

New Tax Rules Approved for PEs of Companies in Tax Havens

by Valters Gencs

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Latvia's Parliament on August 9 approved amendments to the Law on Taxes and Duties (LTD) to combat tax evasion by the permanent establishments of foreign companies established in low-tax or tax-free jurisdictions. The amendments were published in the official gazette on August 19 and enter into force on September 2.

The amendments were drafted in response to recommendations made by the Ministry of Finance, which has been researching strategies for dealing with Latvia's shadow economy. The LTD now defines the agent of a company registered or established in a low-tax or tax-free jurisdiction as the taxpayer for Latvian tax purposes if the agent has, and regularly uses, the authority to conclude agreements on behalf of the principal. The practical consequence of the change is that the dependent agent of the tax haven company can be held directly liable for tax on the PE's Latvian-source income.

A nonresident is considered to have a PE in Latvia if it performs, in Latvia, activities listed in the LTD, including "the activity of a natural, legal or other person for the benefit of a foreign undertaking's entrepreneurial activities (commercial activities) if the person referred to has been granted and regularly exercises (more than once in a taxation period) authorisations to enter into contracts in the name of a foreign undertaking" (LTD section 14(8)(4)). The taxation period generally is one year for purposes of the corporate income tax.

A nonresident's PE in Latvia is subject to taxation under Latvia's domestic legislation on all income obtained in Latvia, its territorial waters, and airspace, and on income obtained in foreign states that is connected with the PE in Latvia. ◆

- ◆ *Valters Gencs, tax attorney and founding partner, Gencs Valters Law Firm, Riga*