

# Notifying tax authority of lending to individuals before 1 June (2) (2/22/17)

This article picks up where we left off [last week](#) and explores the tax treatment.

## Tax treatment

Where a loan is treated as income, the outstanding total attracts personal income tax (PIT) at a rate of 23%:

- a loan to an employee additionally attracts mandatory national social insurance contributions;
- a loan to a board member additionally attracts PIT at an extra rate of 22%, resulting in a total PIT rate of 45%.

Where a loan is treated as income (i.e. an individual is not borrowing in the course of their trade or business and the loan is not repaid within 66 months after the loan date) and all of the PIT Act criteria for the loan agreement are satisfied (see the general criteria for the loan and for the loan agreement, the criteria for the lender, and the criteria for loans to employees or shareholders), the total outstanding portion of the loan is treated as income (gross income). The individual is then required to calculate the PIT charge through the annual income tax return and pay the amount of tax due to the government.

However, if one of the criteria for the loan agreement is not satisfied, the lender should treat the outstanding portion as income (net income), charge PIT, and file with the State Revenue Service (SRS) a statement of amounts paid to individuals. The lender is then responsible for paying PIT. The income should be reported in that statement, described as "income treated as a loan," and coded 2054.

## Reporting loans to individuals

Regardless of the PIT treatment, taxpayers are required to notify the SRS only about loans to individuals where the outstanding portion exceeds €15,000 on 31 December of the current tax year. The SRS is notified by filing an informational return "Information about a loan to an individual" (Appendix 1 to the Cabinet of Ministers' Regulation No. 899 of 21 September 2010, *Application of Provisions of the Personal Income Tax Act*).

An informational return (about a loan to each individual where the outstanding portion exceeds €15,000 on 31 December of the current tax year) should be filed with the SRS before 1 June in the following year.

It is important to note that where the lender or the borrower is required before 1 June 2017 to notify the SRS about loans made in 2016, this obligation must be carried out. Otherwise, even if a loan is not treated as income under general procedure, but the lender or the borrower should have notified the SRS, the SRS has the power under section 8.1(11) of the PIT Act to treat the total outstanding loan as taxable income.

It is also important to remember that section 8.1 does not apply to loans from financial institutions.