

CHANGES TO THE PERSONAL INCOME TAX ACT (IN FORCE AS OF 1 JANUARY 2013)

The amendments to the Personal Income Tax Act (PIT Act) were promulgated in State Gazette 94/30.11.2012. The amendments shall enter into force as of 1 January 2013.

Some of the most important changes to the PIT Act are summarized below.

1. Final Tax Levied on Interest Income from Bank Deposits

As of 1 January 2012 a final tax at the rate of 10% shall be levied on the gross amount of income received as interest from bank deposit accounts. The new final tax could be briefly represented as follows.

<u>Tax rate:</u>	10%
<u>Subject of taxation:</u>	The interest income from deposit accounts held in <ul style="list-style-type: none">- trade banks, and- branches of foreign banks established in a EU member state or other state – party to the Agreement on the European Economic Area <p>„Deposit accounts” are bank accounts for keeping money for a definite period of time against remuneration (interest).</p>
<u>Taxable base:</u>	Gross amount of the interest
<u>Taxable persons:</u>	Individuals – Bulgarian tax residents
<u>Date of interest income acquisition:</u>	crediting the account of the individual – recipient of the income <i>Specific rule:</i> in case of advance payment of the income, the date of interest income acquisition shall be: <ul style="list-style-type: none">- on the maturity date of the deposit, or- on the date of deposit termination prior to the maturity date
<u>Administration of the tax:</u>	the tax shall be withheld and paid by the trade banks

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and the branches of foreign trade banks in the country by the end of the month following the month of acquisition of the income.

Reporting obligation:

no obligation for declaring the income from interest on deposits derived from Bulgarian source through the annual PIT return filed by the individuals¹.

Comments:

„Interest income from bank accounts” – non-taxable: The Act determines as non-taxable “*the interest incomes from bank accounts*” and distinguishes these from “*interest income from deposit accounts*”, which shall be subject to final tax as of 1 January 2013 (changes to art. 13, para 1, point 8 of the PIT Act)

Following the definition of “deposit account”, provided for under the Act, it could be warily concluded that the only criterion that divides the interest incomes to taxable and non-taxable is the condition whether the bank account is open as such for a limited period of time (paragraph 1, point 58 of the Supplementary provisions of the Act). Considering the variety of “products” offered by the banks it is a matter of time to understand how the tax administration shall treat the incomes, accounted for by the trade banks on accounts which do not fall within the legal definition of “*deposit account*”. There might be even more difficulties when justifying the type of the bank account in case of a Bulgarian tax resident who keeps a bank account at foreign bank operating abroad.

Filing requirements: In the summary presentation above it was commented that the individuals – Bulgarian tax residents shall not be liable for reporting the interest income from deposit accounts by submission of annual tax return, provided that these incomes are with Bulgarian source. However, we need to mention that the changes to the Act seem to introduce an obligation for the local tax residents to declare the interest incomes from foreign source acquired through the tax year (amendments to art. 50, para 1, point 3 of the Act)

Taxation of interest income accrued during preceding years which maturity date shall occur in 2013: It is also worth mentioning that the adoption of the new rules for taxation of interest from deposit accounts practically might result in taxation of interests accounted for limited term deposit agreements, concluded prior to 1 January 2013. The persons, party to agreements with the trade banks, concluded for instance in 2011, now would face a situation where if the interest income by the end of 2012 was deemed non- taxable, while with the new rules that income shall be subject to 10% final tax only under the condition that the entire interest amount has a maturity date after 1 January 2013. It is possible that the provisions concerning the new final tax on interest be appealed before the Bulgarian Constitutional Court.

Interest income from bank deposits, paid in advance by the end of 2012: The Act determines that in case of advance payment of the interest income, the income shall be deemed acquired on the deposit maturity date or on the date of deposit termination prior to the maturity date. It seems to us that this regulation would result in practical problems concerning interest on deposit, paid prior to the date of entering into force of the Act. For instance, at present there are limited term deposit agreements, according to which the banks have already paid in advance the interest amount in 2012. Pursuant to the changes to the Act in case of deposit maturity date in 2013 the income shall be deemed formally acquired and taxable respectively in 2013, and the question which amount (i.e. taxable base) shall the bank withhold the tax of remains quite unclear.

2. Changes to the Time Limits for Payment of Taxes to the State Budget

The amendments to the Act aim at reducing the administrative burden for the tax payers as regards the submission of declarations and payment of due taxes.

¹ Similar to the dividends income

(i) Advance Payment of Employment PIT by the Employers

The term for payment of the advance installments of the employment income tax by the employers is extended as of 1 January 2013. The new deadline for payment of the tax shall be 25th of the month following the month in which the tax is withheld or the partial payments of salaries are made.

In addition to the above, some amendments to the deadline for payment of the tax by the employer party to the main employment relationship is obliged to pay the tax due under employment agreements for additional work. The new deadline is 25th of February of the following year (instead of 31st of January of the following year).

(ii) Time Limits for Advance Payment of Tax on Rental Income and Non-employment

As of 1 January 2013, the deadline for advance payment of the tax on rental income and non-employment income (income from other business activities) is one and the same regardless of the status of the payer of the income. According to the new rules the deadline for payment of the tax shall be by the end of the month, following the quarter of acquisition of the income. This way all persons liable for payment of the tax on income from rental agreements or non-employment income shall be treated equally.

In addition, it is clarified that for incomes acquired during the last quarter of the tax year the tax payers shall not withhold and make advance payments of the due tax to the State Budget.

(iii) Time Limits for Payment of Withholding Tax by the Payer of the Income

Another important change reflects the time limits for payment of withholding tax (WHT) due on incomes derived by foreign individuals from Bulgarian source, as well as the incomes from dividends and liquidation shares received by foreign and Bulgarian tax resident individuals.

Until now the deadline for withholding and payment of the tax ran from the beginning of the month following the month in which the income was accrued and its duration depended on whether the recipient of the income is a tax resident of a state which is a party to a Convention for avoidance of double taxation concluded with Bulgaria. In case that a Convention is in place, the time limit was 3 months following the accrual of the income. In the absence of a Convention the time limit for payment of the tax was the end of the month following the month of income accrual.

Following the changes to the Act the tax shall be paid by the payer of the income by the end of the month following the quarter of income accrual, or respectively during which the resolution for dividends distribution has been taken.

Practically, as of 1 January 2013 one and the same time limits for payment of the WHT shall be observed regardless of the presence or absence of a Convention concluded between Bulgaria and respective the state of tax residence of the recipient. It seems that the changes to the time limits aim at decreasing the administrative burdens for the tax payers.

What is more important, however, the introduction of one applicable time limit for payment of the tax actually shortens the period within which the taxable persons should pay and file a return for the withheld taxes.

(iv) Filing Requirements

The amended provisions of the PIT Act determine a common filing requirement for submission of a declaration about paid taxes by the payer of the income within the time limits

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for payment of the respective taxes. Thus a unified time limit for reporting and payment of the withholding tax is introduced. Pursuant to the amendments, in force as of 1 January 2013, all payers of incomes subject to withholding tax should declare the withheld and paid tax also by the end of the month following the quarter of income accrual.

3. Other Changes Concerning Filing Obligations and Provision of Information

(i) Deadline for issue of certificates for received non-employment income

According to the changes to the Act the companies payers of non-employment income shall be obliged to issue the certificates to the individuals recipients of the income by 15 April of the following year. The old rule determined that the issue of the certificates depended on the request of the individual only. Practically, the need for setting up a deadline for issue of the certificates is correlated to the already existing administrative sanction in case such a certificate was not issued to the individual.

(i) Reports about incomes received by individuals - foreign and Bulgarian tax residents

Incomes, paid to foreign tax residents, taxed by Bulgarian WHT during the respective year, should be included in the standard declaration filed by the company – payer of the income which is filed by 30 April of the following year.

In order to reduce the administrative burdens as regards reporting of incomes paid to a Bulgarian tax residents during the tax year, a threshold of BGN 5000 (app. 2 500 euro) is determined. (The types of income which fall within the threshold criteria are: income from disposal of financial instruments, income from additional voluntary social security contributions received after receiving the right of additional pension, interest income derived from deposits in foreign bank institutions, incomes from gambling, received annuities or lease income). From now on the specified incomes shall be reported by the payer by 31 March of the following year, provided that the income exceeds BGN 5000 per persons recipient.

ДЕЛЧЕВ И ПАРТНЬОРИ

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