

Exempt limits of business trip compensations paid by foreign company: advance tax ruling (3/45/18)

The State Revenue Service (SRS) has published an advance tax ruling (ATR)¹ on the personal income tax (PIT) treatment of expenses a foreign company pays to its employees going on short business trips to Latvia. The ATR answers questions frequently asked by employers about business trip expense limits that are exempt from Latvian PIT. This article explores the main ATR conclusions and ways to apply the relevant provisions of the PIT Act.

Background

A Lithuanian construction company permanently employs staff in Lithuania who are sent on business trips to do certain work in Latvia. Since the Lithuanian company has registered a permanent establishment (PE) in Latvia, the company deducts and pays Latvian PIT on wages the employees earn for work done in Latvia.

When sending its employees on a business trip to Latvia, the Lithuanian company covers the following expense items:

1. Daily allowance at the rate prescribed by Lithuanian legislation when travelling from Lithuania to Latvia;
2. Hotel accommodation;
3. Transport to the destination in Latvia; and
4. Transport during the business trip.

The Cabinet of Ministers' Regulation No. 899, which explains how to apply the PIT Act,² offers contradictory information about the PIT treatment of business trip expenses reimbursed to non-residents in Latvia, and so the Lithuanian company asked the SRS whether business trip expenses reimbursed in this situation are exempt from Latvian PIT according to Latvian or Lithuanian statutory limits.

The SRS's opinion

The SRS invokes article 3 of the PIT Act, which provides that under the general principle, the Lithuanian company employees' income that attracts Latvian PIT is any income they earn for work done for the Lithuanian company in Latvia. Paragraph 5 of the Cabinet Regulation exempts Latvian PIT on compensations the Lithuanian employer pays to his employees for work done during such a business trip.

In its conclusion request, the Lithuanian company particularly asked how to apply paragraph 6, which provides that the exempt expense rates (in particular daily allowances) prescribed by Latvian legislation are applicable. However, the SRS's reply does not refer to paragraph 6 because they find that paragraph 5 applies here.

The conclusion makes it clear that if a foreign company, with or without a PE in Latvia, sends an employee on a business trip to do work for the foreign employer to Latvia, any business trip compensations (including daily allowances) paid by the foreign company are exempt from Latvian PIT regardless of their amount.

¹ ATR No. 30.1-8.5/231090 of 30 August 2018 on the Latvian payroll tax treatment of daily allowances paid by a foreign company

² Paragraphs 5 and 6 of the Cabinet of Ministers' Regulation No. 899, *Application of provisions of the Personal Income Tax Act*