

Three Countries.  
One Firm.

**GENCS VALTERS LAW FIRM**

**LITHUANIA**

A.Tumeno street 4, 6<sup>th</sup> floor  
LT 01109, Vilnius, Lithuania  
Tel: +370 52611000  
Fax: +370 52611100

**LATVIA**

Kr. Valdemara street 21, 3<sup>rd</sup> floor  
LV 1010, Riga, Latvia  
Tel: +371 67240090  
Fax: +371 67240091

**ESTONIA**

Narva Mnt 5  
10117, Tallinn, Estonia  
Tel: +372 6191000  
Fax: +372 6191001

[WWW.GENCS.EU](http://WWW.GENCS.EU)

LAW FIRM  
**GENCS VALTERS**  
19/04/2011



LAW FIRM  
**GENCS VALTERS**

■ RIGA  
■ VILNIUS  
■ TALLINN

- Business law
- Tax
- Litigation
- Mergers & acquisitions
- Corporate finance
- Immigration
- Insolvency
- Finance
- Evaluations
- Management consulting
- Investments
- Intellectual property
- Due diligences
- Accounting services
- Energy law

VEPĖNATA ADVOKATA BIRŪS  
ADVOKĀDIBŪROG  
TEISES BIŪRAS

ATTORNEYS AT LAW  
RECHTSANWÄLTE  
D'AVOCATS

ASIANAJA TOIMISTO  
ADVOKATER  
ADVOKATFIRMAN

2007 – EUROJURIS is the leading network of law firms in Europe, 5339 lawyers in 583 firms covering 610 different cities/locations in 30 European countries.

EUROJURIS INTERNATIONAL

3

2007 – Multilaw encompasses over 6000 lawyers in more than 150 commercial centres and countries around the world.

MULTILAW

4



## Expatriate Tax Planning 2010

Dovilė Alekniienė  
Head of Gencs Valters Law Firm in  
Lithuania

LAW FIRM  
**GENCS VALTERS**

19/04/2011

5

## 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.

19/04/2011

6

## 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)

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	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	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	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
---	---	---	--

## 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.

## Avoidance-acceptable

## Evasion-non acceptable

### Al Capone

The granddaddy of them 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.

## EU Planning Opportunities

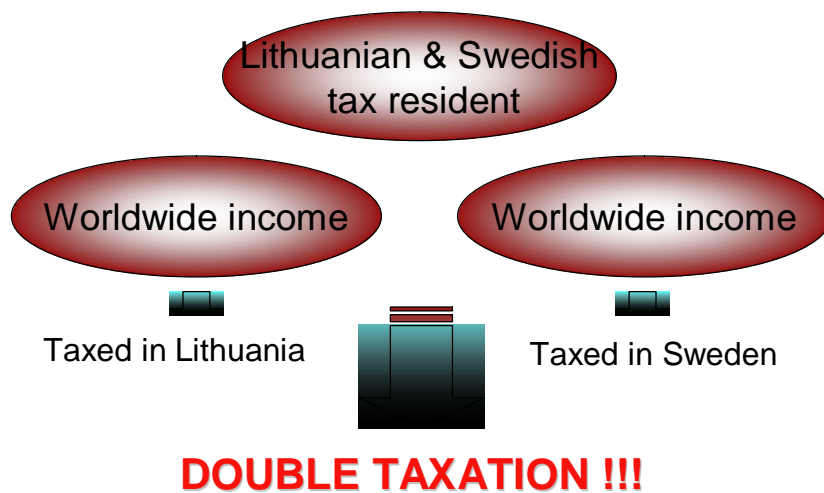
### Cyprus

- 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





## Tiebreaker test

### Lithuania

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



Lithuanian resident

### Sweden

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



Swedish resident

## 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%).

## Boris Becker

The German tennis player 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*

## Credits (deduction system)

Tax paid in  
Sweden

100

Credit applicable

Document from  
Swedish tax  
authorities on:

\*taxable income

\*tax paid

Tax payable in  
Lithuania

300

- 100

Payable 200

but not more  
than 25%

## 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



## Salary taxation in Baltics

	Latvia (lats)		Lithuania (litas)		Estonia (euro)	
	rate	amount	rate	amount	rate	amount
<b>Bruto salary</b>		<b>10000</b>		<b>10000</b>		<b>10000</b>
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
<b>Net salary</b>		<b>6686.25</b>		<b>7600</b>		<b>7993</b>
Employers unemployment fee	-	-	-	-	2,8%	140
Social security	24,09%	2409	30,98%	30,98	33%	3300
Guarantee fund payment	-	-	0,1%	10	-	-
Risk duty		0,25	-	-	-	-

winner

## 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

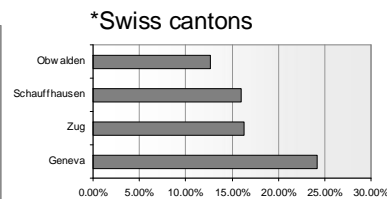
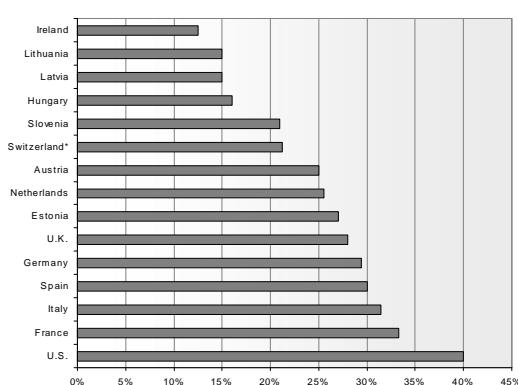
## Dividends

- **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 not less than 10% of voting shares.**

## 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 1<sup>st</sup> of May related to deductions on studies, insurance or pension.

## Average tax rates applied to corporate income



## 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.**

## 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.”



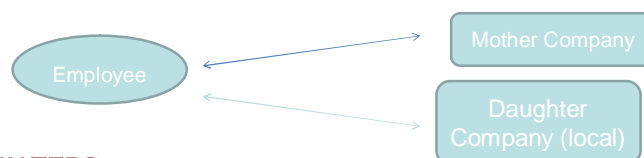
## Incentives: Stock Options

*“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** (declared place of residence);
- Lived at least 1 year if **uses the profit from sale for acquisition of new property** for living (acquisition has to be made within 1 year).

## Real Property Tax in LT

- Tax rate varies on municipality from **0,3%** in Rokiškis to **1%** in Joniškis;
- Tax rate in Vilnius is **0,8 %** if in bad condition – **1%**;
- Possibility to promote the municipality by paying **0,9%**.

19/04/2011

37

Three Countries.  
One Firm.

**GENCS VALTERS LAW FIRM**

**LITHUANIA**

A.Tumeno street 4, 6<sup>th</sup> floor  
LT 01109, Vilnius, Lithuania  
Tel: +370 52611000  
Fax: +370 52611100

**LATVIA**

Kr. Valdemara street 21, 3<sup>rd</sup> floor  
LV 1010, Riga, Latvia  
Tel: +371 67240090  
Fax: +371 67240091

**ESTONIA**

Narva Mnt 5  
10117, Tallinn, Estonia  
Tel: +372 6191000  
Fax: +372 6191001

[WWW.GENCS.EU](http://WWW.GENCS.EU)

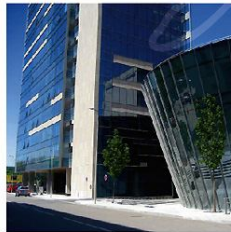
LAW FIRM  
GENCS VALTERS  
19/04/2011

38 ■

# LAW FIRM GENCS VALTERS



**Riga office**  
Valdemara Center 3rd floor,  
Kr. Valdemara street 21, LV-1010,  
Riga, Latvia  
T: +371 67 24 00 90  
F: +371 67 24 00 91



**Vilnius office**  
Vilnius Gates, 6th floor,  
A. Tumeno st. 4, LT-01109,  
Vilnius, Lithuania  
T: +370 52 61 10 00  
F: +370 52 61 11 00



**Tallinn office**  
Narva mnt 5,  
10117 Tallinn,  
Estonia  
T: +372 61 91 000  
F: +372 61 91 007

[www.gencs.eu](http://www.gencs.eu)

[info@gencs.eu](mailto:info@gencs.eu)