

Tax authority's comment on filing annual income tax returns (1/17/19)

When helping our clients prepare their annual income tax returns, we face various questions about applying the Personal Income Tax (PIT) Act that we regularly check with the State Revenue Service (SRS). We have now received SRS comment on the requirement for filing the annual income tax return in various situations, including PIT underpayment and filing exemptions.

PIT treatment of EU employment income

The PIT Act exempts tax on a Latvian tax resident's employment income arising in an EU/EEA member state or a treaty country¹ that has been charged to local income tax.² If the entire employment income has been so taxed (i.e. no exempt income type or benefit), the treatment is straightforward. But there is uncertainty about how to proceed if a Latvian tax resident has received any type of employment income that is exempt abroad. According to an earlier SRS interpretation, such income should be analysed and any untaxed portion charged to Latvian PIT. In other words, there is no further tax to pay if the income is exempt also under Latvian legislation, but Latvian PIT is due if there is no exemption in Latvia (such as accommodation reimbursements).

According to the latest SRS opinion, the entire employment income is treated as subject to income tax even if it includes any exempt type. In other words, there is no need to analyse all types of employment income under Latvian legislation. The fact that employment income has been taxed under the foreign country's national legislation is sufficient for an exemption in Latvia. So Latvian residents employed in an EU/EEA/treaty country have no Latvian PIT to pay on any type of foreign employment income that has not been taxed abroad.

Board remuneration

A board member's Latvian-source remuneration attracts the same taxes as employment income. Yet board members might receive income also under any contract other than employment, which raises the question of whether any income a Latvian resident received as a board member in an EU/EEA/treaty country qualifies for the same exemption as employment income under section 24(7) of the PIT Act. If so, the board member's entire income that has been charged to foreign income tax is exempt from Latvian PIT. However, a board member with non-employment remuneration may still be liable to Latvian PIT if the foreign country has charged a lower rate than the Latvian one.

According to the SRS, because section 8(2.1) of the PIT Act provides that salary tax is payable on a board member's remuneration, it qualifies for the same exemptions as employment income. So there is no risk of PIT underpayment if the board member's remuneration arose and was taxed in an EU/EEA/treaty country.

The filing requirement

We have also had a number of questions about the filing requirement in the following situations:

Situation	Question	SRS opinion
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<p>In 2018, a Latvian resident received employment income exceeding EUR 4,000 in an EU/EEA/treaty country, exempt under national legislation.</p>	<p>Section 20(1) of the PIT Act provides that a person is required to file the annual income tax return if exempt income exceeds EUR 4,000 (EUR 10,000 from 2019).</p>	<p>No filing requirement because the entire EU/EEA/treaty country employment income is treated as subject to income tax there.</p>
<p>The Latvian resident received employment income that does not exceed the income cap attracting mandatory contributions under the National Social Insurance (NSI) Act. So the person need not recalculate PIT or solidarity tax (ST).</p>	<p>Section 19(5) of the PIT Act provides that if income for the tax year exceeds the income cap attracting mandatory contributions under the NSI Act, the filing period is between 1 April and 1 July. This rule aims to allow the National Social Insurance Agency to recalculate ST and PIT after employer statements are filed. So, if the salary does not exceed the income cap attracting mandatory contributions under the NSI Act, there is no basis for an extended filing period.</p>	<p>The filing period is between 1 April and 1 July, although there is no need to recalculate ST.</p>
<p>The person has also received foreign dividend and interest income which, combined with employment income, exceeds the income cap attracting mandatory contributions under the NSI Act.</p>	<p>Section 19(5) of the PIT Act provides that if income for the tax year exceeds the income cap attracting mandatory contributions under the NSI Act, the filing period is between 1 April and 1 July.</p>	<p>No filing requirement if the ST portion covers the PIT underpayment, i.e. if there is no further PIT to pay.</p>
<p>The Latvian resident is an ST payer.</p>	<p>The person is liable to more PIT because a rate of 31.4% has been applied. Any underpayment should be covered by ST's 10.5 percentage points, with no further PIT to pay.</p>	<p>We recommend ST payers check their underpayment or overpayment by preparing their annual income tax return in their EDS account based on SRS details.</p>

¹ A country that has an effective double tax treaty with Latvia

² Section 24(7) of the PIT Act