

# Advance tax ruling from State Revenue Service (2/18/19)

When a taxpayer is unsure how to apply a tax law, there are various ways of obtaining an opinion from the State Revenue Service (SRS) by telephone or in writing. The written ways include seeking an information letter or an advance tax ruling (also known as a private letter ruling). This article explores the substance of an advance tax ruling, the procedures for requesting one, and the legal implications.

## What is an advance tax ruling (ATR)?

An ATR is a document in which a competent authority provides an opinion on a private person's rights in a particular legal situation at that person's request. The ATR lets the person know how the competent authority assesses the situation from a legal perspective. Unlike an information letter, an ATR has legal force. This matters when facing a choice between seeking an information letter or an ATR on a crucial issue.

Procedures for requesting and issuing an ATR are laid down by Chapter 9 of the Administrative Procedure Act.

## Requesting an ATR

A taxpayer seeking an ATR from the SRS should file a written request. The taxpayer is entitled to an ATR from the SRS on matters coming within its competence, i.e. the application of tax laws.

The ATR request should include –

- a description of facts;
- a question arising from those facts, the answer to which depends on a legal assessment;
- an explanation of why an ATR is needed; and
- any legal considerations at the taxpayer's discretion.

The situation should be detailed as accurately and comprehensively as possible, with attached documentary evidence of the facts to give the SRS a clear understanding of the situation and ensure the opinion expressed in the ATR binds the SRS. If the facts are not described in detail, the SRS will reply that the description is not sufficient for assessing the legal situation or issuing an ATR.

## Issuing an ATR

Having examined the taxpayer's request, the SRS will issue an ATR within one month after the request was made. For objective reasons, the time limit may be extended for up to four months. If the SRS still needs more time to assess the facts before issuing an ATR, the time limit may be further extended for up to one year, which is often the case.

An extension usually means the SRS is asking the taxpayer to provide more details of their circumstances or seeking assistance from some other competent authorities in applying the relevant law. In most cases, the SRS will approach the Ministry of Finance for legal assistance in preparing an ATR.

One of the advantages that Latvia's Advanced Cooperation Programme effective from 1 January 2019 provides to its members is shorter SRS response times. Gold members will receive a reply within five working days, and Silver members should wait for seven working days.

#### The legal implications of an ATR

ATRs are issued by the SRS Director General with no appeal to a higher authority or the courts. An ATR does not bind the requesting taxpayer but it binds the SRS. If the taxpayer has acted in accordance with the ATR, then any administrative instrument the SRS might later issue on a matter covered by the ATR cannot be less favourable to the taxpayer even if the SRS later finds the ATR was not correct.

An ATR may be useful if a taxpayer is planning to undertake an activity but is not sure of their rights resulting from that activity.

#### ATRs published by the SRS

The SRS posts some of their ATRs on [www.vid.gov.lv](http://www.vid.gov.lv) in "Legal instruments" for each type of tax. To keep things confidential, the SRS will redact any content that might identify the taxpayer. Third parties can use a published ATR only as a source of information in interpreting tax laws, as it binds the SRS only for the requesting taxpayer.