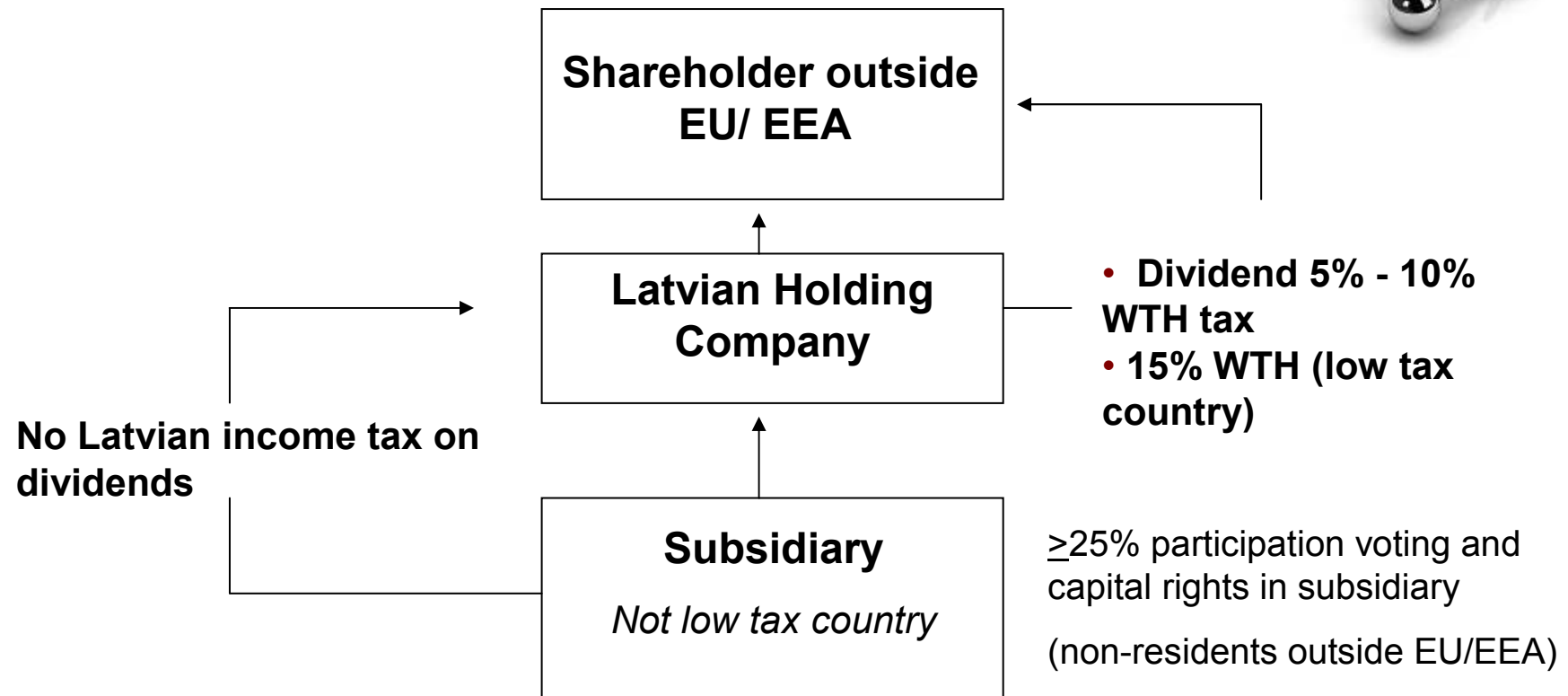
*Swiss cantons



The Dividend Structure EU



Non-EU Dividend structure



Micro Tax 9%

- Micro company tax- **9%** from turnover up to 10 000 EUR – includes Personal Income Tax, Corporate Income Tax and Social Income Tax up to 5 persons

| | | |
|------------------|---------|---------|
| Turnover | 100 000 | 100 000 |
| Tax | 15% | 9% |
| Tax due | 15 000 | 9 000 |
| Dividends | 85 000 | 91 000 |
| Tax exempt | | 8537 |
| Taxable dividend | 85 000 | 82 463 |
| Dividend rate | 10% | 20% |
| Dividend tax | 8 500 | 16 492 |
| Total Tax | 23 500 | 25492 |
| Take home | 76 500 | 74 508 |



List of Low Tax Countries

| | | |
|------------------------|----------------------|--------------------------------|
| Antilles | Hong Kong (Sjangana) | Olderne |
| Andorra | Isle of Man | Panama |
| Anguilla | Jamaica | Qatar |
| Antigua & Barbuda | Jersey | San Marino |
| Aruba | Jordan | Seychelles |
| Bahamas | Jisbuty | St. Helens |
| Bahrain | Kenya | St. Kitts and Nevis |
| Barbados | Kuwait | St. Pierre and Michel (France) |
| Belize | Labuana (Malaysia) | Samoa |
| Bermuda | Lebanon | Santome and Prinsipi |
| British Virgin Islands | Liechtenstein | St. Lucia |
| Brunei Darussalam | Liberia | St. Vincent and Grenada |
| Cayman Islands | Maldives | Tahiti (French Polynesia) |
| Cook Islands | Macao | Tonga |
| Costa Rica | Mauritius | Turks and Caicos Islands |
| Dominican Republic | Marshall Islands | United Arab Emirates |
| Ecuador | Monaco | Uruguay East Republic |
| Gibraltar | Montserrat | Vanuatu |
| Grenada | Nauru | Venezuela |
| Guam | New Caledonia | Virgin Islands (USA) |
| Guatemala | Niue (New Zealand) | Zanzibar Islands (Tanzania) |
| Guernsey | | |



- Kampione, Madeira, St. Maria Island (Portugal) are no longer low tax countries



EU Planning Opportunities

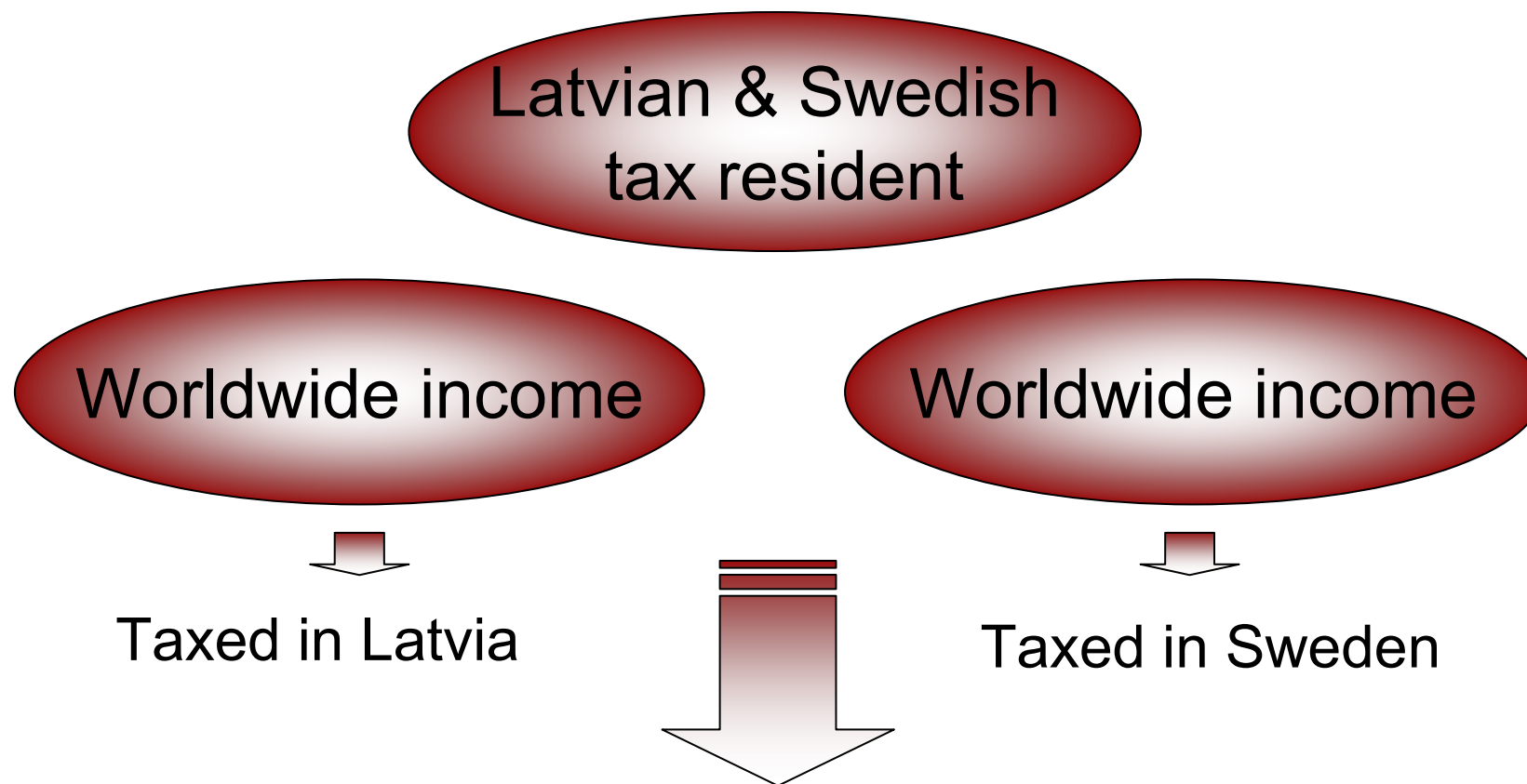
Cyprus

- CIT – 10%
- No withholding tax from dividends, interest, royalties

Malta

- CIT – 35%
- Tax refund system:
- 6/7 refund for dividends
(Results in effective CIT rate of 5%!!!!)
 - 5/7 refund for passive interest and royalties

Dual residency



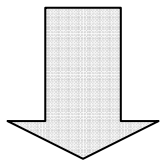
DOUBLE TAXATION !!!



Tiebreaker test

Latvia

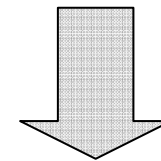
- Home
- Vital connection
- social, economical
- Habitual dwelling
- Passport



Latvian resident

Sweden

- Home
- Vital connection
- social, economical
- Habitual dwelling
- Passport



Swedish resident



Boris Becker

The German tennis great avoided jail in 2002 when he was convicted of tax evasion. He admitted he lived in Germany while claiming to reside in Monte Carlo. He was given two years' probation and fined \$500,000.



He decided he didn't want to pay any more taxes in Germany, and moved to tax heaven in Switzerland.



Social function

Owner of Terra Firma, 13 billion private equity firm, Mr. Gaines-Cooper, the 72-year-old entrepreneur kept a residence in Hentey-on-Themes, Oxfordshire, and returned frequently to the U.K. for business and social functions. His son was also born in U.K. And attended an English boarding school.

A nonresident must “demonstrate a strict break from former social and family ties within the U.K.,” the judges said in their ruling.



Racing driver Lewis Hamilton



Terra Firma founder Guy Hands



Economic interests

Italy fines fashion pair in an alleged tax evasion

- Designers failed to declare money they earned while working in Italy

Italian tax laws require anyone who earns more than half of their revenue in Italian territory to declare their earnings. They also state that people who locate the center of their economic interests in Italy are subject to taxation regardless of whether they declare residency outside the country.



The Wall Street Journal





Swedish resident

- Stay more than 6 months over 2 years
- Temporary interruption does not count in as spent outside Sweden
- 5.5 months in Sweden
- 3.5 months away – included or not in stay?
- 6 months agreement

Answers

- 3.5 month decided as “temporary” as 3.5 month are less than later stay:
- 3.5 less than 5.5 - temporary interruption
- 6 is more than 3.5 - temporary interruption
- 3 in Sweden
- 3 away
- 3 in Sweden → temporary interruption



Residency

Becoming Latvian resident

- 183 days in any 12 month period
- Day count
- Residence/domicile in Latvia
- Residents – taxable on worldwide income
- Non-residents – on income derived in Latvia



Remuneration schemes

- Net agreements
- Equalization & credits
- Share options – free shares with “fair market value” sale is deductible salary cost in Sweden (Swedish Administrative Supreme Court ruling)
- Tax on tax pyramids
 - a) loans
 - b) cold comfort letters



Swedish 6 month rule

- Rule
 - Swedish maximum marginal tax rate (above 495000 crowns) 57%
 - Latvian flat tax rate 25%
 - Potential savings 32%
- Work in one or more countries
- In Sweden less than **36 days**
 - no tax in Sweden
- Income is taxed in Latvia



Swedish 12 month rule

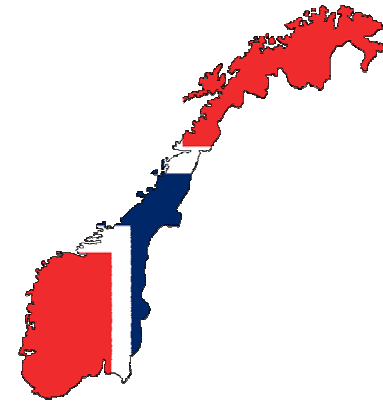
- Work in one country
- In Sweden less than **72 days**
- Even if no tax according to Latvian law
- Social fee in Sweden:
 - intention to stay for less 12 month – 31,42% and 7%
 - intention to stay for more than 12 month – no social fee



Norway

Resident in Norway:

- Stays at least **61 day** in Norway
- Himself or closely related person (spouse, cohabitant, minor age children)-61 day rule applies
- Live 10 years in Norway, break residency after 3 year away, except if maintain a home in Norway





Finland- 6 month rule

- Latvia has right to tax
- Work outside Finland **6 month**
- Visits to Finland less than **72 days** (6 days per month)
- Finnish tax resident – **3 years** after left Finland
- The income tax rate in 2009 was between 7%-30.5%.
- 6 month rule makes earnings acquired while working abroad not subject to Finnish income tax.
- Even if the 6 month rule applies and the income earned in a Latvia would be tax free in Finland, the employee must pay insurance tax to Finland (about 2-3%).

Denmark- 6 months rule

- Work outside Denmark 6 month
- Visits to Denmark **84 days** per year
- House abandoned – break of residency on 1 day
- Tax applies (not paid) in host country
- Marginal tax rate: **63%**





Denmark - savings

- Income tax – taxpayers are subject to a national income tax, national surtax, municipal tax
- Municipal tax – 22,7%-27,80% depending on county
- National surtax – 8%
- National income tax:

5% basic rate on income up to DKK 347200

6% medium rate on income exceeding DKK 347200

15% top bracket rate on income exceeding DKK 347200

28% capital gains on shares, dividend for income up to DKK 48300

43% on share income from DKK 48300 up to DKK 106000

45% on excess of DKK 106000 on share income

Credits

**Tax paid in
Sweden**

100

Credit applicable

Document from
Swedish tax
authorities on:

*taxable income

*tax paid

**Tax payable in
Latvia**

300

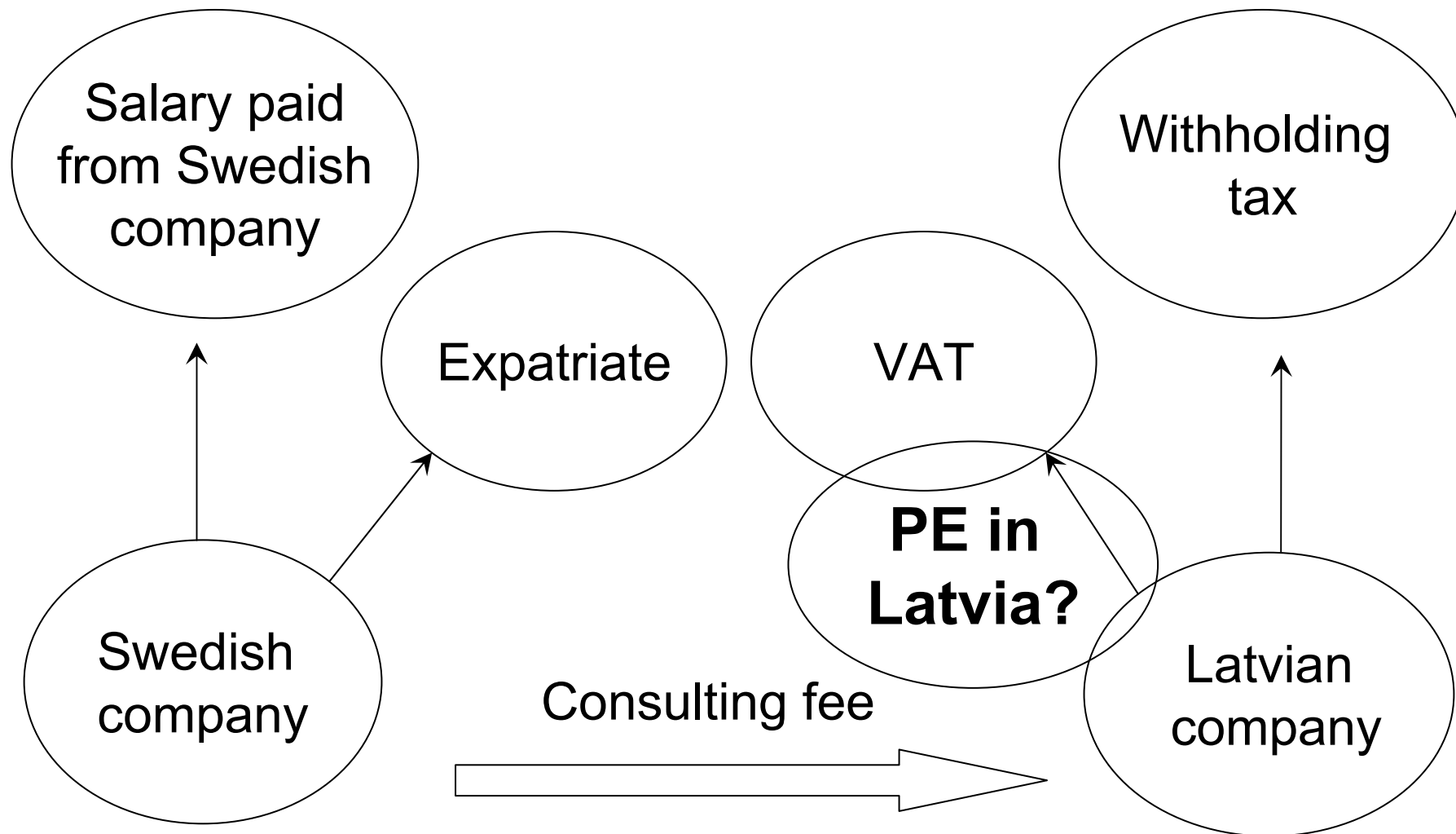
- 100

Payable 200

but not more
than **25%**



Consulting fees



Withholding tax

- Dividends 10% or EEA 0%
- Participation in partnership – 15%
- Consulting fee – 10%
- Interest to related party – 10%
- Copyright royalty – 15%
- Other royalty – 5%
- Use of LV property – 5%
- Sale of real property – 2%
- Low tax country 15%



Residence Certificates

- Certificates valid for 5 years
- Date and number of contract
- Confirmation from Latvia tax authorities required (30 days answer)
- WTH paid by payer
if exemption is not obtained



Izniegta saskaņā ar Latvijas Republikas un _____
Latvian pursuant to the Agreement between the
Republic of Latvia and _____
līgumu par nodokļu dubultās uzlikšanas un
nodokļu nemaksāšanas novēršanu
for the Avoidance of Double Taxation and Prevention
(turpmāk – nodokļu līgums)
of Fiscal Evasion (hereinafter – Tax Agreement)

Rezidenta apliecība – iesniegums nodokļu atvieglojumu piemērošanai
Residence Certificate – Application for Reduction of or Exemption from

atļiecību uz nodokļiem, kas Latvijas Republikā iekasjami ienākumu izmaksas brīdī no maksājumiem (autoratlīdzība,
procenti, atlīdzība par vadības un konsultatīvajiem pakalpojumiem, atlīdzība par līguma izmantošanu, dividendas un citi
ienākumu veidi), kas tiek izmaksāti _____
residentiem.
Lorvian anticipatory taxes withheld at source from payments (royalties, interest, management and consultancy fees,
leasing fees, dividends and certain other types of income), paid to residents of _____

I. Maksājumu saņēmējs/Recipient of Payment

1. Vārds, uzvārds (personām, kas nav fiziskās personas, – firma (nosaukums))
Name, surname (firm title), if person other than individual _____
2. Pases (personu apliecinošā dokumenta) vai reģistrācijas apliecības numurs un izdošanas datums
Passport (identification document) or certificate of incorporation number, date of issue _____
3. Adrese
Full address _____

II. Maksājumu izmaksātājs/Payer for Income

1. Vārds, uzvārds (personām, kas nav fiziskās personas, – firma (nosaukums))
Name, surname (firm title), if person other than individual _____
2. Pases (personu apliecinošā dokumenta) vai reģistrācijas apliecības numurs un izdošanas datums
Passport (identification document) or certificate of incorporation number, date of issue _____
3. Adrese
Full address _____
4. Fiziskajām personām – personas kods
For individuals – personal identification number _____

III. Ienākumi/Income

1. Ienākumu veids
Type of income _____
2. Līguma numurs un noslēgšanas datums
Date and number of contract _____
3. Datums, ar kuru tiek pieprasīts piemērot maksājumu aplikšanu ar nodokli pēc samazinātas likmes vai atbrīvojumu no
aplūkšanas ar nodokļiem
Date as from which tax reduction or exemption is claimed _____
4. Cita svarīga informācija
Other relevant information _____

IV. Maksājumu saņēmēja apliecinājums/Statement of Recipient

Maksājumu saņēmējs apliecina, ka:

The recipient declares:

- Ir _____ rezidents saskaņā ar Latvijas Republikas un _____ nodokļu
līgumu;
that he/she/it is a resident of _____ according to the Tax Agreement between
_____ and the Republic of Latvia;
- Ir _____ īstais īpašnieks;
that he/she/it is the beneficial owner of the _____;
- III daļā minētie ienākumi nav gūti, izmantojot pastāvīgo pārstāvniecību vai pastāvīgo bāzi Latvijas
Republikā.
that the income mentioned in Part III was not derived through permanent establishment or fixed base
maintained by him/her/it in the Republic of Latvia.

Iesnieguma parakstīšanas vieta un datums
place and date

Maksājumu saņēmēja (pārstāvja) paraksts
signature of the recipient or his/hers/its representative

**V. _____ kompetentās iestādes apliecinājums/
Statement of the _____ Competent Authority**

Apliecinām, ka I daļā minētā persona ir _____ rezidents saskaņā ar Latvijas Republikas un
_____ nodokļu līgumu un apliecinājums, kuru šajā apliecībā – iesniegumā ir sniedzis maksājumu
saņēmējs vai pārstāvis, ir patiesa un atbilst īstēnībai saskaņā ar _____ kompetentās iestādes rīcībā esošo
informāciju.

We confirm that the person mentioned in Part I is a resident of _____ according to the Tax Agreement
between _____ and the Republic of Latvia and that the statement made in this form
by the recipient himself or by his/hers/its representative is true to the best of the _____ Competent
Authority's knowledge.

Iesnieguma parakstīšanas vieta un datums
place and date

Paraksts
signature

Z.v.
Office seal

**VI. Latvijas Republikas Valsts ieņēmumu dienesta apstiprinājums/
Statement of the State Revenue Service of the Republic of Latvia**

Apstiprinām, ka I daļā minētā persona ir tiesīga izmantot Latvijas Republikas un _____ nodokļu līgumā
noteiktos nodokļu atvieglojumus atbilstībā uz III daļā minētajiem ienākumiem un ka II daļā minētais izmaksātājs ir tiesīgs
piemērot minētos nodokļu atvieglojumus atbilstībā uz III daļā minētajiem ienākumiem.


We confirm that the person mentioned in Part I is entitled to use reduction of or exemption from Latvian taxes according to
the Tax Agreement between _____ and the Republic of Latvia in respect of income mentioned in
Part III, and that the payer of the income mentioned in Part II is entitled to apply reduction of or exemption from Latvian
taxes in respect to the income mentioned in Part III.

Iesnieguma parakstīšanas vieta un datums
place and date

Paraksts
signature

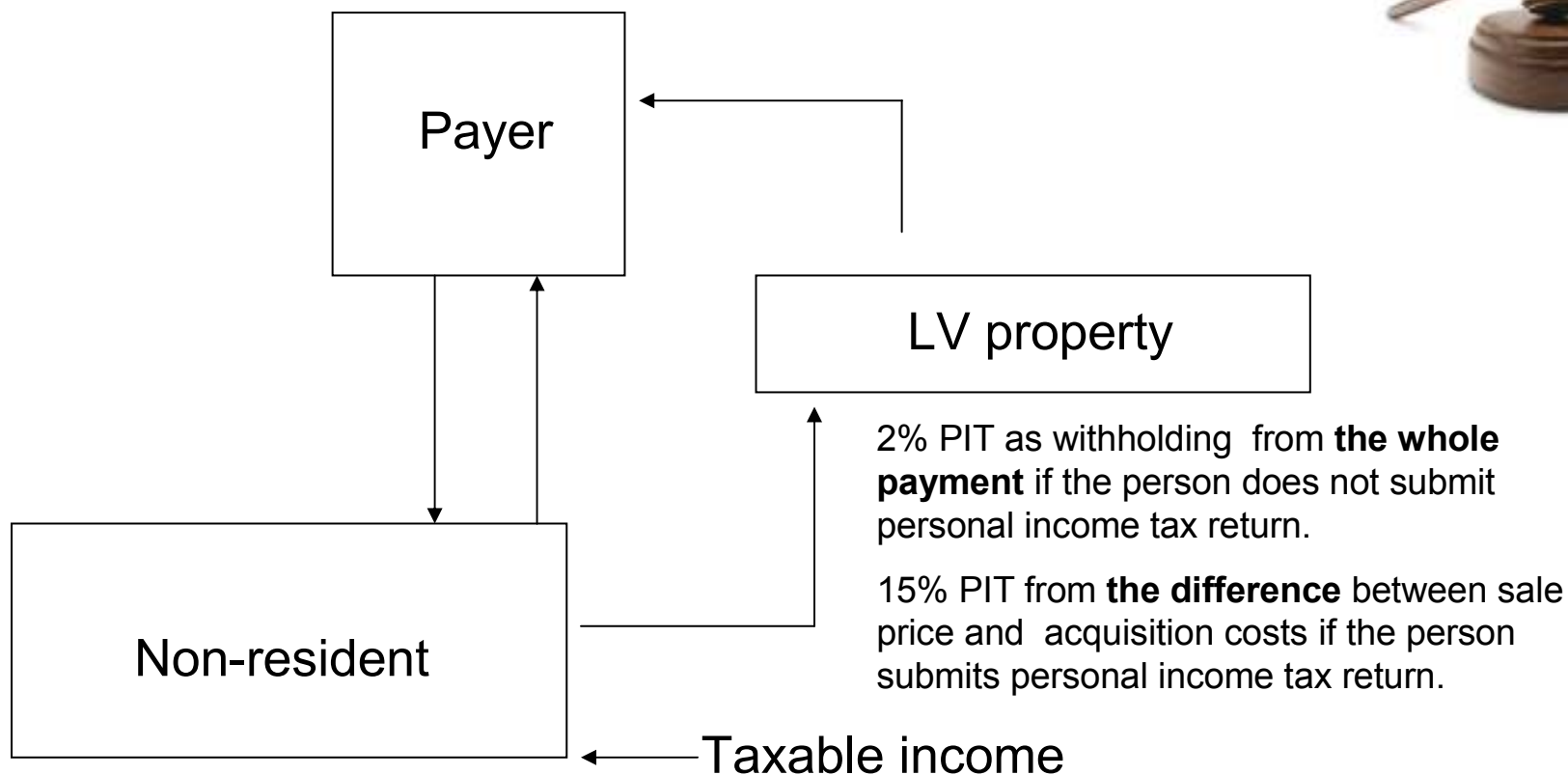
Z.v.
Office seal

Sale of real property

| From 12.06.2007 – until 31.12.2008. | From 01.01.2009 – 31.12.2009. | From 01.01.2010. |
|---|--|--|
| Income was tax exempt if property was owned more than 60 month and for more than 12 month this property has been persons residence place. | Income tax exempt if property owned more than 12 month is sold  | Income tax exempt if property owned more than 60 months and at least 12 months to sale has been place of residence. Tax rate 15% of difference between sales price and acquisition costs. |



Sale of real property




Real Property Tax

- From January 1, 2010 the tax rate is 1.5% from the cadastral value of :
 - land;
 - buildings or their parts;
 - engineering structures.
- As of January 1, 2010 a progressive tax rate on living space (living house or apartment) applies:

| Cadastral value | Tax rate (from cadastral value) |
|---------------------|---------------------------------|
| < 40 000 LVL | 0.1% |
| 40 000 – 75 000 LVL | 0.2% |
| >75 000 LVL | 0.3% |

- Uncultivated agricultural land (≥ 1 ha) - additional tax 1.5%
- In 2009, 2010 not exceeding 25% of prior tax



Prime time for inheritance planning

“IT IS POSSIBLE TO TURN INVESTMENT LOSSES TO A TAX ADVANTAGE, IF DECISIVE, CO-ORDINATED STEPS ARE TAKEN RAPIDLY”

“While the market turmoil has inflicted significant pain on many, this is a golden opportunity for tax planning. It is possible to turn investment losses to a tax advantage, if decisive, co-ordinated steps are taken rapidly.”

Capital Loss – Non EU Securities

■ Company

- Loss carry forward for sale of securities (8 years)
- One sale per year
- Holding more than 12 months

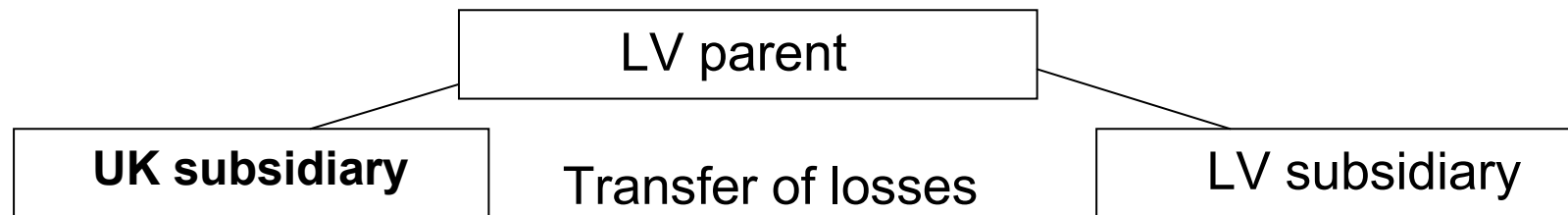


■ Individual

- Capital gains-positive offset against negative
- No loss carry forward



Cross - border Group Relief- Mark & Spencer case



- Subsidiary has exhausted the possibilities available in its state of residence of having those losses taken into account for the accounting period concerned and for previous accounting periods
- Use losses only in 1. country
- Foreign company is a resident in state with which Latvia has a double tax treaty, or EEA

E 101, E104 (A1) certificate

- Sent for 12 month – pay in home country
- Pay where work, regardless where is residence
- Work in 2 states – pay where is residence
- No residence in working states – where company's legal address
- Several employers – where is residence country



Social fee

- Self - employed – LVL 608,47
(rate **31.52%** from LVL 2400)
- Resident employed by non – resident – **35.09%**
- Residents employed by resident– **24.09%**
(rate **11%+24.09%**)



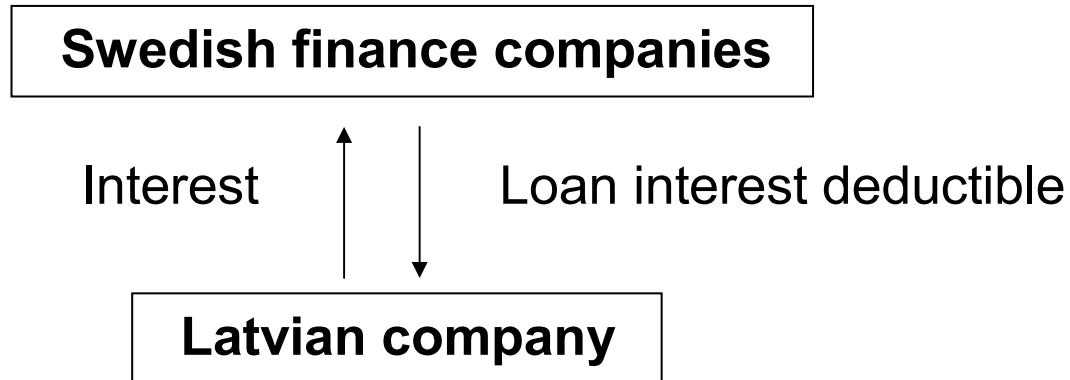
Social fee for immigration purposes (third countries)

Gross salary should be per month at least:

- 922 LVL – Board members
- 461 LVL – Employees
- 200 LVL – adult (family member)
- 120 LVL – child (family member)



Thin Capitalization



*Interest deductible lesser of:

- 1) $\text{Loan} \times 4.4\% \times 1,2$ (5.28%) (December 2010)
- 2) Loan against 4x equity on January 1 (minus reserves)



Salary taxation in Baltics

| | Latvia (lats) | | Lithuania (litas) | | Estonia (euro) | |
|----------------------------|---------------|----------------|-------------------|--------------|----------------|--------------|
| | rate | amount | rate | amount | rate | amount |
| Bruto salary | | 10000 | | 10000 | | 10000 |
| Non taxable income | | 45 | | 0 | | 2250 |
| Income tax | 25% | 2213.75 | 15% | 1500 | 21% | 1527 |
| Obligatory healthcare | - | - | 6% | 600 | - | - |
| Social security | 11% | 1100 | 3% | 300 | - | - |
| Unemployment fee | - | - | - | - | 2,8% | 280 |
| Net salary | | 6686.25 | | 7600 | | 7993 |
| Employers unemployment fee | - | - | - | - | 2,8% | 140 |
| Social security | 24,09% | 2409 | 30,98% | 3098 | 33% | 3300 |
| Guarantee fund payment | - | - | 0,1% | 10 | - | - |
| Risk duty | | 0,25 | - | - | - | - |

winner



Lithuania





Advantages of Lithuanian Tax system

- Low corporate income tax rate -15%, for smaller businesses - 5%;
- Tax exempt dividends for companies meeting certain criteria;
- No tax for the sale of shares when meeting certain criteria;
- Favorable treatment of investment and research and development costs;
- Transfer of losses between mother company and daughter company is available from 2010;
- No vehicle tax;
- No requirement to establish a company (Permanent Establishment);
- No necessity to employ the personnel (business certificates);
- Minimal salary before taxes/month - 232 EUR.



Tax treaties

- Currently, Lithuania has concluded 51 *Treaties on the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and capital* in effect;
- The treaties have been signed with Armenia, Azerbaijan, Austria, Belarus, Belgium, Bulgaria, Canada, China, Croatia, Czech Republic, Estonia, Finland, France, Georgia, Germany, Great Britain, Greece, Hungary, Iceland, Ireland, Israel, Italy, Kazakhstan, Latvia, Luxembourg, Malta, Moldova, Netherlands, Norway, Poland, Portugal, Romania, Russia, Singapore, Slovakia, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, USA, Uzbekistan.
- The mentioned treaties are based on OECD/UN model agreement.



Permanent Establishment

“Permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

Permanent Establishment

- Low in costs;
- Short in time (up to 15 days);
- Possibility to start activities at once;
- No registration at local Center of Registers (only tax inspection).
- Minimal documentation
- Foreign legal entity is responsible for its activities in Lithuania (taxes).





Permanent Establishment: Agent

- A company is considered acting not through its permanent establishment in the case if the company only carries its commercial activities through its independent representative. The respective representative will need to prove that he is also engaged in other activity than representation of this company => **no necessity to incorporate Permanent Establishment.**
- If all or almost all the activity of the representative is carried out in the name of one company, this person is not considered holding the status of independent agent (representative). => **Incorporation of Permanent Establishment.**

List of Target Territories in Lithuania (offshores)

| | | | |
|--|--|--|---|
| <p>The Principality of Andorra Anguilla Antigua and Barbuda Macau (Aomenas) Aruba Azores Islands Bahamas Bahrain Barbados Belize Bermudas Brunei Darussalam Dominica Jersey The Republic of Djibouti</p> | <p>Gibraltar Grenada Republic of Guatemala Hong Kong Jamaica United Arab Emirates Cayman Islands Republic of Kenya The Republic of Cyprus Costa Rica Cook Islands Kuwait Republic of Lebanon The Republic of Liberia The Principality of Liechtenstein</p> | <p>Saint Pierre and Miquelon San Kitts and Nevis Saint Vincent and the Grenadines St. Helena Tahiti Island Turks and Caicos Islands (Turks and Caicos Islands) The Kingdom of Tonga Oriental Republic of Uruguay The Republic of Vanuatu Republic of Venezuela Madeira Islands Republic of Maldives Republic of Ecuador Guernsey, Sark, Alderney Republic of Seychelles</p> | <p>The Republic of Malta Republic of the Marshall Islands Republic of Mauritius Isle of Man Virgin Islands (British) Virgin Islands (U.S.) The Principality of Monaco Montserrat New Caledonia Republic of Nauru Niue Island Netherlands Antilles Panama Samoa San Marino</p> |
|--|--|--|---|



Target territory

- **Target territory** (means a foreign state or zone included in the List of Target Territories established by the Minister of Finance and meets **at least two of the criteria**):
 - 1) the equivalent tax rate in that territory accounts for less than 75% of the rate set out in LT; 2) different rules for equivalent taxation are applied in that territory, depending on the state in which the controlling person is registered or otherwise organised; 3) different rules for equivalent taxation are applied in that territory, depending on the state in which activities are pursued; 4) the controlled taxable entity has concluded an agreement with the tax administrator of that state concerning the tax rate or base; 5) there is no effective exchange of information in that territory; 6) there is no financial and administrative transparency in that territory: the rules for tax administration are not entirely clear and the procedure for the application of these rules is not presented to the tax administrators of other states.
- => In this case no tax benefits or privileges may be applied and it is not possible to have any allowable deductions.

Lithuanian Residency

- Residence/Domicile in LT;
- Social and Economic interest is in LT;
- 183 or more days in LT during taxable period;
- During the 2 years stays more than 280 days in LT





Lithuanian Residency

Individual will not be considered as resident of LT even if he stays in LT for 183 days during the calendar year and during the 2 year period stays in LT more than 280 days in the following cases:


- If he is only engaged in individual activity through his permanent establishment in LT;
- If he works in LT, but receives his salary from foreign states budget;
- If he works for foreign states diplomatic, consular or international organizations agency in LT.



Lithuanian Residency

Non-Lithuanian resident in Lithuania pays income tax from the following income:

- Through his **permanent establishment** in Lithuania received **income from individual activity** (Tax rate – 15% +social security tax 9% if it is not paid in other state);
- **Not through permanent establishment** received income if the **source of this income is in LT.** (Tax rate 15%, dividends – 20%).



A1 (E 101) certificate

- Sent for 12 month – pay in home country
- Pay where work, regardless where is residence
- Work in 2 states – pay where is residence
- No residence in working states – where company's legal address
- Several employers – where is residence country





Allowable Deductions

- **The company** may deduct specific and general expenses related to employees:
 1. specific is understood as any benefit for the particular employee (gifts, business and vacation trips, etc);
 2. General expenses as detailed in collective labor agreement (sports club, food and entertainment);
- **Individual** may also file the tax return until 1st of May related to deductions on studies, insurance or pension.

Tax news: Corporate Income Tax

- Smaller companies employing not more than 10 employees and having its annual income at not more than LTL 500 000 shall be subjected to **5% of Corporate income tax.**

Previously in the year 2009 the tax applied was at **13% rate.**





Dividends

- **20% tax rate for individuals** irrespectively of carried citizenship:
 - ⇒ **unification of the tax rates upon which 20% tax rate is applied to residents and non-residents**
- **15 % tax rate for companies**
- **Tax free dividends** for companies are applied in case a company controls for **12 months less than 10% of voting shares.**



Personal income tax

- PIT is at 20% tax rate for dividends and for other income is at **15 % tax rate**;

- Calculation of non-taxable income amount :
For persons with income not exceeding 800 LTL (232 EUR) per month non-taxable amount shall be 470 LTL (136 EUR). If income exceeds 800 LTL (232 EUR), non-taxable amount shall be decreased by 20 LTL (6 EUR) for every 100 LTL (29 EUR) above the 800 LTL (232 EUR), meaning that for persons earning more than 3150 LTL (913 EUR) per month, non-taxable amount shall not be applied

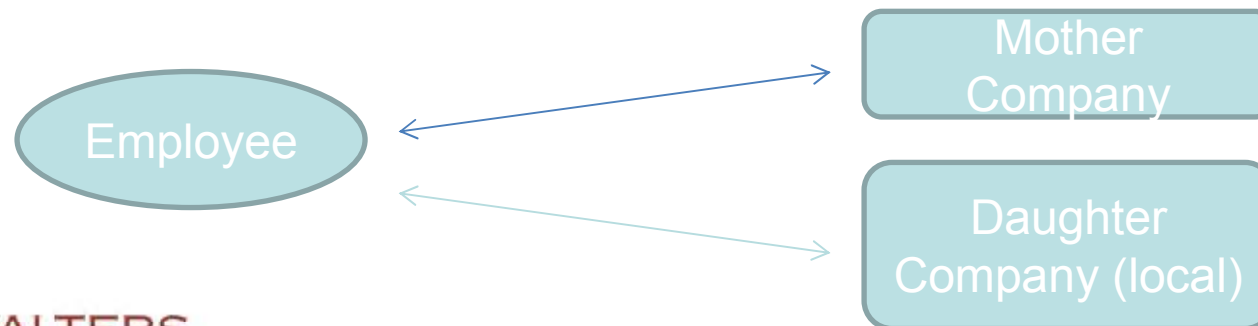
Incentives: Stock Options

“shall mean a financial instrument (futures contract, forward contract, etc.) the value or price whereof is linked to the value or price of the goods on which the instrument is based as well as a financial instrument (futures contract, forward contract, etc.) the value or price whereof is linked to the price of securities, exchange rate, interest rate, stock exchange index, determination of creditworthiness or any other variable.”



Stock Options/Share Plans

- the received benefit of the employees is considered as personal income received by nature and taxed PIT.
=> practice: for the beneficiary it will be considered as income by nature despite the legal person status (whether it is daughter, Mother Company or other company acquiring the previous company with all of its rights and liabilities);
- in case the shares will be received not from local company, but from foreign mother company, it will not be considered as income related to the employment relations and therefore there will be no social taxes applied;





Sale of Shares

- The income from the increased property is not taxed if certain conditions are met:
- If person holds shares which were acquired at least **one year ago** and;
- If the person for the past **3 years does not control more than 10 % of shares.**
- If these conditions are met and we buy share for 1 LTL, sell for 4 LTL, so 3 LTL is not taxed income
- In all other cases – 15% of personal income tax shall be applied



Sale of immovable property in LT

Tax exempt if:

- Ownership for more than **5 years**;
- If a person has lived in that property for more than **2 years**;
- Lived less than 2 years if **uses the profit from sale for acquisition of new property** for living (acquisition has to be made within 1 year).



Estonia





Becoming an Estonian resident

Becoming an Estonian resident

- 183 days in any 12 month period
- Day count
- Residence/domicile in Estonia

Taxation

- Residents – taxable on worldwide income
- Non-residents – income derived in Estonia

Company is Estonian resident, if it is established under Estonian law

NB!

- Only residents may use the Tax Treaties!
- Permanent Establishment is not a resident!



Blacklisted territories - 100 % earnings are taxable in Estonia.

| | | | | |
|-------------------------|---------------------------|----------------------------------|-----------------------------------|----------------------------------|
| Andorra | Anguilla | Antigua and Barbuda | Arab Emirates (Dubai) | Aruba |
| Bahamas | Bahrain | Barbados | Belize | Bermudas |
| British Virgin Islands | Brunei Darussalam | Cook Islands | Costa Rica | The Republic of Djibouti |
| Dominica | The republic of Filipinas | Gibraltar | Grenada | Guam |
| Republic of Guatemala | Guernsey | Netherlands Antilles | Hong Kong | Jamaica |
| Jersey | Cayman Islands | Katar | Republic of Kenya | Kuweit |
| Labuan | Liberia | The Republic of Liberia | Republic of Mauritius | Republic of Lebanon |
| Macau (Aomen) | Republic of Maldives | Republic of the Marshall Islands | The Principality of Liechtenstein | The Principality of Monaco |
| Montserrat | Republic of Nauru | Niue Island | Oman | Panama |
| Puerto Rico | French Polynesia | San Kitts and Nevis | Saint Lucia | Saint Vincent and the Grenadines |
| San Marino | Republic of Chili | Turks and Caicos Islands | Oriental Republic of Uruguay | New Caledonia |
| The Republic of Vanuatu | Republic of Venezuela | Virgin Islands (U.S.) | | |



CIT as a profit tax

0% when no distribution

27% income tax in case of distribution:

- Profit distributions - Dividends
- Fringe benefits
- Gifts
- Donations and costs of entertaining guests
- Expenses and payments not related to business



Dividends

Taxpayer is distributive company,
27% CIT applies in distribution moment.
Shareholder have no tax obligation.

No difference between:

- legal or natural person
- resident or non-resident

- ✓ no matter of holding time of shares
- ✓ no matter of the amount in a share capital of the payer
- ✓ possible to take out dividends every month

Taxation of cars



Private car for company purposes: Tax-Free Compensation:

- Without log- 64 EUR per month;
- With log- 256 EUR per month.

Company car for private purposes: Fixed Tax Base:

- Without log- 256 EUR per month;
- With log- 64 EUR per month.

Fringe benefit tax: 27% CIT + 33% social tax + 20% VAT





Gifts

Taxed with fringe benefit tax: 27% CIT + 33% social tax.

These are **NOT** gifts:

- Product samples, degustation, free product training, commercial printouts;
- Bonuses and discounts available for all clients;
- Benefits added to the product for free;
- Reimbursement of **necessary expenses of sale** for seller;
- Assigned earnings received from third persons.

Double Tax Treaties



Estonia has with 45 countries.

- Free dividends from Netherland mother company;
- China-Germany VS China-Estonia;
- Free license fee from Israel;
- *Liberal Arts* and free pension in Portugal and Spain.

NB! *Treaty Shopping, Cherry Picking*





Resident receives dividends from abroad and distributes in second time:

Received from low tax territory- 27% CIT in distribution moment

Received from EU or third countries:

- Holds more than 10% of shares-**0%** CIT in distribution moment
- Holds less than 10% of shares- **27%- tax paid in EU** in distribution moment

The income tax paid abroad may be **deducted** from the taxable amount of profit distributed in Estonia.



Personal income tax

Residents- worldwide income

Non-residents- income received from Estonian sources

21% PIT is withheld on incomes as:

- Salary
- Board Members fee
- Rent
- Interests
- Pensions, lottery prizes, grants

Annual basic exemption- **1726 EUR**

Overpaid income tax is refunded once a year.



Estonian Tax and Customs Board:

The transaction is taxed if there is no economic substance

Office is detecting:

- Parts of transaction- their connections?;
- Sequence of transactions- one transaction without others is meaningless?
- Is this sequence of transaction planned?
- Some element in transaction does not have an economical substance?
- Unnaturalness in sequence of transaction;
- Time between transactions- suspiciously fast?

Tips:

- Leasing labor forces
- Salary for board member or buying management service?
- Salary or dividend?
- Dividend or loan?
- Liquidation through reorganisation?



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