

Income paid to non-residents: tax authority's explanation of CIT treatment (1/16/19)

When preparing corporate income tax (CIT) returns, we have faced some conflicting interpretations of certain practical questions, such as the deadline for filing a residence certificate and the CIT report on income gained by the non-resident. To verify those deadlines and certain taxpayer obligations, we sought the opinion of the State Revenue Service (SRS). This article explores their answers.

Questions

A Latvian taxpayer is required to withhold a 20% CIT on management and consulting fees payable to a non-Latvian resident entity. This withholding requirement may be overridden by article 7 of Latvia's double tax treaty with the foreign country. Before invoking it, the Latvian taxpayer should obtain the foreign country's residence certificate issued to the non-resident. In certain cases, the residence certificate and a tax relief certificate should first be approved by the SRS.

To take this exemption, the non-resident should provide the paying agent with a completed special Residence Certificate (Application for Claiming Tax Relief) before filing the CIT return for the last month of the financial year under the Cabinet of Ministers' Regulation No. 677, *Applying Provisions of the Corporate Income Tax Act*. If the preparation of financial statements shows up any discrepancies on the last CIT return, this may be adjusted to correct them without incurring penalties.

Also, section 16 of the CIT Act and paragraph 108.1 of the Cabinet Regulation provide that the paying agent should file with the SRS by the 20th day of the following month the CIT report on income gained by the non-resident, stating the Latvian tax paid and any income on which CIT has been withheld at source. Details of any income having the withholding requirement overridden by the double tax treaty, and any other income gained by the non-resident in Latvia that is not subject to the withholding requirement, should be included in the report and filed with the SRS along with the last CIT return for the year.

In view of this, we put the following questions to the SRS:

1. Is the Latvian company permitted not to withhold CIT on the non-resident's income at source if the non-resident has not filed a tax relief certificate but the company is aware this will be filed at a later date?
2. What is the deadline for the non-resident to provide the paying agent with a tax relief certificate in respect of CIT relief to be claimed for the previous tax period?
3. What is the deadline for filing the CIT report on income gained by the non-resident without incurring penalties?

SRS answer to Questions 1 and 2

Under section 5(1)(1) of the CIT Act, the Latvian company is permitted not to withhold CIT at source if it holds a completed special Residence Certificate (Application for Claiming Tax Relief). If the company does not hold this document before filing the CIT return (21 January 2019), the company may obtain it from the non-resident by the statutory deadline for filing financial statements, without paying the CIT charge and without incurring penalties.

SRS answer to Question 3

The CIT report on income gained by the non-resident should be filed by the deadline for filing the last CIT return for the year. If the report is filed after that deadline, even if the company has filed it for the first time along with its financial statements, the filing will be considered late.