



# Thinking beyond borders: Management of extended business travelers - Estonia



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**01**

**Key message**

A person's liability for Estonian tax is determined by residence status for taxation purposes and the source of income derived by the individual. In Estonia, a flat rate of 20 percent is imposed on personal income, including salaries, emoluments and other remuneration paid to employees and members of management or controlling bodies. Residents of foreign states may benefit from the tax treaties. At present there are 63 effective double taxation avoidance treaties that Estonia has concluded.

# 1 Key message

For business travelers, income tax obligation generally arises after staying in Estonia for more than 183 days in any 12-month period.

**02**

# **Income tax**

# 2 Income Tax

## 2.1 Liability for income tax

An individual's liability for Estonian tax is determined by residence status. In Estonia, a flat rate of 20 percent is imposed on personal income, including salaries, emoluments and other remuneration paid to employees and members of management or controlling bodies.

According to the Estonian Income Tax Act, a resident is an individual whose place of residence is in Estonia, or who stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. A person shall be deemed to be a resident as of the date of their arrival in Estonia and shall, from thereon, pay income tax on all income derived by the individual worldwide. A non-resident for tax purposes in Estonia is generally an individual who spends less than 6 months in Estonia and does not have a permanent home in Estonia.

If an individual does not qualify as a resident, their income from Estonian sources will still be taxable if:

- the payment for the person's work is made by an Estonian state or local government authority
- a resident or a non-resident is operating in Estonia as an employer
- a non-resident's permanent establishment (PE) is located in Estonia
- if the person has stayed in Estonia for the purpose of employment for at least 183 days over the course of 12 consecutive calendar months.

The remunerations paid by Estonian resident legal individuals to members of management or controlling bodies for the performance of their official duties are always taxable in Estonia.

**03**

# **Social Security**

# 3 Social Security

According to the general rule, social security taxes are paid when an individual works in Estonia, regardless of the length of the working period. The Estonian social security system is based on three taxes: social tax, unemployment contributions and contributions for mandatory funded pension.

- Social tax is paid by the employers and is not a withholding tax. The rate of social tax is 33 percent on the gross amount of salaries and other remuneration paid to employees and emoluments paid to members of management or controlling bodies.
- Unemployment insurance premiums are required to be paid by employers and employees. The amount of premium that is to be withheld from the employee's gross salary is 1.6 percent. The employer's rate of contribution is 0.8 percent of the gross salaries of the employees. The unemployment insurance premium is not paid on the emoluments made to members of management or controlling bodies.
- Contributions to a funded pension (either to pension fund chosen by an individual or to pension investment account managed by the individual himself) are only made by resident individuals for whom the employer is required to pay social tax. Joining the pension scheme is voluntary. The rate of contribution to be withheld is 2 percent of the gross salary. Until November 30, 2024, individuals involved with funded pension scheme can file applications to increase their contributions to 4 or 6 percent of the gross salary. If the application is filed on time, increased rate shall become applicable as of January 2025.

## 3.1 European Union (EU) regulations

Under the European Economic Area (EEA)/Swiss social security regulations, the exemption from social security taxes can be applied for a worker posted to Estonia or who has simultaneous employment.

A certification (form A1) of the competent authorities confirming that the person is covered with the social security system of their home country/jurisdiction is necessary to benefit from the regulations.

## 3.2 Social Security conventions

Estonia has signed social security conventions that regulate the application of social security systems, including matters of taxation, with the Ukraine, Canada, and Australia.

According to the main principle of the conventions, the remuneration of the Ukrainians, Canadians and Australians working in Estonia is taxable with Estonian social security taxes.

However, the treaties differ in some areas. Similarly to EU regulations, according to the Ukrainian convention, persons working in both countries/jurisdictions are taxed in their home country/jurisdiction. The conventions signed with Canada and Australia does not include such a rule.

Persons assigned from Ukraine do not have to pay social security taxes in Estonia if the duration of the assignment does not exceed a 24-month period. In the Australian convention, the ceiling has been set at 48 months and at 60 months in Canadian agreement.

Employees coming from countries/jurisdictions other than EEA/Switzerland, or countries/jurisdictions with which Estonia has totalization agreements, are generally fully subject to social security payment in Estonia.



**04**

# **Compliance obligations**

# 4 Compliance obligations

## 4.1 Employees' compliance obligations

### Compliance obligations for resident individuals

Resident individuals are obliged to submit an annual income tax return by 30 April of the year following the period of taxation. It is possible to submit an income tax return electronically. Resident individuals whose income does not exceed the rate of basic exemption provided, or whose income in the period of taxation is not subject to additional income tax, are generally not required to submit an income tax return. However, in the case of foreign income, submitting the income tax return is mandatory.

If the submission of a tax return is not mandatory, it is still recommended to apply for the additional exemptions or deductions provided.

Individuals who have not been resident during the whole year shall submit an income tax return concerning only income received during the period when the person was a tax resident.

### Compliance obligations for non-resident individuals

If the income tax is withheld by an employer, an employee usually does not have to submit a tax return. However, a non-resident who derives income from Estonian sources subject to withholding tax (but from which income tax has not been withheld) is required to submit a tax return by 30 April of the year following the period of taxation.

A non-resident is required to submit an income tax return concerning the capital gains derived from Estonian sources during the calendar year to the Tax and Customs Board no later than 30 April of the following year.

## 4.2 Employers reporting and withholding requirements

Employers are required to submit an income and social tax return (form TSD) by the 10th day of the month following the payment and transfer withheld income tax, contributions to a mandatory funded pension, unemployment insurance payments and social tax to the bank account of the Tax and Customs Board by the same date as submitting the return. No additional year-end return is required.

**05**

# **Immigration**

# 5 Immigration

## 5.1 Work permit/visa requirements

The regulation of staying in Estonia and working in Estonia is different depending on whether the person is an EU citizen (citizens of EU, EEA countries/jurisdictions and Switzerland are considered as EU citizens) or a non-EU national.

### EU citizens

EU citizens have the right to stay and work in Estonia on the basis of a valid travel document or identity card without a registration for up to 90 days. After 90 days and EU/EEA citizen must contact the local government authority nearest to their place of residence in Estonia and register their residence. The document certifying the right of residence in Estonia, is the Estonian ID-card.

Generally, an EU citizen who has resided in Estonia permanently for 5 successive years on the basis of the right of temporary residence shall obtain the right of permanent residence. A work permit is not necessary for the EU citizens.

### Non-EU citizens

Non-EU nationals can work in Estonia without a work permit for a short term (not exceeding 365 days per 455 days) provided their working has been registered by the employer at the Police and Border Guard Board (PPA) and that they have received a long-term visa.

If the person concerned is a non-EU national and the planned stay/work in Estonia exceeds the 365 days per 455 days limit, they can apply for a residence permit for employment.

If the non-EU national works as an assigned person, in the meaning of the Working Conditions of the Workers Posted to Estonia Act, the residence permit without the consent of the Estonian Unemployment Insurance Fund, public competition or fulfilling the salary criterion can be applied.

Under the Estonian Aliens Act, the Estonian company where the employee performs their work will have certain sponsor's obligations (such as to inform the PPA of the commencement of employment by an alien holding a residence permit for employment, of amendments to the working conditions and termination of the employment contract that is the basis for setting forth the working conditions in the work permit, to ensure that the employee is staying/working in Estonia legally, to guarantee employee' accommodation and bear the costs of the stay of the employee in Estonia and of their departure from Estonia, etc.).

According to the amendments to the Aliens Act, it is allowed to work for several employees at the same time, however, the employer determined in the residency permit is obliged to fulfill the criterion (e.g., salary criterion) determined in the permit. The employer not determined in the permit has an obligation to notify the PPA about the employment.

Also, a 90-day transitional period is allowed for the foreigners living in Estonia under a residence permit after the residency permit has expired. During the period, the foreigners are allowed to apply for a new permit. Working is allowed before the new permit is granted.

Foreigners are allowed to work in Estonia as temporary agency workers. Therefore, employers are allowed to employ temporary agency workers working in Estonia under a residence permit or based on registration of short-term working. Also, there are specific permits for employees who start working in Estonian start-up companies, intra-corporate transfers and foreigners who start working as rental employees.

## **5.2 Local data privacy requirements**

The Personal Data Protection Act was adopted in Estonia in 2003.

## **5.3 Exchange control**

There are no exchange controls in Estonia.

## **5.4 Non-deductible costs for assignees**

The deductions, including certain training expenses and donations made, are in total limited to 1200 euros (EUR) per taxpayer during a period of taxation, and to no more than 50 per cent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions relating to enterprise have been made.

In addition, taxpayers can deduct insurance premiums paid under an insurance contract for a supplementary funded pension, amounts paid to acquire units of a voluntary pension fund or aggregate contributions to a PEPP contract. The deductions are limited to 15 percent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions relating to enterprise, but no more than 6,000 euros.

## **5.5 Other**

In certain cases, a foreign entity should register as a non-resident employer in Estonia.

**06**

# **Other issues**

# 6 Other issues

## 6.1 Double taxation treaties

At present there are 63 effective double taxation treaties that Estonia has concluded: Albania, Armenia, Austria, Azerbaijan, Bahrain, Belarus, Belgium, Bulgaria, Canada, the Czech Republic, China, Croatia, Cyprus, Denmark, Finland, France, Georgia, Germany, Greece, Guernsey, Hungary, Hong Kong (SAR), Iceland, India, Ireland, Israel, the Isle of Man, Italy, Japan, Jersey, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Luxembourg, Malta, Mauritius, Moldova, Mexico, the Netherlands, North Macedonia, Norway, Pakistan, Poland, Portugal, Romania, Serbia, Singapore, the Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Thailand, Turkey, Turkmenistan, the United Kingdom, the United States, Ukraine and Uzbekistan, the United Arab Emirates, South Korea and Vietnam.

The treaties generally follow the Organization for Economic Co-operation and Development (OECD) model of tax treaties.

## 6.2 Permanent establishment implications

The permanent establishment (PE) issue is vaguely regulated in Estonia. There are no court practices or guidelines which would explain how to determine the PE in Estonia. In the meaning of the Estonian Income Tax Act, a PE is defined as a business entity through which the permanent economic activity of a non-resident is carried out in Estonia. A PE is created as a result of economic activity which is geographically enclosed or has a mobile nature. Also, a PE may be created as a result of economic activity conducted in Estonia through a representative authorized to enter into contracts on behalf of the non-resident.

However, the activity of assigned persons should not usually constitute a PE in Estonia if they work for the interest of an Estonian company.

## 6.3 Indirect taxes

The standard rate of value-added tax (VAT) is 22 percent in Estonia. A reduced rate of 9 percent is applied to books and educational literature, medicinal products, and accommodation services. Press publications are subject to 5 percent VAT rate.

## 6.4 Transfer pricing

General transfer pricing rules are effective from 1 January 2000 in Estonia. Amended rules together with documentation requirement are effective from 1 January 2007. Methods and documentation requirement are established with the Decree of Minister of Finance referring to the OECD guidelines.

In relation to international business travelers, it should be noted that if an Estonian entity receives services which are rendered intra-group, these services are likely to attract the tax authorities' interest. In order to avoid tax liability arising from related-party transactions, the values of those transactions have to be at arm's length.

## 6.5 Taxation of directors' fees

According to Art 29 (2) of the Estonian Income Tax Act, personal income tax at a flat rate of 20 percent is charged on the remuneration to the members of the management or supervisory board (hereinafter directors' fees) paid to them for the fulfilment of their professional duties as members of the management

or supervisory board of an Estonian company, irrespective of whether the payer is a resident or a non-resident entity and regardless of the individual's physical presence in Estonia.

As a result of remuneration payment, a non-resident entity may become liable to register as a non-resident employer in Estonia to withhold the income tax from the remuneration paid. Also, payment can trigger social tax payment in Estonia. For most European residents the social tax obligation can be avoided by acquiring form A1 from their home social security authority. In case the income tax is not withheld from the remuneration paid, the management board member is obliged to submit an Estonian personal income tax in order to declare the Estonian-source income.

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