LIETUVOS PREKYBOS ĮMONIŲ ASOCIACIJA

Association of Lithuanian Trade Enterprises appeals to authorities responsible for the sustainability of public finances

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On the legitimacy of trade tax and the threat to public finances

The turnover tax registered in the Seimas raises a number of doubts about its legitimacy, threatens the sustainability of public finances and damages Lithuania's investment environment.

There is no similar tax on turnover in any EU country. All EU Member States that have tried to introduce a similar turnover tax have received strong responses from the EU institutions.

Hungary applied a turnover tax to businesses between 2010 and 2012, but it was abolished by the European Commission when it was declared illegal. Now the financial burden on this state's budget is that Hungary has to repay the wrongful tax paid to the business and make good the losses.

Slovakia introduced a turnover tax in 2018 but abolished it as soon as the EC opened an investigation against it. The tax was not imposed anyway.

Poland introduced a turnover tax on merchants in 2016, but after the EC has initiated a legal procedure for alleged unlawful State aid to part of its business, Poland is still litigating with the EC on the legality of the tax. In addition, Poland, aware of the serious consequences for public finances if the tax were found to be illegal, decided to suspend its application until 2020. Given that no final court decision has been reached, it is likely that the tax will not be levied in Poland until the legal proceedings are completed.

Turnover tax as defined in the project is undoubtedly an indirect, analogous VAT tax. VAT is harmonized in the Member States of the European Union and the application of a second analogous tax is prohibited by EU law.

It should be emphasized that, where a business tax is not universal (i.e. does not apply to certain businesses), it may be treated as State aid under the Treaty on the Functioning of the European Union, subject to the prior approval of the EC. The EC may initiate infringement proceedings against a Member State without first informing the EC and suspecting that its competition law provisions on State aid may be violated. If such a tax were found to be unlawful, the State would not only be obliged to reimburse the tax unlawfully collected, but would also have to cover the full amount of the damage to the business.

To submit to the Seimas of the Republic of Lithuania in 2020 the draft state budget, which includes planned retail turnover taxes of dubious legitimacy, is irresponsible in terms of public finances.

Taking into account the experience of the EU countries in introducing similar taxes, there is no doubt that the legitimacy of the new tax would receive the attention of the EU institutions and

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possible investigation against the Lithuanian State. An unlawful tax, which may have to be repaid with additional compensation and losses, would threaten the sustainability of public finances.

The budget revenue is expected to total 31.9 million EUR – it does not outweigh the potential costs of the legal process and its consequences.

Last but not least, Lithuania's attempts to attract foreign capital and investors while considering taxes of dubious legitimacy in the international arena could damage its reputation as an investor-friendly country and make it famous as an investment-unfriendly country.

According to the draft law on Large Trade Tax registered in the Seimas, traders whose monthly turnover exceeds 2 million EUR would be subject to a 1% turnover tax from the beginning of next year. This would affect a fairly wide range of traders meeting the basic needs of the population, i.e. not only the major food chains operating in the country, but also dozens of other trading companies selling other basic necessities (clothing, cosmetics, home appliances).

Lithuanian Association of Trade Companies urges the authorities and persons responsible for the sustainability of public finances not to adopt laws that call into question their legality and their compliance with European Union law.

Lithuanian Association of Trade Companies understands the efforts to balance the state budget and reduce social exclusion, but this must be done after discussing the proposed changes and considering the potential consequences of the new taxes.

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