

Reporting payments to non-residents (2/6/17)

The taxpayer's obligation to track payments made to non-Latvian residents is no news. Recent changes aimed at improving cross-border administrative cooperation on tax matters have increased the amount of information taxpayers must report from 1 January 2017. This article explores the new reporting obligation.

The reporting obligation

The new obligation to report payments made to non-residents falls into two categories:

- 1) in the next month after each payment;
- 2) once a year through the corporate income tax (CIT) return.

Reporting in the next month after payment

Companies making any payment to a non-resident that is subject to withholding tax are still required to withhold the tax at source and pay it to the government on or before the 15th day of the following month, and to file a statement of the non-resident's Latvian-source income and Latvian tax paid (Annex 18 to Cabinet Regulation No. 556, *Application of Provisions of the Corporate Income Tax Act*). Companies must also regularly report payments that attract withholding tax but are exempt under an effective double tax treaty.

Reporting once a year through the CIT return

Section 24 of the CIT Act states that taxpayers must duly provide the State Revenue Service (SRS) with information on amounts paid to non-residents and tax withheld. This means that details must be filed not only when tax must be withheld but whenever a payment is made to a non-resident.

To help enforce the requirements laid down by the CIT Act, appropriate amendments have been made to Cabinet Regulation No. 556. Paragraph 136 now states that details of Latvian-source income of non-residents (other than individuals) exempt from withholding tax must be included in the statement of the non-resident's Latvian-source income and Latvian tax paid, and must be submitted to the SRS along with the CIT return for the tax year. The statement must also detail any transactions in the form of setoff (i.e. with no money passing to the non-resident).

Types of income to be reported once a year

Details of a non-resident's income that is not subject to withholding tax must be included in the statement if their total income of a particular type exceeds €5,000 in the tax period. Information on payments that financial institutions make to the European Central Bank and to the Single Resolution Fund as well as information on payments to non-residents exempt from withholding tax may be omitted from the statement if the payer of income duly reports this information to the SRS through the automatic exchange of financial account information.

Annex 18 to Cabinet Regulation No. 556 lists the following types of income:

- income from the use of real estate;
- business income (including management consulting fees);
- dividends;
- interest;

- royalties;
- income from the use of movables;
- income arising on the disposal of real estate in Latvia; and
- other income.

In fact the same annex lists the types of income subject to regular reporting and the types of income to be reported once a year. The lawmaker intends to amend this annex and introduce a new distribution of income types.

Neither the CIT Act nor any other piece of legislation explains what other income needs reporting, however the term “income” implies that only amounts forming part of a non-resident’s Latvian- or foreign-source taxable income must be reported. Thus, where a loan is repaid with interest, for example, only the interest charge needs reporting.

Final comments

The lawmaker does not think the new requirements will significantly increase the administrative burden on the taxpayer, but this opinion is based on the assumption that accounting systems are recording data in sufficient detail. For example, the reporting obligation is linked to the period of payment or setoff, not the period of invoice, and so companies should think about entering data in a form that makes for easy filtering to ensure a report does not take an unreasonably long time to prepare.