

NJORD Latvia: Where to pay taxes if you have a residence permit in Latvia?

Recently more and more clients are wondering – if I received a residence permit in Latvia, do I become a tax resident of Latvia, do I have to file a tax return and pay taxes in Latvia. Moreover, some clients are turning directly to the State Revenue Service (SRS) of Latvia, where they are answered for example like this – as long as you are the possessor of a real estate object and in our system you are marked as a tax resident.



Unfortunately, SRS is not always right, so it's time to clarify this issue.

As a rule, pursuant to Section 14 of the Law "On Taxes and Duties" - a natural person shall be considered a tax resident (of Latvia) if:

the declared place of residence of this person is the Republic of Latvia

or

this person stays in the Republic of Latvia for 183 days or longer during any 12-month period beginning or ending in a taxation year;

Pursuant to Section 6 of the Law "On Declaration of Place of Residence", foreigners, who has received a residence permit in Latvia has the obligation to declare a place of residence in Latvia.

Thus, we can conclude that all persons with a residence permit are required to declare a place of residence in Latvia, and all those declared in Latvia are residents, which means that all who have a residence permit are tax residents of Latvia.

However, when it comes to foreign citizens, you cannot be guided by domestic legislation only.

Section 7 of the Law "On Taxes and Duties" provides that if international agreements provide for different tax assessment or payment procedures, the provisions of such international agreements shall apply.

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Grounds for recognition of a foreigner as a tax resident of Latvia.

The criteria based on which it is necessary to determine whether a foreign citizen becomes a tax resident of Latvia are set out in agreements on avoidance of double taxation and on prevention of tax evasion. Let us note that Latvia has concluded 62 such agreements.

These agreements are created according to the same model and in almost the same way interpret certain aspects, in particular the term “resident” (tax resident) means any person who is subject to taxation under the laws of that state based on his place of residence, permanent residence ... or any other criteria of a similar nature

Consider an example – a citizen of the China obtained a residence permit in Latvia based on real estate acquisition, lives in the China, where he/she has a family and business/work, but in Latvia he/she spends up to 150 days.

Pursuant to the domestic law of Latvia (On Taxes and Duties) he/she is formally considered a tax resident of Latvia, because of having a declared place of residence in Latvia. At the same time according to the tax legislation code of the China individual is recognized as tax resident. Thus, it turns out that under the laws of Latvia and the laws of the China, the person we are considering is a tax resident of both states.

Double taxation avoidance agreements have a special clause - if, in accordance with the above provisions, an individual is a resident of both contracting states, then his status is determined as follows:

1. a) he/she is considered to be a resident of only the state in which he/she has permanent housing; if he/she has permanent housing in both states, he/she is considered a resident of only that state with which he/she has closer personal and economic ties (centre of vital interests);
2. b) if the state in which he/she has a centre of vital interests cannot be determined, or if he/she does not have permanent housing in any of the states, he/she is considered to be a resident of only the state where it usually resides;
3. c) if he/she usually resides in both states or in neither of them, he/she shall be considered a resident of only the state of which he is a national person;
4. d) if he/she is a national person of both states or none of them, then the competent authorities of the contracting states decide this issue by mutual agreement.

Thus, in the case we are considering, a citizen of the China who has a residence permit in Latvia but has a centre of vital interests (family, work, business) in the China is a tax resident of the China. The main conclusion that can be drawn from the foregoing - the existence of a Latvian residence permit, and therefore a declared place of residence in Latvia, does not automatically mean that a person becomes a tax resident of Latvia.

NJORD Law Firm advises clients on taxation of individuals and legal entities, including when making international transactions, as well as in obtaining income from various sources, both domestic and international.



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