

COMPANY'S ACTIVITIES TERMINATION BY TAX AUTHORITY DECISION (SIMPLIFIED LIQUIDATION, LATVIA EXAMPLE)

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ABSTRACT

This paper analyzed the governments role to stimulate and to control the entrepreneurship environment. During the crisis, several taxes were amended to slightly mitigate the effects of the crisis, and in 2010 the Micro–enterprise Tax Law was developed and adopted. Started from 1996 the State Revenue Service has the right to suspend the taxpayer's economic activities (natural and legal person) due to infringements of laws and regulations. Due to low tax morale after financial crises in and taxpayer's reluctance to pay taxes in 2011 in the structure of the State Revenue Service was created of a new unit - the Tax Accounts Administration. In 2012 marked out that a part of the merchants, effectively terminating their business, are not legally dissolved and are not excluded from the Commercial Register, therefore, in 2012 essential amendments were made in the Commercial Law and in the law On Taxes and Duties – the requirements of both regulatory enactments were aligned and come into force the company's simplified liquidation. The statistical data confirms that State Revenue Service and the government role in organizing the business environment are significant.

The research aim is to analyze the government's role to stimulate and control entrepreneurship by amendments in enactments and the State Revenue Service right to suspend and restore the taxpayer's economic activities in Latvia. Based on the aim, the following research tasks were set: to analyze the registration and exclusion dynamics of companies; to analyze the development of enactments and amendments in them due to taxpayers activities and how to work the special instrument for the State Revenue Service's – terminate the company's activities due not to cooperate with the State Revenue Service; to analyze the taxpayers simplified liquidation and exclusion from the Register of Enterprises on the bases of a decision of the tax authority.

Materials and methods. The principal materials used for the studies are as follows: various enactments, amendments, various sources of institution reports and statistics. The following qualitative and quantitative methods were employed: the monographic method, logical analysis and synthesis, statistical methods, i.e. statistical observation, compilation and grouping of information, calculation of statistical data etc.

Keywords: business environment, government role, tax administration, entrepreneurship

INTRODUCTION

In Latvia, the registration and exclusion of companies from the Register of Enterprises are very dynamic during 2006 – 2017. One reason is entities insolvency after economic crises in 2007, but from 2012 the State Revenue Service (hereinafter – SRS) has a significant role in excluding entities from the Register of Enterprises. During the crisis, several taxes were amended to slightly mitigate the effects of the crisis, and in 2010 the Micro–enterprise Tax Law was developed and adopted.

Started from 1996 the SRS has the right to suspend the taxpayer's economic activities (natural and legal person) due to infringements of laws and regulations. Started from 2008 the SRS must inform the Register of Enterprises about the suspension of economic activity of taxpayer if the taxpayer is registered in the Register of Enterprises. Due to low tax morale after financial crises in and taxpayer's reluctance to pay taxes in 2011 in the structure of the State Revenue's Service was created of a new unit - the Tax Accounts Administration. In 2012 marked out that a part of the merchants, effectively terminating their business, are not legally dissolved and are not excluded from the Commercial Register, therefore, in 2012 essential amendments were made in the Commercial Law and in the law On Taxes and Duties – the requirements of both regulatory enactments were aligned and come into force the company's simplified liquidation. The statistical data confirms that State Revenue Service and the government role in organizing the business environment are significant.

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Research results and discussion

At any time, the role of the government in organizing and developing the business environment is significant.

In the National Development Plan of Latvia for 2007-2013, the government determined that the basis of the national economy is the successful development of a business based on free market principles and it is, therefore, necessary to stimulate the creation of new and new high added value enterprises [1].

To motivate individuals to engage in entrepreneurship in Latvia in 2010:

- 1) essential amendments were made in the Commercial Law;
- 2) was developed and adopted the Micro-enterprise Tax Law.

Started from 1 May 2010 the initial registered and paid-in equity capital for a limited liability company (hereinafter - LLS) could be 1.42 EUR (1 LVL) and after Latvia's accession to the European Union – 1 EUR. Before these changes, if founding an LLC, equity capital of 2845.74 *euros* (2000 LVL) had to be paid in before applying to the Register of Enterprises. [2]

Started from 1 September 2010 the Micro-enterprise Tax Law takes effect. The micro-enterprise tax rate was set at 9% of the calendar year's turnover (till 2012) and the status of a micro-enterprise could be obtained voluntarily by an individual merchant, an individual undertaking, a farm or fishing enterprise, as well as a natural person registered with the State Revenue Service as a performer of economic activity or a limited liability company which meets the following criteria:

- 1) the participants (if any) are natural persons, members of the board of directors of a limited liability company may only be employees of the micro-enterprise,
- 2) the turnover does not exceed 99 601 *euros* (70 000 LVL) in a calendar year,
- 3) the number of employees does not exceed five at any time and the remuneration for work at a micro enterprise does not exceed 711.44 *euros* (500 LVL) per month [3].

Šneidere R., Būmane I. welcomes the changes made to the Commercial Law, which allows the creation of new ones LLC with a minimum share capital of 1 EUR. As per their research for the first four years, 66.3% of all start-up companies have benefited from the Commercial Law, while their share has declined to 60.7% in the last year, but it also shows the high activity of entrepreneurs, as 30% of founders are newcomers who have not been involved in the business as officials or members. [4]

And Leibus I. thinks that the micro-enterprise tax is a successful fiscal instrument to support the small businesses during the economic crisis, particularly in countries with high labour costs. Although the influence of the micro-enterprise tax on the economy is small, its introduction was a successful strategy. It has encouraged the legalization of business activities that are especially important in the situation of high unemployment. Besides the micro-enterprise tax legalized

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many physical persons that are now registered as micro-enterprise employees, but previously they were not entered in the taxpayers' data basis.[5]

By creating micro-enterprise tax and reducing the registered and paid-up share capital for LLC government achieved its goal – activating entrepreneurship and increasing the number of entrepreneurs (Table 1).

Table 1 Registration and removal dynamics per year by Latvia's Register of Enterprises in the period from 2006-2017

Year	Number of registered entities	Chain increase, %	Number of excluded entities	Chain increase, %
2006	13404	–	3274	–
2007	14208	6	11185	242
2008	11347	-20	4765	-57
2009	9228	-19	5715	20
2010	13422	45	8834	55
2011	18044	34	3920	-56
2012	16891	-6	4308	10
2013	16365	-3	4156	-4
2014	14965	-9	6402	54
2015	13484	-10	10070	57
2016	11206	-17	12229	21
2017	10210	-9	16480	35

Source: author's calculations based on statistical data of the Register of Enterprises of the Republic of Latvia [6]

Although the increase in the number of registered companies and taxpayers has also resulted in an increase in tax revenues over the period from, however, the crisis has had a significant impact on the ability of the SRS to collect taxes according to declared information by entities (tax declarations).

In 2011, following the recommendation of the International Monetary Fund on improving the work of the SRS in the field of tax debt recovery, in the structure of the SRS was created a new unit - the Tax Accounts Administration with 272 posts [7].

The author concludes that new employees have not been taken up by creating a new unit and creation of this unit was the result of an internal reorganization, as

the number of actual employees at the beginning of 2011 was 4176, but by the end of 2011 - 4147, and the actual total number of employees in this year has decreased by 29 employees.

Started from 5 July 1996 the SRS has the right to suspend the taxpayer's economic activities due to infringements of laws and regulations. From 4 March 2008 in this case the SRS must send information on the suspension of economic activity of the taxpayer to the Register of Enterprises if the economic activity of the taxpayer registered in the register of the Enterprise Register or Commercial Register is suspended and also send the information on reinstating of the taxpayer's economic activity if SRS renewing the suspended economic activity of a taxpayer.

Therefore In 2012 essential amendments were made in the Commercial Law and in the law On Taxes and Duties – the requirements of both regulatory enactments were aligned:

1) the law On Taxes and Duties strengthened SRS power to suspend and to renew the economic activity of a taxpayer due to infringements of laws and regulations

2) and in the Commercial Law was included regulation about the termination of activities of the company on the basis of a decision of the Commercial Register Office or Tax Authority.

The SRS has the right to suspend the economic activity of the taxpayer (or its structural unit in which infringement has occurred) if at least one of the following infringements is identified:

1) if the taxpayer employs persons without concluding employment contracts with them, and the proportion of such persons is 50 percent or more however not less than three persons of the persons employed in the object which is audited (territories and premises owned or used by the taxpayer in which economic activity is performed or which are related to deriving of income in the territory of premises owned or used by other natural or legal person);

2) the taxpayer has evaded taxes or fees;

3) the taxpayer uses a cash register, hybrid cash register, cash-office system, dedicated device and equipment software or accounting information computer system, the software of which has been changed or other activities have been carried out thereby creating an opportunity to conceal or reduce the taxable base on which taxes and duties are levied;

4) the taxpayer disburses income which is not recorded in the accounting registers and in the report on mandatory national social security contributions, personal income tax levied on earnings of employees and State fee of the business risk for the reporting month submitted to the SRS to the person employed, or employs more than one person without concluding employment contracts;

5) the taxpayer has not eliminated the infringements which caused its removal from the register of value-added taxpayers of the SRS;

6) the taxpayer has not settled late tax payments subject to recovery based on a decision regarding recovery of late tax payments and a statement regarding the impossibility of recovery is at the disposal of the SRS. [9]

The author compiled statistics about suspension and renewing the economic activities of taxpayers per year by SRS (Table 2).

Table 2 Suspension and renewing economic activity of taxpayers per year by the State Revenue Service of the Republic of Latvia in the period from 2012-2017

Year	The number of taxpayers to whom SRS has			
	Suspend economic activity	Chain increase, %	Renewing economic activity	Chain increase, %
2012	637	–	14	–
2013	10351	1525	231	1550
2014	10897	5	508	120
2015	12533	15	686	35
2016	10480	-16	715	4
2017	5457	-48	328	-54
Total:	50355		2482	

Source: author’s calculations based on statistical data of the State Revenue Service of the Republic of Latvia [8]

The number of taxpayers includes both – the natural persons registered with the SRS as a performer of economic activity and the taxpayers registered in the register of the Enterprise Register, like LLC. Due to a large amount of data, the author did not analyse the distribution of natural and legal persons in the number of taxpayers to whom SRS has suspend their economic activity in this paper. The author will do it in one of the following papers in order to more accurately calculate the impact of the SRS decisions on the liquidation of capital companies.

According to the statistical data (Table 2) author concludes that SRS is very active to put the business environment in order and it affects on the number of excluded entities from Latvia’s Registers of Enterprises too (Table 1). During 2012 – 2017 were registered 83121 entities and excluded 53645 entities in the Register of Enterprises. In the same time, SRS suspended 50335 taxpayer’s economic activities but renewing the economic activities only 4.93% of them.

In 2012 marked out that a part of the merchants, effectively terminating their business, are not legally dissolved and are not excluded from the Commercial Register, therefore, the information in the Commercial Register is available about them, which in turn may mislead third parties as to the existence of these entities. Neither members of the company nor the creditors take actions to ensure the liquidation of these entities, including the distribution of property and satisfaction of creditors' claims, therefore, these entities are not active in liquidation or insolvency proceedings. The existence of such legally existing but actually non-existent entities contributes to uncertainty in Commercial law.

Activities of the company may be terminated on the basis of a decision of the tax authority if:

- 1) the company has not submitted an annual report within one month after administrative punishment was imposed and at least six months have passed since the violation was committed;
- 2) the company has not submitted the declarations for the time period of six months, provided for in tax laws, within one month after administrative punishment was imposed;
- 3) activities of the company have been suspended on the basis of a decision of the tax authority, and the company has not rectified the indicated deficiency within three months after activities thereof were suspended. [2]

And by this started simplified liquidation of the company – liquidation without court intermediation and without the active involvement of the founders of the company.

The author compiled statistics about the taxpayers, registered in the register of the Enterprise Register, simplified liquidation and exclusion from the Register of Enterprises on the basis of a decision of the tax authority in 2012 – 2017 (Table 3).

Table 3 *The taxpayers simplified liquidation and exclusion from the Register of Enterprises per year on the basis of a decision of the State Revenue Service of the Republic of Latvia in the period from 2012-2017*

Year	Decision on the suspension of economic activity	Exclusion from Register of Enterprises after suspension of economic activity	Decision on termination	Exclusion from Register of Enterprises after decision on termination
2012	49	0	0	0
2013	1510	12	0	0
2014	1667	217	1812	200

Year	Decision on the suspension of economic activity	Exclusion from Register of Enterprises after suspension of economic activity	Decision on termination	Exclusion from Register of Enterprises after decision on termination
2015	419	487	718	354
2016	134	900	299	752
2017	23	2186	106	1629
Total:	3802	3802	2935	2935

Source: author's calculations based on unpublished statistical data of the Register of Enterprises of the Republic of Latvia

According to the statistics (Table 3) in 6737 cases the activities of the companies were terminated on the basis of a decision of the tax authority in the period from 2012 – 2017 and it is about 13% from the total number of excluded entities from the Enterprise Register.

It confirms that SRS and the government's role in organizing the business environment are significant.

The author believes that entrepreneurs do not seek to restore the company's business activities if it has been suspended by the SRS but is waiting for statutory deadlines and expects the company to apply simplified liquidation. It can be assumed that it is easier to register a new company and start a new business than to rebuild an existing one. In the simplified liquidation, the founders do not need to appoint a liquidator. In essence, the company's simplified liquidation is free of charge to the founders of the company. The author believes that the impact of such a liquidation on the business environment has to be assessed - it is positive that empty businesses are excluded but are only empty businesses and fraudulent companies are excluded need to be explored. The simplified liquidation also can be used as an avoidance of insolvency proceedings.

CONCLUSION

1. By creating micro-enterprise tax and reducing the registered and paid-up share capital for LLC government achieved its goal – activating entrepreneurship and increasing the number of entrepreneurs.

2. Although the increase in the number of registered companies and taxpayers has also resulted in an increase in tax revenues over the period from, however, the crisis has had a significant impact on the ability of the SRS to collect taxes according to declared information by entities (tax declarations).

3. The SRS has the right to suspend the taxpayer's economic activities due to infringements of laws and regulations and renew it.

4. During 2012 – 2017 SRS suspended 50335 taxpayer's economic activities but renewing the economic activities only 4.93% of them.

5. In 2012 marked out that a part of the merchants, effectively terminating their business, are not legally dissolved and are not excluded from the Commercial Register, therefore, the information in the Commercial Register is available about them, which in turn may mislead third parties as to the existence of these entities.

6. In 2012 the Commercial Law and in the law On Taxes and Duties requirements were aligned:

6.1. the law On Taxes and Duties strengthened SRS power to suspend and to renew the economic activity of a taxpayer due to infringements of laws and regulations

6.2. and in the Commercial Law was included regulation about the termination of activities of the company on the basis of a decision of the Commercial Register Office or Tax Authority;

7. In 6737 cases the activities of the companies were terminated on the basis of a decision of the tax authority in the period from 2012 – 2017 and it is about 13% of the total number of excluded entities from the Enterprise Register.

8. SRS and the government's role in organizing the business environment are significant.

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