

# Rödl & Partner

NEWSLETTER LITHUANIA

SUCCESSFUL TOGETHER

Issue:  
November  
2021

Major Tax Changes | July – September 2021

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→ Major Tax Changes

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## → Major Tax Changes

### Corporate income tax news

#### Revised provisions on the application of the 5 per cent rate

As of 1 January 2021, an amendment to the Corporate Income Tax Law (hereinafter – CIT Law) has entered into force, narrowing the scope of the preferential 5 per cent corporate income tax rate. From now on, for the calculation of corporate income tax for the year 2021 onwards, the preferential rate will only be available to related companies that do not exceed any of the following thresholds set out in Article 5(3) of the CIT Law: 1) an annual turnover of more than 300,000 Euros, or 2) an average number of employees exceeding 10. Previously, these conditions were separated by the word “and”, so that from now on the benefit is narrower and will be available to a smaller number of taxpayers.

Until 2021, related companies could apply the preferential rate even if the total revenue of the different related companies exceeded 300 000 but the total number of employees was less than 10.

The original CIT Law amendment can be found [here](#).

#### 20 years corporate income tax holiday for large investors

On 30 June 2020, the Parliament of the Republic of Lithuania adopted amendments to the CIT Law, introducing a corporate income tax benefit for large investors in Lithuania.



From 2021 onwards, investors can be exempted from corporation tax for a period of 20 years, provided the following conditions are met:

- The legal entity has concluded the agreement of a large investment project with the Ministry of Economic and Innovation
- The agreement is concluded and signed from 1 January 2021 to 31 December 2025.
- Investments of the company operating in Vilnius and Vilnius district amount to 30 million Euros and its average number of employees exceeds 200, while in other areas of the country the requirement is reduced to 20 million Euros and 150 employees.
- 75 per cent of the revenue of the Company come from data processing, web hosting and related activities or manufacturing activities.



The tax incentive would become applicable in the tax period in which the amount of investment and the average number of employees were reached.

Also, on 6 May 2021, the State Tax Inspectorate (hereinafter – STI) published the conditions and requirements for the application of this benefit, which include:

- The start and end of the benefit;
- The separation of income and expenses from other activities for the calculation of the capital investment;
- Deduction of losses;
- Etc.

The corporate income tax benefit for companies established in FEZ (0 per cent corporate income tax rate for 10 years, 7.5 per cent for the next 6 years) will remain in force, so the entry into force of this benefit outside the FEZ will widen the opportunities for investors.

In the case of private investments, it is important to ensure that the benefit applied for investors are compatible with European Union laws on the granting of State aid.

Along with this amendment to the Law on Investment, the Law on Territorial Planning, the Law on Employment, the Law on Land, the Law on the Legal Status of Foreigners, and the Law on the Environmental Impact Assessment of Planned Economic Activities, amendments were adopted to encourage the attraction of large-scale investments in Lithuania.

For additional information please [contact](#).

The original legislation can be found [here](#) and [here](#).

STI explanation can be found [here](#).

Company costs for catering and commuting of employees is an allowable deduction

On 6 October 2021, The STI issued a notice stating that from now on, expenses incurred by a company for catering and transporting its employees to work can be deducted as an allowable deduction as long as the country is in a state of emergency due to the threat of the spread of Covid-19. Previously, this provision only applied during quarantine only.

The STI information note states that when a state of emergency has been declared in a country, during which a special activity regime or restrictions are established for the company's activities and the company's employees do not have the opportunity to eat lunch or have their meals organized by the company, such meals are objectively necessary.

Similarly, there will be no income in kind when a company pays for the commuting, taxis or bus rental to arrange for employees to come to their place of work when they are unable to carry out their job functions remotely.

The decision was based on the fact that these costs are incurred by the company for its

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## Personal income tax news

The STI clarified the application of the PIT relief for benefits received by an employee under options

STI has prepared a summary explanation of Article 17 (tax-free income) (1) (58) of the Law on Personal Income Tax (hereinafter – PIT) on taxation of shares transferred free of charge or at a preferential price to employees under stock options.

own benefit and not for the benefit of the employee, and can therefore be included as an allowable deduction as necessary expenses for occupational safety and protection of employees.



This approach by the tax authorities reflects a somewhat more liberal approach to the treatment of income in kind / allowable deductions from a business point of view. We recommend that companies that have been incurring significant costs of income in kind since the start of the pandemic should reconsider these costs, and recognize them as serving for the benefit of the company rather than the employees.

STI information notice can be found [here](#).

## BREXIT

On 24 December 2020, the European Union and the United Kingdom (hereinafter – UK) managed to agree on a trade and cooperation agreement between the European Union and the European Atomic Energy Community and the United Kingdom of Great Britain and Northern Ireland, and which was signed on 30 December 2020 (for now the agreement is provisional).

Here are the key points:

- The exercise of an option contract and the receipt of shares for free or at a preferential price generates income in kind. Where shares are acquired free of charge, the benefit received is the fair market value of the shares at the time of acquisition. Where shares are acquired at a preferential price,

the benefit is calculated as the difference between the fair market value of the share (at the date of acquisition) and the preferential price actually paid by the employee for the share.

- The benefit received by the employee from the employer (or a person related to the employer) as a result of the acquisition of shares free of charge or at a preferential price, if the shares were acquired pursuant to an option agreement and not earlier than 3 years after the date of the conclusion of the option agreement, is considered to be exempted from personal income tax.
- The document evidencing an option is a written document that confirms the transaction, e.g. an agreement, a certificate issued to an employee.
- The point in time at which the income is earned is the date on which the option is exercised (shares are acquired).
- The relief applies to income derived from option contracts concluded after 1 February 2020, and accordingly the relief can be exercised no earlier than 2 February 2023.
- The exemption does not apply if, at the time of the exercise of the option, the grantor of the income in kind is not the person's employer or a person related to him.

There are many issues that can arise when entering into option contracts, such as:

- The choice of the grantor (i.e. whether it is better to grant the options through a Lithuanian entity or to take advantage of the benefits of holding them abroad);
- The pricing of the shares;
- The exercise of an option earlier than its scheduled maturity, etc.,

We therefore recommend consulting a tax lawyer before implementing such an employee incentive.

The full commentary can be found [here](#).

An increase in MMS and non-taxable income is planned from 2022

In September 2021, the latest government decree on the minimum monthly salary (hereinafter – MMS) for 2022 was agreed. Once adopted by the Parliament, the MMS should reach 730 Euros in 2022.

Also in October 2021, a draft amendment to the law was registered to increase the non-taxable income (hereinafter – NPD) to 460 Euros per month.

Below is a comparative table with 2021.

	2021	2022 (proj.)	Difference
<b>MMS</b>	642	730	88
<b>NPD</b>	400	460	50
<b>PIT 20%</b>	48,4	54	5,6
<b>SSI 19,5%</b>	125,19	142,35	17,16
<b>Total deductions</b>	173,59	196,35	22,76
<b>Paid</b>	468,41	533,65	65,24
<b>SSI 1,77%</b>	11,36	12,92	1,56
<b>Workplace cost</b>	653,36	742,92	89,56

*Abbreviations:*

SSI – State social insurance

The MMS law ruling can be found [here](#).

A draft amendment to the PIT Law can be found [here](#).

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## VAT news

E-Commerce package and major changes to VAT

### One Stop Shop scheme

As of 1 July 2021, the One Stop Shop (hereinafter – OSS) scheme came into force and has been in place for some time, whereby e-sellers (e.g. via the internet) have the possibility to declare their supplies of goods to buyers based in another EU country to a single tax authority.

The basic principle of the OSS scheme is that, when selling goods or services, the seller must apply the VAT rate applicable in the buyer's (natural person's) country of establishment to the sale of goods or services (if the total turnover reaches 10,000 Euros), and must pay the VAT to the local tax authorities. The local tax authority, after collecting this foreign VAT from the trader, transfers it to the tax authority of the country where the customer is established.

In this context, persons using the OSS scheme will no longer be obliged to register for VAT in different Member States.

It is important to note that distance selling and the sale of e-services (e.g. the sale of mobile applications) are subject to the foreign VAT registration rule of 10,000 Euros gross receipts.

However, companies are often confronted with various issues related to OSS, such as:

- What if you did not register for OSS and continue to charge VAT in Lithuania on sales abroad?
- What to do if the wrong rate is applied?
- What are the risks if you continue to charge VAT in Lithuania or do not charge VAT at all (e.g. below the threshold of 45,000 Euros)?

If you have any questions, please do not hesitate to contact us using the contact details below.

The original legislation can be found [here](#).

## Obligation to keep accounting records for OSS users registered in Lithuania

On 1 July 2021, the order of the STI regarding the accounting records related to OSS came into force. According to the order, companies that have registered with the OSS system in Lithuania are obliged to prepare and keep records of supplies for 10 years. This obligation arises because legal persons using the OSS system are no longer obliged to issue VAT invoices.



The accounting records may be compiled in an accounting software or stored in an open-format text file (e.g. Excel). The accounting ledger must include:

- The name of the Member State of consumption in which the services or goods are supplied;
- A description of the type of services or goods supplied and the quantity;
- The date of supply of the services or goods;

- The taxable value of the services supplied or goods delivered, indicating the currency used;
- Any subsequent increase or decrease in the taxable amount occurring after the time of supply of the services or supplies;
- The rate of VAT applicable to the supply of services or goods;
- The amount of VAT payable, specifying the currency used;
- The date and amount of payments received;
- Any payments (advances) received before the supply of services or goods;
- If a VAT invoice is issued, the information on the VAT invoice.

More information can be found [here](#).

## The list of cases when it is not necessary to issue a VAT invoice has been supplemented

As of 1 July 2021, a government decree amending the rules on the issue and recognition of accounting documents used for tax purposes entered into force. This decree adds to the list of cases in which it is not obligatory to issue a VAT invoice:

- Services (goods) provided to owners of flats and other premises in multi-apartment buildings (this amendment entered into force on 23 June 2021);
- The Lithuanian supplier supplies goods under an intra-EU distance selling scheme and is a user of the OSS system, in addition to supplying goods to residents of other EU Member States, non-taxable persons, etc;
- A Lithuanian invoice is not required when telecommunications, broadcasting and electronic services are supplied to Lithuanian non-taxable persons by telecommunications, broadcasting and electronic services providers located outside the EU, if the VAT invoices are issued in accordance with the rules of the foreign service provider's country;
- A Lithuanian invoice is not issued when a supplier participating in an import distance selling scheme (registered in the IOSS system) supplies goods to Lithuanian consumers and writes the invoice according to the rules of its country of establishment.

The original legislation can be found [here](#).

## UK companies are required to appoint a fiscal agent

Up until 29 July 2021, it was considered that UK entities have no obligation to appoint fiscal agent in Lithuania provided that there are mutual cooperation agreements between EU and UK in place. On 10 June 2021, European Commission have issued Implementing Decision (EU) 2021/942 laying down rules for the application of Council Directive 2006/112/EC as regards the establishment of the list of third countries with which the Union has concluded an agreement on mutual assistance similar in scope to Council Directive 2010/24/EU and Council Regulation (EU) No 904/2010 (hereinafter – Decision).



According to the Decision, only Kingdom of Norway shall be considered as falling under the rules of mutual cooperation and therefore UK entities are now subject to the obligation to register as a VAT payer through the appointed fiscal agent OR if already registered – to appoint fiscal agent until the end of October 2021. Companies that fail to appoint fiscal agent will be deregistered from VAT payers from November 2021, but will remain subject to all the VAT payment obligation, if any.

The original STI Announcement can be found [here](#).

## Temporary additions to the list of applications for the reduced VAT rate of 9 per cent

The Seimas temporarily (from 1 July 2021 to 31 December 2022) adds additional services that will benefit from a reduced VAT rate of 9 per cent:

- Catering services provided by restaurants, cafés and similar catering establishments and takeaway food, excluding alcoholic beverages and services or parts of services related to alcoholic beverages;
- The supply of all types of arts and cultural establishments, arts and cultural events, sporting events, sports clubs, and the sup-

ply of other persons providing services similar to those of sports clubs (in the case of exempted supplies by non-profit-making legal persons, the supply is exempted from VAT in accordance with Article 23 of the VAT Law);

- Performance services supplied by performers (actor, singer, musician, conductor, dancer or other person acting, singing, reading, reciting or otherwise performing literary, artistic, folklore or circus acts).

The original amendment can be found [here](#).

## New OSS registration rules published

As of 5 October 2021, the procedure for registration of OSS users of special EU (OSS VAT), non-EU (VOES) and import (IOSS) schemes and the rules for filling in, submitting, adjusting and paying VAT returns established by the STI came into force.

The order confirms:

- Rules for the registration of taxable persons as users of special schemes of the OSS system, for the compilation and assignment of value added tax, VOES, IOSS codes and intermediary numbers to such persons.
- Rules for filling in, submitting, correcting and paying value added tax returns of taxable persons registered as users and intermediaries of special schemes of the OSS system.



Registering for EU and non-EU schemes:

- The start of use of the OSS will be the 1st day of the next quarter if the taxable person does not provide any information on the start of supply of goods or services;
- If the company indicates the start of supply of goods or services, the OSS system can be used in the same quarter. The application

for registration should be submitted by the 10th of the month and if the company indicates that the supply started in the previous month, it can use the OSS to declare the previous month's sales to the EU. If the supply started this month, the OSS scheme will be available from the date indicated in the registration application;

- The registration of IOSS cannot be back-dated, so the start of the use of the import scheme is considered to be the date of the registration decision.

Tax periods and deadlines for VAT returns:

- The VAT return period for the EU scheme and the non-EU scheme is the calendar quarter. The due date is the last day of the month following the tax period, e.g. for the first quarter, the deadline is 30 April;
- The tax period for the import scheme VAT return is a month. The due date is the last

day of the month following the tax period, e.g. for the month of January the return must be submitted by 28 (29) February.

VAT payment deadlines, procedures and repayment of overpayments:

- The calculated VAT due must be paid in euros no later than by the last day of the month following the tax period to the special account of the STI, specified in the OSS system;
- When making a VAT payment, the identification number assigned to the return in the OSS system must be indicated;
- The amount of VAT due shall be refunded to the bank account indicated at the time of registration, no later than the 20th day of the month following the month in which the payment was received.

More information can be found [here](#).

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## Other tax news

From 2022, payments to employees will only be made to bank accounts

The Parliament of the Republic of Lithuania has agreed that all payments to employees, where the amount paid is related to the employment relationship, can only be made by transfer to the person's bank account. These are payments such as wages, daily allowances, reimbursement of secondment expenses, mobile work allowances or other allowances paid by the employer to the employee. This requirement applies to all employers – companies and self-employed residents.



However, amounts received by reporting entities to cover the purchase of goods or services by the enterprise are not included in the employee's

income or employment benefits, so the non-cash settlement requirement may not apply in such cases.

Also, it will be possible to continue to settle cash with individuals under civil purchase-sale, lease or service agreements. The same conditions will apply when a company enters into these contracts with its employees.

It should be emphasized that payments for previous periods (e.g. wages for December 2021) from 1 January 2022 must be made in non-cash, except when wages are paid to seafarers, in accordance with the Law on Merchant Shipping of the Republic of Lithuania.

The original legislation can be found [here](#).

The rules for offsetting tax credits and Sodra's contributions arrears have been published

The general rules of the STI and the State Social Insurance Fund (hereinafter – Sodra), which entered into force on 30 January 2021, have been published, setting out the procedure for tax credits between STI and Sodra.

Amendments to the Tax Administration, National Social Insurance and Health Insurance Laws, which come into force in 2021, allow for the offsetting of arrears and overpayments of some



taxes and contributions. The legislation stipulates that each tax administration (STI and Sodra) will first set off the taxes and other contributions it administers, and only then can an overpayment be set off against the underpayment of another tax.

It also provides that offsets may be made against arrears or overpayments:

- When the recovery of tax arrears of a legal or natural person has been initiated by the STI or Sodra.
- When a legal or natural person applies to the STI or Sodra to use the overpayment to offset tax arrears for other administered taxes. Such a request must be made to the administration where the overpayment occurred and must be dealt with within 30 days.
- The tax credit will also be made automatically when the taxpayer applies for a refund. Amounts not paid to another tax administrator will be deducted before the overpayment is refunded.

The original legislation can be found [here](#).

From 2022, excise duties on all smokes and alcohol will increase

The Parliament of the Republic of Lithuania has decided that from 1 January 2022, excise duties on beer, wine, ethyl alcohol, cigarettes, cigars and cigarillos, smoking, heating, raw tobacco and electronic cigarette liquid will start to increase. These excise duties will increase in 2023 and 2024, respectively.

However, the amendments to the law also provide for a 50 per cent lower excise duty rate for small breweries producing no more than 80,000 hectolitres of beer per year, which can be applied to 10,000 hectolitres of beer sold per year.

Groups of alcoholic beverages	Excise duty rate			
	2021	2022	2023	2024
Wine and other fermented beverages up to 8,5 % strength	65,46	78	93	109
Wine and other fermented beverages of an alcoholic exceeding 8,5 % strength	164,67	181	199	219
Intermediate products up to 15 % strength	185,82	200	216	234
Intermediate products above 15 % strength	264,52	285	308	333
Ethyl alcohol 100 %	2 025	2 163	2 310	2 467
Beer 1 %	7,11	7,82	8,6	9,46

Cigarettes	Excise duty rate			
	2021	2022	2023	2024
Minimum excise duty rate EUR / 1 000 units	115,5	122,5	130	138
Specific element of the excise duty EUR / 1 000 units	69,4	74,3	79,6	85,3
Value element of the excise duty rate, %	25%	25%	25%	25%

Groups of tobacco products and alternative products	Excise duty rate			
	2021	2022	2023	2024
Cigars and cigarrilles, EUR / kg	55	66	79	95
Smoking tobacco, unmanufactured tobacco, EUR / kg	90	97	104,6	112,8
Heating tobacco products EUR / kg	113,2	45,6	60,2	79,5
Electronic cigarette liquid, EUR / ml	0,12	0,15	0,19	0,25

The original amendment can be found [here](#).

## Amendments to the tax investigation rules

On 1 December 2021, STI order will enter into force, which will introduce amended rules for tax investigations. These new rules provide for two types of tax investigation:

- Monitoring the performance of the taxpayer;
- Control of the taxpayer's performances.

### 1. Performance monitoring.

It is the analysis of data available and / or additionally collected about a specific taxpayer and provided by the taxpayer and / or the evaluation of documents in the field of tax calculation, declaration and payment.

Activity monitoring will be performed without a separate order, with STI employees performing their direct functions and not informing the taxpayer, unless additional data is requested. In this case, the STI will be able to contact the taxpayer by phone, e-mail, in writing or through the My STI portal and provide the purpose of activity monitoring.



In addition, the STI may collect data from any source and, following monitoring and identifying deficiencies and/or inconsistencies, issue instructions:

- To revise / submit declarations, accounts, reports, other documents;
- Pay taxes;
- Other.

Failure to eliminate the identified deficiencies and / or inconsistencies in the taxpayer's declarations and / or other documents is the basis for initiating a tax audit or initiating other actions to ensure the fulfilment of obligations.



### 2. Performance control.

It is the control of a taxpayer's economic and financial activities aimed at obtaining and / or earning income or other economic benefits, which includes a visit to the taxpayer to determine how the taxpayer complies with the requirements of tax laws in the field of tax calculation, declaration and payment.

Performance control will be more formal and will begin with the issuance of a tax investigation assignment (FR0688). After issuing the task, the STI must inform the taxpayer about the

planned investigation not later than 5 calendar days before the start of the investigation. However, if the STI does not require the submission of documents or data required for the investigation, the STI may not inform about the investigation. However, the taxpayer may be informed about the planned investigation in writing by sending it by post or via the My STI portal.

Controls may include a visit. When visiting a taxpayer, a distributed STI employee has the right to take items, samples of goods or products, accounting data, originals of other documents, make copies or extracts of these documents and mark them to prevent forgery. Also, the STI employee has the right to request explanations and other documents about the property, its acquisition sources, income, expenses, activities and explanations regarding other circumstances.

After the performance control, the STI employee must fill in the report on the performed investigation (FR0687), which will indicate the ways to eliminate the deficiencies.

Also, it is important to mention that the rules do not regulate the duration and suspension of a tax investigation.

In the case of both investigations, non-compliance with the STI instructions allows to initiate a tax audit or other actions that would ensure the fulfilment of obligations.

The original legislation can be found [here](#).

The rules for conducting an operational inspection have been changed

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On 13 February 2021, the rules for carrying out operative audit (hereinafter – OA) entered into force. Here are the main changes:

- The number of staff to be assigned to the operational inspection will not be specified.
- It was refused to re-issue an instruction to the STI to enter a person subject to administrative responsibility who fails to appear within the set term due to the drawing up of an administrative offense report. In such a case, the STI has the right to apply to the police, who may present the person in charge to the STI for the drawing up of an administrative offense report.
- The STI employee responsible for the execution of the OA must submit the paper documents related to the OA to the repository where the taxpayers' files are kept no later than 30 days after the end of the OA.

The original legislation can be found [here](#).

From 2022, the rules for filling in Intrastat and report forms will change

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On 30 July 2021, the Order of the Directors General of Statistics Lithuania and the Customs Department was approved, which sets out the new rules for the completion, submission and acceptance of Intrastat statistical returns, and approves the new UPS-01 dispatches and UPS-02 acquisition reporting forms.

Below are the main changes:

1. It is foreseen that goods can be declared on one line in the UPS-01 report if:

- Identical goods are dispatched;
- They are coded with the same 8-digit Combined Nomenclature code;
- They are dispatched from the same county, in the same transaction, under the same conditions of delivery, by the same mode of transport to the same consignee country;
- The same country of origin (new condition);
- To the same partner (new condition).



2. Box 8b of the UPS-01 report shows the 'Partner Identification Code', which is the identification code assigned to the economic operator's partner in the recipient country. The alphanumeric and numeric parts of the VAT code are indicated. If the recipient of the goods is not registered for VAT in the recipient country or the VAT code is not known, enter code QV9999999999999999 (new condition).

3. It has been specified that the UPS-01 and UPS-02 reports will not be required to fill in columns such as:

- Date of completion;
- Fax No.;
- Brief description of the item;
- Sum of all invoice values.

Please find the new rules [here](#).

DAC7 has been adopted and is being considered for DAC8

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On 22 March 2021, the European Parliament (EP) approved DAC7, which sets out new rules for reporting on digital platforms and will come into force from 1 January 2023.

Also on 10 March this year, the EP launched a public debate on DAC8, which would introduce new obligations for electronic money and cryptocurrencies.

According to the EP, the main objective of DAC7 and DAC8 is to promote better tax transparency and cooperation mechanisms in the digital economy.

## 1. DAC 7

Digital platform operators with connectivity in the EU will have to identify certain sellers and report on the information that sellers receive from certain relevant activities. The information will have to be

submitted to the tax authority of the Member State concerned by 31 January of the following calendar year at the latest, e.g. for 2023 the deadline for reporting is 31 January 2024.

## 2. DAC 8

The approval of DAC8 would aim to ensure the proper taxation of income derived from investments in cryptocurrency assets and e-money. The

purpose of the EP's discussions is to gather stakeholders' views on the use of e-money and cryptocurrencies, as well as to gather information on possible reporting mechanisms. It is foreseen that in the future the provisions of DAC8 will be adopted and that cryptocurrency, e-money distributors and intermediaries will be subject to reporting obligations similar to those of digital platform operators (DAC7).

The DAC7 Directive can be found [here](#). Information on DAC8 can be found [here](#) and [here](#).

## Contact for further information

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Nora Vitkūnienė  
Associate Partner  
Head of Tax Department  
T +370 5 2123 590  
[nora.vitkuniene@roedl.com](mailto:nora.vitkuniene@roedl.com)



Mantas Mališauskas  
Head of Internal Tax Division  
T +370 5 2123 590  
[mantas.malisauskas@roedl.com](mailto:mantas.malisauskas@roedl.com)

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## Imprint

**Publisher:**  
Rödl & Partner UAB  
Tilto str. 1, LT-01101 Vilnius, Lithuania  
T +370 5 212 3590  
[www.roedl.lt](http://www.roedl.lt)

**Responsible for the content:**  
Nora Vitkūnienė  
[nora.vitkuniene@roedl.com](mailto:nora.vitkuniene@roedl.com)  
Mantas Mališauskas  
[mantas.malisauskas@roedl.com](mailto:mantas.malisauskas@roedl.com)

**Layout:**  
Lina Pradkelienė  
[lina.pradkeliene@roedl.com](mailto:lina.pradkeliene@roedl.com)

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