

For natural entities who have the place of residence abroad

The taxation on incomes received

in the Republic of Poland

Contents:



tax liability



taxation on income

February 2008

***Tax Chamber
in Warsaw***



INDEX

I.	THE TAX LIABILITY.....	3
II.	TAXATION ON INCOME.....	3
III.	THE TAX AUTHORITY COMPETENT FOR FILING THE TAX RETURN.....	6
IV.	THE DEFINITION OF THE PLACE OF RESIDENCE FOR THE TAX PURPOSE.....	6

Tax liability is one of the key institutions of personal income tax. It depends on both the place of residence of natural entity and the place of tax revenue source. There is clear differentiation between the unlimited tax obligation rule (i.e. the subject of which are natural entities who have the place of residence on the territory of the Republic of Poland) and the limited tax obligation rule (i.e. the one which concerns natural entities who do not have the place of residence on the territory of the Republic of Poland).

According to the limited tax obligation rule, natural entities who have the place of residence abroad and generate income on the territory of the Republic of Poland (Poland) have their income taxed, provided the revenue is derived from:

- work performed on the territory of Poland on the basis of service relationship, employment relationship, irrespective of the place of payment of remuneration;
- other forms of income generated on the territory of Poland.

This general principle should be amended by the provisions of agreements on avoiding double taxation and of the Act of 26 July 1991 personal income tax [Articles 11(1), 12, 27 (1), 44 (3a, 3d), 45(1, 7, 8)].

→ I. THE TAX LIABILITY

Natural entities who have the place of residence in the countries which entered to the agreements on avoiding double taxation are liable to taxation on their income received in Poland when:

- are employed by the employer who is the resident of Poland or has a registered office in Poland, irrespective of the period of stay in Poland;
- are employed in a permanent establishment which the foreign employer has in Poland;
- any other cases occur i.e. natural entities are not employed by a Polish employer or permanent establishment which a foreign employer has in Poland provided such a person is present in Poland for a period or periods exceeding 183 days during a calendar year or 183 days in aggregate in any twelve month period commencing or ending in the fiscal year concerned.

→ II. TAXATION ON INCOME

Salaries, wages and other similar remuneration derived in Poland by the resident of a foreign country in respect of employment

(unless at least one of the above mentioned conditions is met) are taxable on the same measures as Polish nationals.

In case the employee derives the remuneration from a Polish employer being Polish resident or from a permanent establishment which a foreign enterprise has in Poland, said employer or establishment are obliged to:

- calculate and declare advance payments;
- calculate the annual tax settlement for the employee who opts for it (in tax form called PIT-12);
- prepare the information (in tax form called PIT – 11) about the income derived and tax loss sustained if the employee submits the tax return on his/her own.

If the employee receives the remuneration directly from abroad (from the employer who has the place of residence or place of living abroad) he/she is obliged to pay personal income tax in form of advance payments. The amount of the advance payment is to be calculated with 19 % tax rate (the taxpayer can also use 30% or 40 % tax rate when appropriate). The obligation to allot the advance payment institutes with the overrun of the above mentioned 183 day period.

The first advance payment should be calculated with due regard to overall income received from the beginning of the year.

The taxpayers are obliged to allot advance payments until the 20th of each month for the previous month (Article 44 (3a, 3c, 3d, 3e) of the Act of 26 July 1991 personal income tax).

The taxpayers under the limited tax obligation rule are also obliged to file a tax return concerning the income received (or the incurred loss) during the fiscal year until 30th April of the subsequent year.

When taxpayers (under the limited tax obligation rule) who received income without intermediation or from a tax remitter not obliged to carry out the annual tax calculation, intend to leave the territory of Poland before the deadline provided for the submission of a tax return (30th of April), they are obliged to file the tax office before they actually leave the territory of Poland.

The income generated from work performed by foreign entities who have the place of residence abroad is the object of unlimited tax obligation rule, provided there is no binding agreement on avoiding double taxation.



III. THE TAX AUTHORITY COMPETENT FOR FILING THE TAX RETURN

Under the limited tax obligation rule the taxpayers are obliged to file the tax return to the tax office the head of which is competent for the cases concerning taxation of foreign entities (in Mazovian Voivodeship – the Head of the Third Tax Office Warszawa – Śródmieście; address: ul. Lindleya 14, 02-013 Warszawa).



IV. THE DEFINITION OF THE PLACE OF RESIDENCE FOR THE TAX PURPOSE

Since 01.01.2007 Article 3 (1a) of the Act of 26 July 1991 on personal income tax defines the natural entity whose place of residence is on the territory of Poland. It shall be a natural entity who:

- has a centre of personal or economic interest (the centre of vital interests) on the territory of Poland or;
- stays on the territory of Poland longer than 183 days during a fiscal year.

A natural entity who matches at least one of the above mentioned criteria is the subject of the unlimited tax obligation i.e. is obliged to pay income tax according to the rules determined in Poland and from the whole income received regardless of whether the source of income is in Poland or abroad. When the place of residence or the type of

income are to be determined, the agreements on avoiding double taxation to which Poland entered are taken into consideration.



February 2008

*This information material is not law interpretation,
in light of current tax regulations.*

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