

Pelno mokesčio įstatymo pakeitimai Estijoje

Lietuva

Norime Jus informuoti, kad balandžio 16 d. Estijoje buvo patvirtinti Pelno mokesčio įstatymo pakeitimai, įsigaliosiantys nuo 2009 m. sausio 1 d.

Atkreipiame dėmesį į šiuos svarbiausius pakeitimus:

1. Pelno mokesčiu apmokestinamos bendrovių likvidavimo, įstatinio kapitalo mažinimo (kai mažinamas kapitalas, kuris viršija piniginius ir nepiniguosius įnašais suformuotą kapitalo dalį) ir akcijų išpirkimo (kai akcijas išperka jas išleidusi bendrovė) pajamos, kadangi jos buvo prilygintos dividendams. Iki šio pakeitimo tokios pajamos buvo apmokestinamos akcininkų lygiu;
2. Pelno mokesčiu neapmokestinami užsienio rezidentams išmokami dividendai ir mokėjimai pagal licencijas;
3. Nustatoma metinė pelno mokesčio mokėjimo tvarka:
 - ▶ pelno mokestis mokamas kasmet (mėnesinis deklaravimas/mokėjimas išliks kaip ir šiuo metu, esant įvairiems neleidžiamų atskaitymų mokėjimams);

- ▶ pelno mokestis turi būti deklaruojamas ir sumokamas iki kitų mokestinių metų šešto mėnesio paskutinės dienos (jei mokestiniai metai sutampa su kalendoriniais metais, iki liepos 1 d.)
4. Nustatoma avansinio pelno mokesčio mokėjimo sistema:
 - ▶ avansinis pelno mokestis turi būti mokamas 2 kartus;
 - ▶ avansinis pelno mokestis sudaro 2/3 pelno mokesčio, apskaičiuoto nuo trijų praėjusių mokestinių metų apmokestinamojo pelno vidurkio, padauginto iš pelno mokesčio tarifo, galiojusio atitinkamais metais (jei suma neviršija nustatytos 30 000 Estijos kronų ribos - avansinio pelno mokesčio mokėti nereikia);
 - ▶ avansinis pelno mokestis turi būti sumokėtas

iki mokestinio laikotarpio dešimto mėnesio 10 d. ir iki kitų mokestinių metų trečio mėnesio 10 d. (jei mokestiniai metai sutampa su kalendoriniais metais, atitinkamai iki spalio 10 d. ir iki kovo 10 d.)

► nustatytas avansinio pelno mokesčio mokėjimo pereinamasis laikotarpis 2010 ir 2011 m.

5. „Paskirstytasis“ nuolatinės buveinės pelnas taip pat apmokestinamas pelno mokesčiu.
6. Nuo 2009 m. sausio 1 d. pelno mokesčio tarifas sumažinamas nuo 21% iki 20%.

Išsamesnė informacija apie Estijos pelno mokesčio įstatymo pasikeitimus pateikiama žemiau anglų kalba.

Changes in the Estonian Corporate Income Tax System from 2009

On 16 April 2008 the amendments of the Income Tax Act, which will change the taxation of Estonian resident companies from 1 January 2009, were published in the State Gazette.

Since the accession of Estonia to the European Union, there has been a lot of discussion about Estonia's obligation to change the taxation principles of companies. Still, the long-expected changes turned out not as radical as the models that have been presented by the Minister of Finance during the recent years. It could even be said that the changes in the taxation of Estonian companies are rather of

cosmetic nature. Namely, the present taxation system will principally remain effective also in 2009. Taxation will, however, take place on the year basis and the liability to make advance payments shall be added. One of the substantial changes concerns the taxation of payments made in case of decreasing the share capital, share payback or liquidation proceeds of a legal entity – from the beginning of 2009 that kind of payments will be taxed like dividends at the level of entity (not as capital gain at the level of shareholder).

Taxation in 2008

Currently there is no classical corporate income tax system in Estonia. Estonian resident companies do not pay income tax at the moment of earning their profit, but the taxation is postponed until the distribution of the profit. Thus, actual and deemed profit distributions (usually dividends) are taxed by the rate of 21% (20% in 2009) on the gross amount of the distribution. Such expenses are fringe benefits; gifts, donations, and representation expenses; expenses and payments not related to business. Moreover, companies are liable to pay income tax on fringe benefits. In addition to such profit allocations (“distribution” is treated as a wider concept than “direct dividend payments”), transfer-pricing rules apply against hidden distributions of profits.

Tax base 2009

Starting from 1 January 2009, the taxable base for companies will be basically the same - it will include

dividends, hidden profit distributions and certain expenses, which can be considered profit allocation, e.g. gifts, donations, representation expenses exceeding certain limits, and expenses unrelated to business (added to distributed profits). As one of the most considerable changes applicable from 2009, the liquidation proceeds, payments upon share payback, and decrease of share capital exceeding monetary and non-monetary contributions to the share capital (incl. share premium) of the company shall be also equalized with dividends and taxed at the level of company (currently such payments are treated as capital gain and are subject to the tax treaty provisions). It should be noted that in such cases only these contributions that have been made into the capital of the company may be deducted (i.e. purchase price of a holding is not deductible). It means that the scope of deemed dividends becomes wider and all the transactions with equity capital will be taxed at the payer's level, except income from the disposal of holding, which will remain taxable at the level of recipient.

Annual taxation

The period of taxation for entities will be a financial year and the calendar month will remain as taxable period only in case of fringe benefits. The tax return should be submitted and the tax paid within six months after the end of financial year (by 1 July, if a financial year is a calendar year).

Advance payments system

During the period of taxation, companies are obliged

to make two advance payments. One advance payment is equal to 1/3 of the average amount of taxable base during three previous periods of taxation, multiplied by the tax rate applicable in that particular year. The advance payments make 2/3 of the whole companies' past average tax liability. Due dates for the advance payments will be the 10th date of the 10th month of the tax period and the 10th date of the 3rd month following the tax period (10 October and 10 March, if a financial year is a calendar year). There are special transitional rules established for the advance payments of years 2010 and 2011.

Advance payments shall not be due if one payment does not exceed EEK 30,000 (ca EUR 1,917) and for the first period of taxation (start-up companies and new permanent establishments). Based on a reasoned written application submitted by a taxable person, tax authorities may reduce or cancel advance payments.

No withholding tax from certain payments made to non-residents

Starting from year 2009, dividends and license fee payments made to non-residents are tax exempt in Estonia, as the recent rulings of the ECJ lead to believe that any kind of withholding is in contradiction with the EC Treaty if non-residents are discriminated.

Taxation of permanent establishments

There have been also amendments regarding the taxation of profits distributed by permanent establishments. Permanent establishments will pay

corporate income tax upon profit allocated to the permanent establishment that is taken out of the permanent establishment. These amendments do not change the idea of taxation of distributed profits of permanent establishments.

Conclusion

Estonian corporate tax system 2009:

- ▶ Tax rate: 20/80 of net amount (i.e. 20% of gross amount);
- ▶ Tax base: distributed profit to which the following are added: gifts, donations, representation expenses exceeding certain limits, non-business related expenses and payments, and liquidation proceeds, payments upon share payback and decrease of share capital exceeding the contributions to the share capital (incl. share premium) of the company;
- ▶ Tax period: financial year.

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Atsakomybės apribojimas

Šis leidinys yra informacinio pobūdžio, ir jame pateikiama informacija negali būti vertinama kaip konsultacija ar teisinė išvada.

Dėl informacijos apie įstatymus ir kitas teisės normas, kurie gali būti reikšmingi priimant sprendimus, prašome kreiptis į:

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