

Easy tax treatment of rental income (3/23/19)

We have had questions about reporting rental income from property and applying easy terms of personal income tax (PIT) where the statutory notification of a tenancy agreement is overdue. This article explores the statutory obligation and case law allowing an individual to charge a 10% PIT on rental income without registering as a trader.

The general procedure for paying PIT

Section 1(2), section 19(1) and (5) as well as section 28(1), (2) and (6) of the PIT Act imply that an individual who qualifies for trading criteria should register as a trader and file an annual income tax return with the State Revenue Service (SRS) between 1 March and 1 June in the year following the tax year.

The trader is subject to the general procedure for paying PIT, i.e. income from business attracts a progressive rate of PIT according to the difference between business income and related expenses capped at 80% of that revenue.

Easy terms for paying PIT

Under the PIT Act, a taxpayer that gains income from letting property (including from the sale of tenancy rights) and incurs no (or negligible) business expenses is allowed not to register as a trader with the SRS. However, that individual is not allowed to deduct any expenses related to renting property other than real estate tax charged on the property.

The lawmaker has prescribed easy terms for paying PIT on rental income at a rate of 10% through the annual income tax return. Before taking the easy terms, the taxpayer should meet a statutory obligation, i.e. notify the SRS within five working days after a tenancy agreement starts and ends by filing a copy.

Case law

In its ruling on case A420305214, the Supreme Court agrees to the fact that the taxpayer has defaulted on the obligation to duly notify the start and end of a tenancy agreement under section 28(8) of the PIT Act. However, the court rules in favour of the taxpayer on the following grounds. Performing the notification duty makes it clear that the taxpayer's taxable income is calculated under the alternative procedure without using the general procedure. But the text of this rule does not imply that performing the notification duty is a precondition the taxpayer must meet in order to exercise their will to calculate taxable income and set the tax rate under the alternative procedure. Since the relevant provisions of law are silent about the legal consequences of defaulting on this obligation, it would be unreasonable and unfair to put the taxpayer under the general procedure if the obligation is performed late, but the taxpayer takes the initiative in reporting income from business nevertheless.

Although the provisions of law have remained unchanged since the ruling was made, and the ruling implies that the late notification of a tenancy agreement is no basis for denying the easy terms, taxpayers should be aware that in practice the SRS still asks to be notified of starting and ending a tenancy agreement within the statutory time limit, or else the SRS will deny the easy terms.