

Personal Income Tax Act to be amended (1/11/20)

Parliament has been debating proposals for amending the Personal Income Tax ("PIT") Act to determine a personal allowance applicable to the foreign-source old-age pension income of expatriates returning to Latvia. This article explores the proposed changes.

An annotation explains that the proposals aim to encourage the annual repatriation of at least 1,000 Latvian expatriates below retirement age. The Expatriates Act defines expatriates as Latvian nationals and Latvians permanently living outside Latvia and other individuals having ties with Latvia as well as their family members.

The proposed amendments to section 12 of the PIT Act provide that the foreign-source old-age pension income of a repatriate will qualify for their foreign personal allowance if the following conditions are met:

1. The repatriate was not a Latvian resident in the last 60 months before becoming a Latvian resident;
2. The repatriate has notified the State Revenue Service ("SRS") of being entitled to their foreign-pension personal allowance and has submitted documentary evidence of their foreign personal allowance along with their income tax return for the tax year;¹
3. The repatriate receiving an old-age pension under foreign law has reached the age prescribed by section 11(1) the State Pensions Act.

So, a person meeting these conditions can apply a personal allowance to their foreign pension at the level set for old-age pensions abroad. The proposals provide that a person receiving pension income in two or more countries may claim the highest allowance. However, if the foreign personal allowance is lower than the pensioner's personal allowance in Latvia (this year €3,600), the Latvian personal allowance will apply.

If any other personal allowance available under section 12 of the PIT Act has been applied to the taxpayer during the tax year, but they choose to apply a foreign personal allowance to their income, then at the taxpayer's request the SRS will stop applying the personal allowances applied during the tax year, make a recalculation, and apply their foreign personal allowance.

The PIT Act prescribes a special procedure for determining a repatriate's personal allowance if their foreign old-age pension income is exempt from foreign PIT or an equivalent tax under foreign law. In other words, if the pension income is higher than the pensioner's personal allowance in Latvia, the foreign old-age pension income will have a foreign-pension personal allowance of €1,000 a month. However, if the pension income is below the pensioner's personal allowance in Latvia, the repatriate will be governed by section 12(10.1) of the PIT Act, which provides that the pensioner's personal allowance in Latvia can be applied to a positive difference between the pensioner's Latvian personal allowance and the old-age pension awarded abroad.

There are also plans to insert paragraph 145 into the transition rules of the PIT Act in order to provide that the Cabinet of Ministers will evaluate the results of applying this treatment and present a report on its usefulness by 1 March 2023.

¹ Since the annotation to the proposals already summarises details of personal allowance levels in several member states, it is clear that government agencies can either access this information now or receive it in the course of information exchange later. This raises the question why the taxpayer is still required to provide such information separately. Parliament has received several proposals for having the State Revenue Service gather this information.