

E-residency – where am I going to pay my taxes?

Did you know, that E-residency can create a situation, where taxes must be paid in several countries?

When a natural person is living in one country but works in another, it often happens that both countries want to impose their income tax on him. And, surprisingly, countries are allowed to do so based on their own income tax legislations. To regulate situations like this, relief can be found in the Double Taxation Treaties for the avoidance of double taxation entered into between countries (hereinafter “DTT”).

When a member of a management board receives income from his own company, does his income tax obligation rise in Estonia, or, in the country where the e-resident actually resides? As the DTTs do not cover any aspects of e-residency, this may create numerous of difficulties due to the fact that E-stonia allows for companies to be managed from another country.

In Estonia, the Estonian Tax and Customs Board follows the principle of source and consequently taxes the income in Estonia. At the same time, the country of residence where the *IRL* management takes place may follow the principle of residency and impose income tax there. In such situations one must analyse the DTT signed between Estonia and the other country to determine the actual country of residency of the taxpayer.

Even after a successful determination of the actual residency, the joy may be short-lived. A threat remains that the company itself is considered to have a Permanent Establishment (hereinafter “PE”) in the country, where the management resides. It comes as a surprise to many, that a legal entity can also be taxed in another country than where the entity is registered.

In case the Tax Authorities recognise that a PE has been created, it is a possibility that a proportional profit must be allocated to the PE and, subsequently, there will be an obligation to pay company income tax there, too. A PE threat remains also in situations where there is only one employee and/or one member of the management board based in the foreign country.

If you wish to map out possible threats and find solutions, get in touch with us!

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