

Tax developments in Estonia (3/45/19)

This article highlights two important pending changes to Estonian tax laws.

Taxation of income earned by foreign temporary workers

The Income Tax Act is to be amended to regulate the taxation of income earned by foreign temporary workers (non-residents) from employment in Estonia. Estonian employers will be affected by the amendment only if they employ foreign temporary workers.

A proposed amendment provides that an Estonian employer will be held jointly liable for an income tax debt where a non-resident who has leased its workers to the Estonian employer does not fulfil his withholding liability on payments made to temporary workers for employment in Estonia.

As a result of the amendment, Estonia will be entitled to tax the wages and any equivalent payments made to a non-resident from the date a temporary worker started working in Estonia. The amendment is to take effect from 1 January 2020.

Limiting the exemption applied on dividends

In late July the Ministry of Finance published draft amendments to the Income Tax Act for discussion.

Currently any flow-through dividends, which an Estonian company pays out of profits that include dividends received from an EEA or Swiss tax resident subsidiary in which the Estonian company has at least a 10% shareholding, are exempt from CIT with no obligation to prove that income tax has been withheld from the dividend payments nor that the underlying profit has been subject to income tax. It is important, however, to prove that the payer was a tax resident subject to income taxation in the relevant country.

All of the EU member states and three EFTA member states are considered member countries of the EEA.

Any flow-through dividends received from third countries (such as the USA, Russia, or Singapore) are exempt from CIT only if the dividends received or the underlying profits have been subject to foreign income tax.

According to the Ministry of Finance, the fact that the company was tax resident and taxable in an EEA member state did not sufficiently ensure that the dividend or the underlying profit had been indeed subject to foreign income tax. This led to situations where the exemption in Estonia was applied to dividends that had not been taxed (either by way of withholding or taxing the underlying profits).

The conditions for the exemption will be harmonised and no longer depend on the country (member state or third country) from which dividends were received. The participation requirement (at least 10%) remains unchanged.