

New rules on debt assignment (1/47/19)

We have informed our MindLink subscribers about proposals for amending the Corporate Income Tax (CIT) Act. This article explores the proposed new rules for assigning receivables.

The current rules

Under the current CIT Act, any loss arising on the assignment of debt must be added to the CIT base unless the first two and one of the other conditions are met:

1. The assignee is paying CIT or an equivalent tax; and
2. The assignee is resident in an EU or EEA member state or in a country that has an effective double tax treaty with Latvia; and
3. The assignment is not with a related party; or
4. The transaction value matches its arm's length price (value) calculated by any of the methods prescribed by the Cabinet of Ministers.

What this means in practice is that any loss arising on the sale of receivables is exempt from CIT if the assignment is between two Latvian unrelated taxpayers or between a Latvian taxpayer and a foreign taxpayer resident in countries mentioned at 2) above. Any assignment between related parties must be arm's length. The CIT Act lays down no other requirements.

The proposed amendment

Section 8 of the CIT Act is to include a restriction on assignments with parties that do not have debt collection as their core business activity. If the assignment of receivables is to continue exempt from CIT, the assignee must be paying CIT or an equivalent tax and have debt collection as their core business activity under the Extrajudicial Debt Collection Act.

This Act defines a debt collection service provider as a person that collects debt in the course of their trade or business on creditors' behalf and that is registered as a trader or practitioner holding a special licence for debt collection. The Consumer Protection Centre is responsible for this licensing. All the other conditions of the CIT Act remain unchanged.

This proposal makes debt assignment to unlicensed parties a lot more expensive unless the transaction is for the nominal value of a debt and there is no loss and therefore no tax base. This proposal will apply to debts assigned after 2019. So taxpayers have less than two months to hand their receivables over to any assignees that do not fit the definition of a debt collection service provider and to consider a change of assignee if receivables are assigned regularly.