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REPORT

From:	General Secretariat of the Council
To:	Delegations
Subject:	Code of Conduct Group (Business Taxation) - Report to the Council

Lithuania's Tax relief from CIT for investments in large projects (LT009)

I. Background

1. Based on the following summary conclusion, the Group decided in November 2021 that measure LT009[1] did not need to be assessed, but that its effects should be monitored:

> "*Taxpayers investing in large investment projects in the fields of data processing, web server services (hosting) and related activities, and/or in manufacturing activities, can benefit from a CIT exemption for 20 years if the qualifying conditions above are met.*
> *Those companies can benefit from a significantly lower level of taxation than that generally applied to others (15%), resulting actually in no CIT taxation for the long period in which the tax benefit is applicable. This can affect the location of business activities in the EU in a significant way.*
> *Concerning economic substance, it appears prima facie that the tax relief is granted for manufacturing or other production activities. However, highly mobile assets, such*

[1] 14230/21 FISC 202

as software and other IP components, may be included as qualifying investment costs. The LT authorities confirmed that at most 25% income can arise from activities other than data processing, web server services (hosting) and related activities, or manufacturing. Those (capped) activities must however be carried out to implement the agreement on the large investment project.

As for substantial economic presence, legal requirements and safeguards concerning new jobs (minimum number of newly created jobs and their minimum 5 years holding period from recruitment) and the other qualifying expenses (minimum capital investments required) relating to large projects are present."

2. The tax measure is in place from 1 January 2021 to 31 December 2025.

3. The analysis undertaken by the Group proved that the measure should be monitored, without specifying what type of data Lithuania should provide. However, in light of the past practice for similar tax incentives monitored over the years, the data in the Annex has been requested.

II. Preliminary assessment

4. Lithuania has provided the data for the tax year 2021 – the first tax year in which the measure is applicable - and confirmed that no taxpayer had benefited of the measure. Therefore, the measure cannot have an effect on the business location in the EU.

Given that 2021 is the year of introduction of the measure, it is suggested that the measure remains under monitoring, in order to verify its effects in the coming years.

III. Follow-up:

i. The Group agreed with the preliminary conclusion that the LT009 regime does not seem to have affected in a significant way the business location among the Member States.

ii. The Group agreed that monitoring should continue.

Annex: Lithuania LT009 – Tax relief from CIT for investments in large projects [2021 CoCG decision]

Lithuania – LT009	**2021**
Total number of taxpayers benefitting from the measure (domestic companies, foreign and (directly or indirectly) foreign owned companies)	0
➢ Out of which directly or indirectly foreign owned companies:	0
Which sectors of activity they perform/ per type of sector the number of entities in each sector that benefitted from regime	-
The declared taxable profit/ taxable income in euros per sector of activity and per category of companies (domestic versus foreign owned)	-
Budget revenue losses due to the tax relief/ The amount of tax benefits/ exempted tax/ budget revenue loss per sector of activity and per category of companies	0