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## REPORT

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

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*ADDENDUM 4*

**Lithuania – Tax relief from CIT for investments in large projects (LT009) [2021 CoCG decision]**

### I. Background

1. Based on the following summary conclusion, the Group decided in November 2021 that measure LT009<sup>1</sup> 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*

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<sup>1</sup> 14230/21 FISC 202

*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 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 determined 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 so far been requested.

## **II. Preliminary assessment**

4. The measure started applying as of the tax year 2021. So far, Lithuania has provided the data for the tax years 2021 and 2022 - and confirmed that no taxpayer benefited of the measure in either of the years. Therefore, the measure cannot have an effect on the business location in the EU.

5. We recall that the CIT exemption (20 years) starts applying from the tax period in which the required investment thresholds <sup>2</sup> are complied with. Thus, as the measure only starts applying once an investment threshold has been reached, it is obvious that the actual tax effects might become apparent only at a later point in time.
6. It is therefore suggested that the measure remains under monitoring, in order to verify its effects in the coming years. In addition to the type of data enclosed in the annex, Lithuania is also invited to provide data on the number of investment projects approved within the context of the preferential measure, so that the Group can anticipate whether any beneficiaries are to be expected.

### 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 and include the additional data mentioned in para. 6.

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<sup>2</sup> Concerning the employment and capital investments' requirements, the undertaking investing in a large project is obliged, **within a period of five years from the date of entry into force of the investment agreement**, to:

- 1) create at least 150 new jobs (full-time) in the Republic of Lithuania and, in the case of investment in the district of Vilnius, at least 200 new jobs (full-time), and maintain each job for at least five years from the date on which the employee was first recruited; and
- 2) invest at least EUR 20 million in the Republic of Lithuania or, in the case of investments in the district of Vilnius, at least EUR 30 million.

**Annex: Lithuania LT009 – Tax relief from CIT for investments in large projects [2021 CoCG decision]<sup>3</sup>**

<b>Lithuania – LT009</b>	<b>2021</b>	<b>2022</b>
Total number of taxpayers benefitting from the measure (domestic companies, foreign and (directly or indirectly) foreign owned companies)	0	0
➤ Out of which directly or indirectly foreign owned companies:	0	0
Which sectors of activity they perform/ per type of sector the number of entities in each sector that benefitted from regime	-	-

<sup>3</sup> “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. There is no de-jure ring-fencing, the exemption is available to domestic and foreign undertakings that make the qualifying investments in Lithuania “

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	0

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