

Terms “state institution,” “government-funded establishment” and “state-owned company” explained for corporate tax purposes 1/9/22



Director, Tax, PwC Latvia
Vita Sakne

When it comes to applying the corporate income tax (CIT) provisions for penalties and donations in practice, we have to deal with the terms “state institution,” “government-funded establishment” and “state-owned company,” which are not defined in the CIT Act or in the rules explaining its application. In this article we explain these terms for CIT purposes.

State institutions

Section 1(3) of the Public Administration System Act provides that an establishment is an institution that acts in a public entity’s name, has statutory government competence and funds granted for its operations, and employs its own staff. So an establishment having all these characteristics is recognised as a state institution. And we need to bear in mind that the term “state institution” covers foreign institutions as well.

Paragraph 64 of the Cabinet of Ministers’ Rule No. 677 implies that for CIT purposes any penalties and fines charged by state institutions are considered reasonable expenses in relation to the value of the transaction and recognised as business expenses. So this provision applies to penalties charged by many state institutions such as the State Revenue Service (SRS), the National Police, the National Labour Office, and the Competition Council.

Government-funded establishments

The Budget and Finance Management Act provides that a government-funded establishment is an establishment of the central or local government, a derived public entity completely funded from the central or local government budget, or a municipal agency. While this definition implies that a derived public entity is recognised as a government-funded establishment, section 12 of the CIT Act provides that only an establishment formed by the central or local government is recognised as a government-funded establishment. So this provision implies that, for example, relief is available on a donation made to an establishment formed by a municipality (e.g. a school, a library, or a community centre) and not to the municipality itself because it is a derived public entity.

In its guidance on CIT relief for donors, the SRS explains there is no relief on a donation to the University of Latvia or Vidzeme University, for example, because those are derived public entities.¹ So donation relief for CIT purposes is available on donations made to government-funded establishments, i.e. those formed by the state or a derived public entity.

However, when it comes to donations supporting Ukraine and its people, the Ministry of Finance announced on its Facebook page on 3 March that the section 12 relief is available also on donations made to municipalities. So, even though it does not directly follow from this section, relief can be claimed on a donation made to a municipality if all the conditions of the CIT Act are satisfied.

State-owned companies

Section 1(9) of the Management of Public Entity Shares and Companies Act provides that a state-owned company is one in which all shares are held by the state.

A company donating to a state-owned company and wishing to take one of the reliefs available under section 12 of the CIT Act should also bear in mind that only donations to state-owned companies that perform national culture functions delegated by the Ministry of Culture are eligible. Examples include state-owned private limited companies *Latvijas Nacionālais simfoniskais orķestris*, *Valsts Akadēmiskais koris "Latvija,"* *Latvijas Koncerti*, *Kremerata Baltica*, *Latvijas Nacionālā opera un balets*, *Liepājas simfoniskais orķestris*, *Rīgas Cirks*, *Jaunais Rīgas teātris*, and *Dailes teātris*.

¹The SRS guidance on corporate income tax relief for donors https://www.vid.gov.lv/sites/default/files/ziedojumi_uin_04_2020.pdf