

# Corporate tax implications of writing off debt owed by deregistered debtor 3/39/21

If a company's debtor has been removed from the Commerce Register, can the company write off an account receivable from that debtor with no corporate income tax (CIT) consequences? This article explores things to consider when it comes to writing off a debt like this, and what documents the company must hold.

## Section 9 of the CIT Act

Section 9 lists cases where a company must include receivables in its taxable base and conditions it must satisfy to avoid CIT consequences. If the company is to exempt the debt under section 9(3), three conditions must be met:

1. The company has taken all reasonable steps to collect and recover the debt.
2. The debtor is resident in Latvia, another EU/EEA country, or a country that has an effective double tax treaty with Latvia.
3. One of the conditions prescribed by section 9(3)(2-11).

The debtor has been taken off the Commerce Register based on a court decision ordering collection of the debt and on a bailiff's finding that collection is impossible under section 9(3)(3). The debt is outstanding because the debtor's business has been suspended by the tax authority's decision and the debtor has been deregistered under section 9(3)(10).

Our analysis of the CIT Act suggests that all three conditions must be met if the debt is to escape the taxable base. And the third condition includes a number of circumstances that must exist, the debtor's deregistration being only one of them.

So, if the company has failed to take other steps to recover the debt, if the company does not have a court decision ordering collection of the debt and a statement that collection is impossible, or if the debtor's business has not been suspended by the tax authority's decision, the company must include the debt in the taxable base because only one condition (the debtor's deregistration) is met.

## Required documents

Even if all three conditions are met, the company must have documentary evidence showing that the conditions of section 9(3) of the CIT Act are met.

If the debtor has been taken off the Commerce Register, then to apply section 9(3)(3) of the CIT Act, the company must hold documentary evidence showing that it has taken reasonable steps to collect and recover the debt (e.g. correspondence with the debtor, litigation documents), a court decision ordering collection of the debt, a bailiff's finding that collection is impossible, and a statement that the debtor has been taken off the Commerce Register. Since CIT legislation does not specify what kind of statement is to be used for applying CIT provisions, the company can use statements confirming the debtor's status available from different registers.

So, the debtor's deregistration alone does not allow the company to write off the debt with no CIT consequences, as those consequences can be avoided only if the conditions prescribed by section 9(3) of

the CIT Act are all met and if the company has documentary evidence showing that those conditions are met.