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# Tax audit appeals in Baltics

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## Summary (1/3)

- **WALLESS research:** Basic elements of tax audits and appeal procedures in Baltic States, including statistics available during period of 2017 – 2019 on tax audits performed, disputes initiated and their outcome.
- **Tax audits:** We discovered significant difference in number of tax audits performed in Estonia, compared with Lithuania and Latvia. The reason for this is likely that in Lithuania and Latvia there are different forms of tax control procedures, while in Estonia since 2019 there is just one kind of tax control procedure – until the end of 2018, tax audit was a more formalized procedure and a stand-alone case inspection was somewhat less formalized. Number of tax audits in Latvia is decreasing, while in Lithuania remains quite stable.
- **Fines:** Possible fines are capped in Estonia, depending on whether the taxpayer is fined in criminal or misdemeanor proceedings. The fines are not set as a percentage of the assessed tax amount in Estonia, while in Latvia and Lithuania they depend on the amount accounted.
- **Penalty interest:** Penalty interest rates are highest in Estonia (temporarily reduced due to COVID-19) and the lowest in Lithuania. On the other hand, there is no cap on accounted interest in Lithuania, while Latvia applies a 40 % cap and in Estonia interest rate applied to tax refunds in favor of the taxpayer is the same as the rate of penalty interest applied on tax arrears in favor of the tax authority (in Lithuania interest on refunds are 3 times lower). In all three Baltic States taxpayers can claim interest for late refund of the overpayment.



## Summary (2/3)

- **Appeals on tax audits:** In Latvia and Lithuania, the taxpayer must appeal within the respective tax authority (in Lithuania – also specialized pretrial institution Tax Dispute Commission) before judicial review of the decisions in administrative courts. In Estonia, the appeal within the tax authority is optional, i.e. the taxpayer may appeal directly to the administrative court. There are 2 stages of judicial review in tax disputes in Lithuania, 3 stages – in Latvia and Estonia. No separate statistics available on length of tax dispute resolution, however, based on WALLESS experience, in Latvia it could last up to 4-5 years, while in Estonia and Lithuania it could take 2-3 years.
- **Moment of tax payment in case of dispute:** In Estonia and Latvia obligatory payment of disputable tax shortfall must be made before going to the court, unlike Lithuania, however penalty interest is accounted during the dispute resolution procedure. In Estonia, however, it is often possible to successfully apply for suspension of the enforcement of the respective tax assessment (also - in Latvia, but rarely successful).
- **Amicable settlement:** Taxpayers can enter into negotiations procedure on the amount of tax and sanctions in Lithuania. In Latvia and Estonia calculated tax amount cannot be changed (only sanctions) by amicable settlement.



## Summary (3/3)

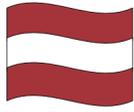
- **Appeals on tax audits:** Most appealable decisions are taken by Latvian tax authorities, while lowest amount of appeals remains in Estonia.
- **Possibility to win the tax case:** In all three Baltic States we observe quite low rate of court decisions, favorable for the taxpayers (average 1 out of 10 or even lower), compared with other jurisdictions in Western and Northern Europe. Possible reasons for this: (i) high level of quality of tax audits; or (ii) low level of expertise in tax law field in the administrative courts; or (iii) inconsistent or inaccurate statistical data.



## Tax audit procedure in the Baltics

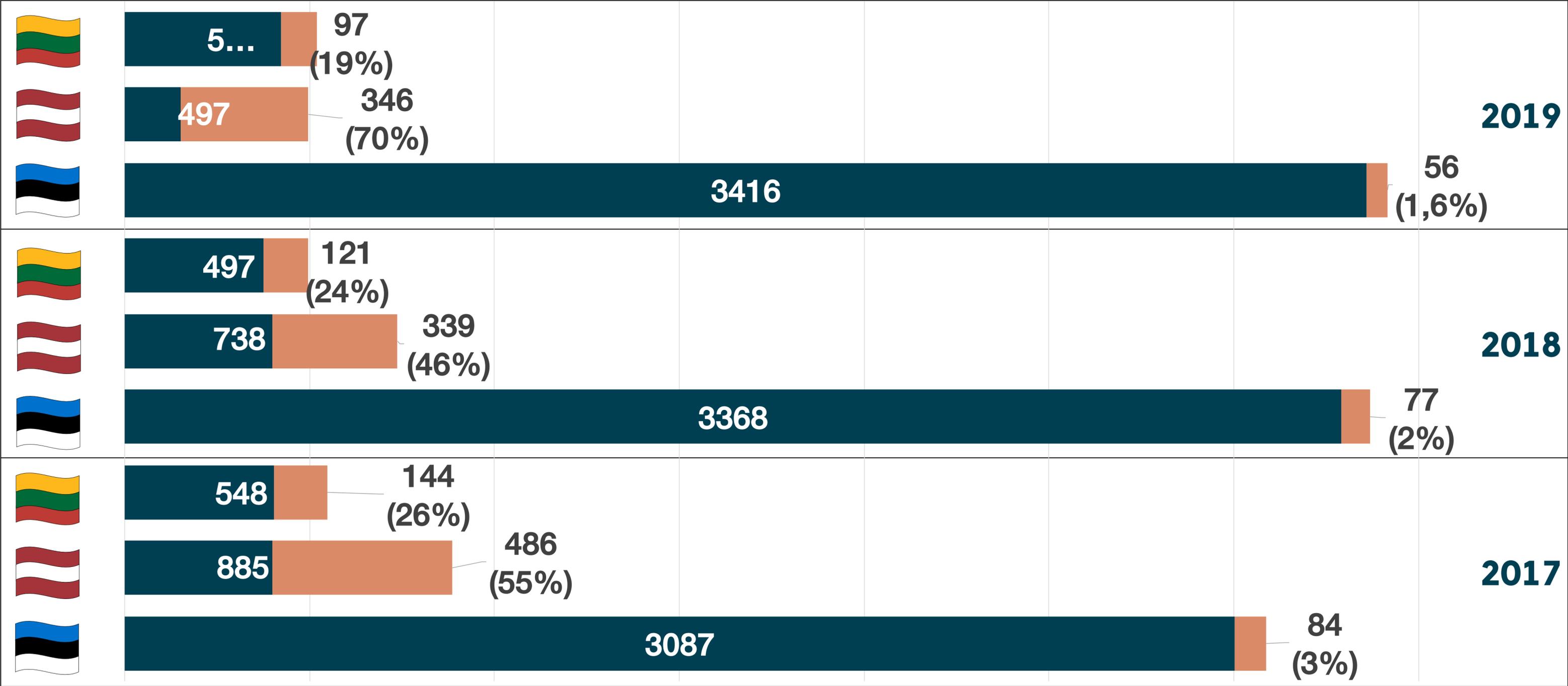
	<b>Forms of control</b>	<b>Statutory limitation term</b>	<b>Fines and penalty interest</b>	<b>Interest for wrongful additional tax recovery and overpayment refusal</b>	<b>Amicable settlement</b>	<b>Internal control (before appeal to the court)</b>
<b>Estonia</b> 	Tax audit	3 years (exceptions possible)	Fines (in misdemeanor proceedings) – up to EUR 32,000 (EUR 1,200 for individuals), penalty interest – 0.06% per day (0.03% per day during 18.05.2020-31.12.2021).	Same as the penalty interest (normally 0.06% per day)	No formal grounds for amicable settlement, except for reduction of penalty interest in certain cases.	Yes (1 stage - optional)
<b>Latvia</b> 	Tax audit / thematic inspection / data conformity audit	3 years (exceptions possible)	Fines – 5-100% (300% in certain cases), penalty interest – 0,05% per day (40% cap)	0,025% per day in case of faulty tax recovery; 0,03% per day in case of faulty tax overpayment refusal	Available, reduction of fines and penalty interest only	Yes (1 stage)
<b>Lithuania</b> 	Tax audit / investigation (less formal, no fines)	3 years (exceptions possible)	Fines – 10-50% (100% in certain cases), penalty interest – 0,03% per day	0,01% per day for failure to refund overpaid tax on time (30 days after claiming the refund)	Available	Yes (1 or 2 stages)

# Tax dispute procedure in the Baltics

	Term to appeal tax authority decision	Pre-trial institution	Obligatory payment of disputable tax shortfall before court	Court instances	Approx duration of dispute, all instances (WALLESS experience)
<b>Estonia</b> 	30 days	No	Yes (except if temporary protection is granted)	3	2-3 years
<b>Latvia</b> 	1 month	No	Yes (except if temporary protection is granted)	3	4-5 years
<b>Lithuania</b> 	20 days	Yes, Tax Dispute Commission	No (but penalty interest apply during the dispute period)	2	2-3 years

# Audits performed and appealed within Baltic tax administrations (2017-~~2019~~)

■ Audits performed
 ■ Appealed audit decisions

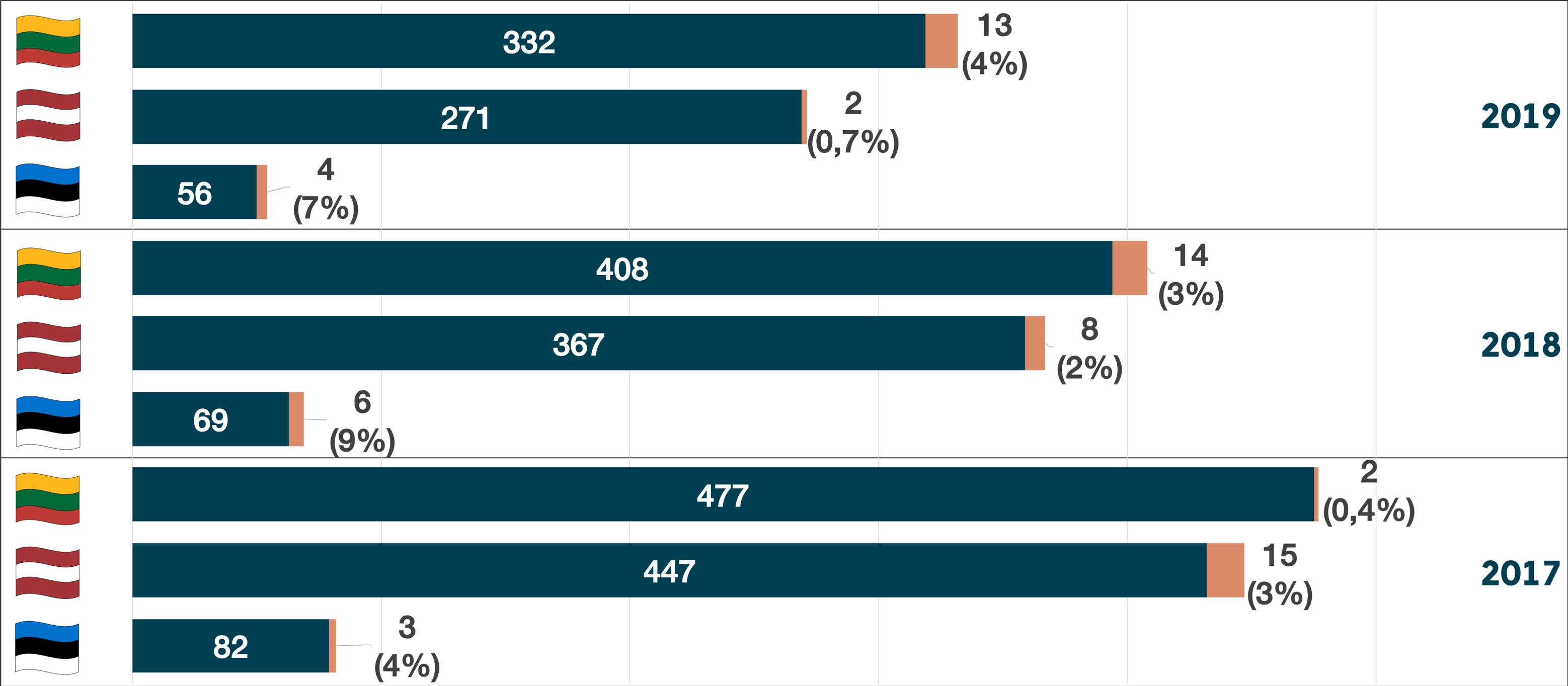


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# Audit decisions cancelled within Baltic tax administrations (2017-2019)

■ Tax audit decisions on appeals

■ Fully Cancelled Tax Audit Decisions

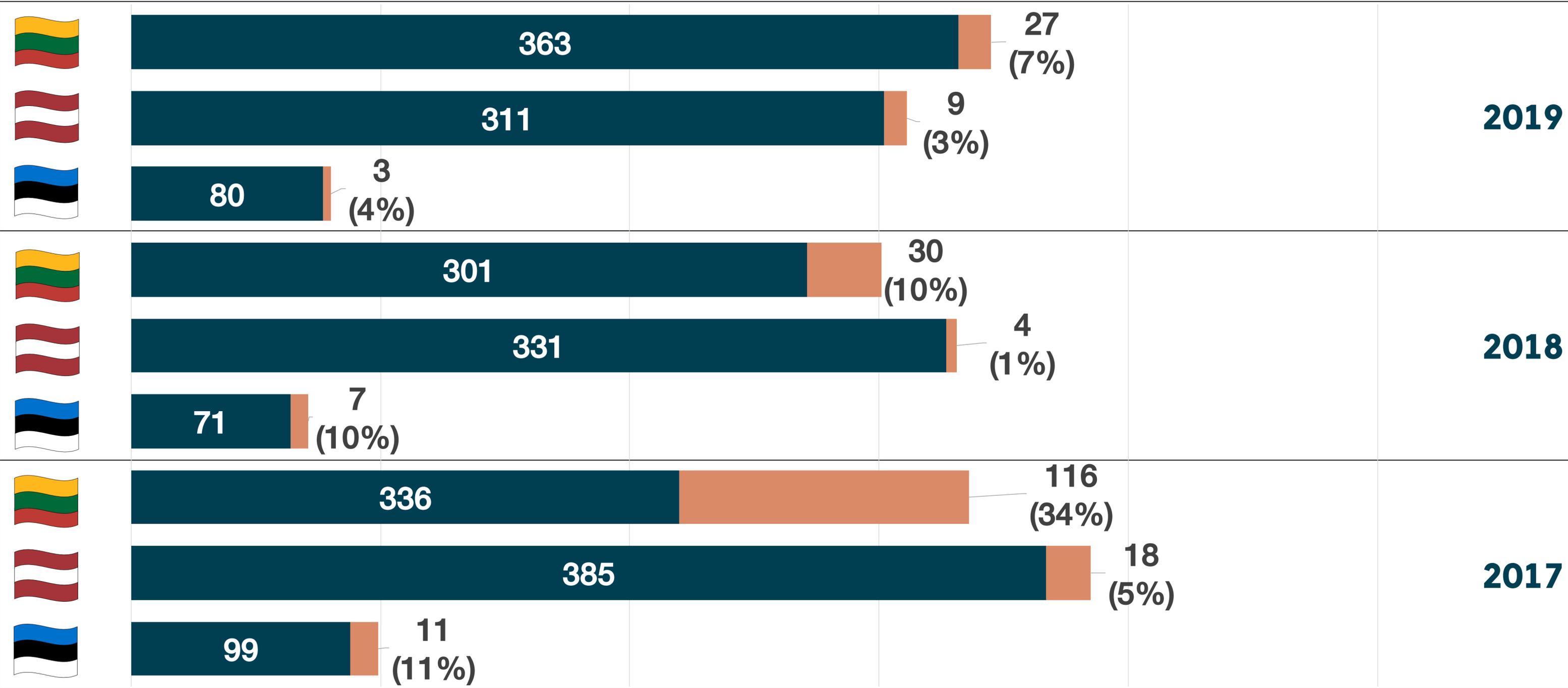


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# Success in the Court (2017-2019)

**Court rulings**

**Cancelled Tax Audit Decisions**



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## Sources

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- **Latvia:** Tax authorities' letter of 21.12.2020. No. 22.6-3/5311; 2017-2019 activity reports of the tax authority (publicly available).
- **Lithuania:** Tax authorities' letter on the provision of information of 07.05.2021. No. R-2048; 2017-2019 activity reports of Tax Dispute Commission (publicly available).
- **Estonia:** Tax authorities' letter of 12.03.2021.



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