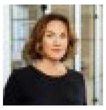
Residence permits: investing is not enough; Latvian taxes must be paid at statutory levels 2/38/21



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Latvia has offered a temporary residence permit (TRP) in exchange for investment for many years. A number of businessmen and investors found this to be an attractive proposition, as it allowed them to successfully start or continue their business in Latvia and freely travel across Europe. As is often the case, however, the devil is in the details. The question of taxes can ruin your business plan and form a basis for cancelling your TRP.

Conditions to obtain a TRP for investing in a limited company

Under the Immigration Act a foreign investor that has invested in a company by increasing its share capital or by setting up a new company may seek a TRP for a period of up to five years on the following conditions:

- The investment is EUR 50,000–100,000. The precise amount depends on the company's headcount and annual revenue or balance sheet.
- The investor holds shares in the company.
- On applying for his first TRP, the investor paid EUR 10,000 to the government.
- The investor has the necessary means of subsistence to live in Latvia (the minimum monthly subsistence in 2021 was EUR 1,500, with EUR 500 for the spouse and EUR 150 for a child).
- If the investor contributes real estate, the company must obtain a property valuation from a certified valuer and perform the required registration of contributions on the Latvian Commercial Register.

It is fairly easy to secure a positive decision from the Citizenship and Migration Office (CMO) on a first-time investment-based TRP if all the conditions are met. It is uncommon for an investor making a substantial contribution to the company to seek a TRP for one year. Investors usually go for the maximum 5-year period. However, any TRP issued for a period exceeding one year is subject to the annual re-registration procedure. This means that a year later, when the TRP comes up for registration for the following year, the CMO will scrutinise another key condition.

The lawmaker's intention to allow investors to take out a Latvian TRP is based on their investment in a company that actively carries on a business that economically benefits Latvia. The lawmaker has chosen to measure this benefit in terms of taxes paid. So, when making the annual TRP registration, the CMO will check the company's tax returns to see if the taxes paid to the central and local government in the previous financial year total at least EUR 40,000 (excluding any amounts of tax refunded or refundable by the government) or if the monthly average taxes paid to the central and local government total at least EUR 3,300 for the first incomplete financial year after the TRP was issued.

The CMO is carefully monitoring how this condition is met. If the amount paid in taxes is less than the statutory level, the CMO will refuse to register the investor's TRP for the following year. This might make the investor a hostage to fortune because there may be various reasons why the company was unable to meet the Immigration Act's tax requirement for the financial year. However, the CMO has so far been relentless and has not shied away from issuing negative decisions to investors in large companies.

So, investors seeking a Latvian TRP should not only consider the salient conditions laid down by the Immigration Act allowing them to obtain a TRP for the first time, but they should also seriously evaluate the company's ability to meet the annual tax requirement in order to avoid the unpleasant situation of having to leave Latvia immediately a year later.