

Social insurance contributions in Latvia for employees working outside Latvia (3/40/17)

In this article we discuss the arrangements for paying Latvian mandatory national social insurance (NSI) contributions where an A1 certificate is taken out retrospectively and contributions will be paid by a foreign employer.

The significance of the A1 certificate

Today's environment of workforce mobility creates situations where a person who is posted to work outside Latvia or who works for two or more employers in the EU, begins paying social contributions in the country they are working. However, EU legislation allows such employees to pay Latvian NSI contributions on their foreign employment income based on a Latvian A1 certificate, which can be taken out retrospectively as well. So it is possible that a person has already paid foreign social contributions for some period, but that period is now covered by the Latvian A1 certificate, meaning the person is subject to Latvian legislation and required to pay Latvian NSI contributions for past periods. What steps should the foreign employer take in this situation?

The EU legislation provides that once a Latvian A1 certificate is obtained, NSI contributions are payable in Latvia under Latvian legislation. Depending on the circumstances, Latvian contributions can be paid by either the individual or the Latvian employer. Let us now explore a third option that has the foreign employer registering for Latvian NSI to report and pay contributions in Latvia going forward.

Foreign employer's registration for Latvian NSI

For example, on 27 September 2017 an employee of a German company (the "Company") took out a Latvian A1 certificate with effect from 1 April 2017. The Company will register for Latvian NSI, but this cannot be done retrospectively, and so the Company registers on 28 September 2017. From then on the Company should file details of its employees (the "Details") and the employer's statement of NSI contributions on employment income, personal income tax and business risk duty for the month (the "Statement") via the Electronic Declaration System (EDS) of the Latvian State Revenue Service (SRS). Under general procedure the Details and the Statement cannot be filed via the EDS retrospectively. It is technically not feasible to calculate and report NSI for periods before the Company registered as an NSI contributor.

Practice and solutions

Because of these technical restrictions, we sometimes see situations where all employment income paid to an employee in past periods is reported by the taxpayer (foreign employer) for NSI purposes in the current month. If the employee later has to recover the contributions paid in the foreign country of employment, it might be difficult to prove that the same income attracts Latvian NSI, because the income and contributions have been reported in both the foreign country and Latvia, but in different periods.

The SRS offers a solution to this situation, i.e. the Company should file an application and registration documents with the SRS, explaining the situation and the need to file documents (the Details and monthly

Statements) and pay NSI contributions for past periods. After considering the application, the SRS will allow the taxpayer to file the Details and monthly Statements for past periods via the EDS. This solution makes it possible to pay NSI contributions, while reporting them in the periods the employee actually received the foreign employment income subject to NSI.

The content of the application will also affect how late fees are charged on NSI contributions. In practice we have seen the SRS waive late fees because the taxpayer had no intention of evading NSI contributions in past periods and this situation resulted from the A1 certificate covering past periods.