

# Income tax overpayment not available (3/34/19)

**We have written** about what we discovered earlier this year when preparing annual tax returns for 2018. A certain group of persons saw an unexpectedly high overpayment of personal income tax (PIT) automatically calculated on the Electronic Declaration System (EDS) as a result of amounts of solidarity tax (ST) transferred to the PIT account. This article explores the comment offered by the Ministry of Finance (MOF) and the State Revenue Service (SRS).

## Persons facing a PIT overpayment

The group under review for PIT overpayment are persons –

- who are employed in an EU/EEA member state, Norway or Switzerland (“foreign countries”),
- whose foreign employment income exceeded EUR 55,000 in 2018, and
- who continued paying national insurance (NI) contributions in Latvia.

Under the ST Act, 10.5 percentage points of ST were transferred to the PIT account (more details in our earlier article).

## MOF/SRS comment

Under Latvian PIT rules, foreign-source employment income in this case is not subject to PIT in Latvia if PIT or an equivalent tax has been charged abroad. For example, if an individual has only foreign-source income, then Latvian PIT is not payable at all. The tax authorities explain that a PIT overpayment cannot arise in this situation because Latvian PIT has not been paid. So the tax authorities disagree that a PIT overpayment is available to those individuals as a result of ST being recalculated if a person gains employment income abroad and pays foreign PIT (Latvian PIT is not due) but still pays NI and ST in Latvia.

The tax authorities explain that the ST recalculation model effective from 2018 is intended to compensate for the PIT rate of 31.4% so any PIT overpayment is not consistent with the purpose of amendments to the ST Act.

## PwC comment

We agree that the ST recalculation model was intended merely as a compensating mechanism to avoid increasing the labour tax burden on socially insured persons in Latvia and to prevent any additional PIT liability arising from the rate of 31.4%. This purpose is clearly stated also in an annotation to the amendments to the ST Act that came into force on 1 January 2018.

At the same time, we feel that the tax authorities should address the following issues:

1. The technical calculation of PIT on the EDS – the SRS or the National Social Insurance Agency should determine the portion of ST that is not intended as compensation for an extra PIT liability. That portion should not appear on the EDS under PIT paid so the annual income tax return can be completed correctly.
2. Thought should be given to exactly how the portion of ST that does not serve as a compensating mechanism has been used, and this situation should be covered by amending the ST Act to give more certainty to taxpayers.

