



## **Note to foreign businesses and companies upon entry into the tax register of Slovenia**

### **1. Existence of a business unit of a non-resident (permanent establishment)**

A foreign company or business that wants to do business in Slovenia through a branch or any other legal form is required to register its activity in Slovenia. For tax purposes it has to be entered into the Tax Register.

— The purpose of this note is to inform the foreign businesses (non-residents of Slovenia for tax purposes) who are registering their activity in Slovenia on the basis of forms DR-03<sup>1</sup> and DR-04<sup>2</sup> of the fact that their activities may form a business unit of a non-resident or a permanent establishment in Slovenia and the tax liabilities resulting from it. The Financial Administration of Slovenia performs regular audits of their activities.

A foreign business is subject to Slovenian income tax only on its Slovenian source income. According to § 8, paragraph 3 of the Corporate Income Tax Act (ZDDPO-2) and according to § 11, paragraph 2 of the Personal Income Tax Act (ZDoh-2), income of a non-resident earned in or through its business unit situated in Slovenia qualifies as Slovenian source income. A foreign business operating through a business unit situated in Slovenia is required to file a corporate income tax return.

Business unit of a non-resident is defined in § 6 of the Corporate Income Tax Act. It is a fixed place of business through which the business of an enterprise is wholly or partly carried on in Slovenia.

This definition includes especially the following places through which the foreign business operates in Slovenia: an office, a branch, a factory, a workshop, a mine, a quarry or any other place of extraction of natural resources. It also includes the building site or construction or installation project and its supervision if it lasts for more than 12 months. This term includes not only the construction of buildings but also roads, bridges, canals, their renovation, the laying of pipe-lines, excavating and dredging. Installation means also installation of new equipment, for example a complex machine in an existing building or outdoors. The fact that project was temporarily interrupted because of bad weather or shortage of material or because of labour force difficulties, does not interrupt the duration of the project. A period in which a sub-contractor is carrying its own activities for the contractor is included in the duration of the project of the contractor. A sub-contractor may also represent a business unit of a non-resident by itself if its presence on the site is longer than 12 months. This is, however, only a list of examples that can be regarded as a business unit of a non-resident and are hereby emphasized, and it is by no means exhaustive.

The place of business can entail any facilities, for example any premises an enterprise uses in the course of carrying on its business in Slovenia including machinery or equipment if it is operated and maintained by the enterprise. Sometimes no facilities are required to carry on a

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<sup>1</sup> Form DR-03: Application for the Registration of a Natural Person Performing Business Activities in the Tax Register

<sup>2</sup> Form DR-04: Application for the Registration of a Legal Person in the Tax Register

business of the enterprise. It is important that a certain amount of space is at the disposal of the enterprise.

The definition furthermore includes the term fixed place. This means there should normally be a connection between the place of business and a distinct geographical point, however the equipment forming a business unit does not necessarily have to be fixed to the soil on which it stands. In addition certain business activities are of the nature that requires the enterprise to move them between locations. A single place of business in such cases is hard to define, so an enterprise may have two business units. In general a single or fixed place will be deemed to exist when, taking into account the nature of the business, a location will constitute a coherent whole commercially and geographically.

The law gives a list of activities that can be deemed as preparatory and do not constitute a business unit of a non-resident. Those are: use of facilities for storage, display or delivery of goods or merchandise that belongs to the enterprise; the maintenance of a stock of goods or merchandise that belong to the enterprise either solely for the purpose of storage, delivery or display or solely for the purpose of processing by another enterprise; the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise or for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character and the maintenance of a fixed place of business for any combination of above mentioned activities provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character. In determining which activities are of preparatory or auxiliary nature and which are not it is of paramount importance to define whether or not they constitute an essential and significant part of the activity of the enterprise as a whole.

Apart from the fixed place of business a business unit of a non-resident also exists if a person (dependent agent) acts on behalf of an enterprise and has, and habitually exercises in Slovenia, the authority to conclude contracts in the name of the enterprise and even when an agent cannot literally conclude contracts in the name of the enterprise, but can enter into contracts that are binding on the enterprise.

Apart from the dependent agent, an independent agent can under certain circumstances also be deemed to represent a business unit of a non-resident in Slovenia. This is the case when an independent agent such as a broker, a general commission agent or any other independent agent that usually acts in the ordinary course of their business and for their own account, operates wholly or predominantly in the name of one non-resident (more than 50 % of its revenues come from a single enterprise) and conditions in a business and financial relationship between the agent and such a non-resident are different from the ones among unassociated persons.

Determination of the tax liabilities of the foreign businesses that are residents of the countries with which Slovenia has concluded a [tax treaty](#) is always subject to provisions of the particular treaty. The most important difference in the definition of the business unit of a non-resident between the Slovenian tax legislation and tax treaties (where it is known as a permanent establishment) is the requirement of permanence. The Slovenian tax legislation does not require permanence to consider a business as a business unit of a non-resident that is required to file a tax return in Slovenia.

The existence of a business unit of a non-resident depends on many particular facts and circumstances that cannot wholly be dealt with in this note. For additional information in case of doubt in particular cases please pay attention to the relevant explanations of the tax authorities or obtain your answers directly from the competent tax authority.

## **2. Tax liabilities of a business unit of a non-resident (permanent establishment)**

The part of income of a business unit of a non-resident that is attributable to it is taxed in Slovenia. Taxable attributed income is reported to the tax authorities in the Corporate Income Tax Return. It is defined according to transfer pricing rules<sup>3</sup> and on the basis of accounting documents that have to be prepared in accordance with Slovenian Accounting Standards and International Financial Reporting Standards. In case documentation is not prepared in Slovenian a foreign business is required to provide the translation upon request of Slovenian tax authorities. In special cases where the activities of a business unit of a non-resident are of such nature that do not generate its own revenues for the unit and the revenues and the profit are attributed to the unit by means of transfer pricing methods, the unit has to be able to explain each entry in the tax return with documentation, which apart from the transfer pricing documentation has to include book-keeping records of the associated foreign business, receipts, contracts and other relevant documents.

Finally, we provide you with the summary of the general taxation procedures of such a foreign business:

Corporate Income Tax in Slovenia is paid through the Corporate Income Tax Return at the rate of 19 %<sup>4</sup>. The return has to be filed with the tax authority in three months from the beginning of the current tax year for the previous tax year (usually 31<sup>st</sup> of March when the tax year is the same as the calendar year). Tax deductions are claimed in the return. Different deadlines are in place for taxpayers in special circumstances like bankruptcy procedure, mergers, acquisitions, closure of business etc.

Tax year is the same as the calendar year by default, but the taxpayers may choose a different tax year that coincides with their business year. This is done by a written request to the tax authority at least 45 days before the date of the new tax year. A new business has to notify the competent tax authority about a different tax year 8 days after the registration in Slovenia. The tax authority confirms a different tax year to the taxpayer in 15 days.

The taxpayers are required to pay advance tax payments during the year. They are calculated on the basis of the tax base arising from the tax return of the previous tax year. It is paid monthly (if the amount of payment is more than 400 euros) or in three-month-period instalments (if the amount of payment is less than 400 euros). It is due on the 10<sup>th</sup> day of the month for the previous month or period. When the taxpayer starts operating business in Slovenia, it has to calculate the advance tax payment on the basis of the planned tax base for the tax period in which the advance tax payments will be paid. The explanation of the planned tax base is made on the tax return form that has to be filed with the competent tax authority in 8 days after registration in Slovenia. The amount of the advance tax payments can be changed during the tax year if the tax base of the business for the current tax year is different from the tax base for the previous year. The change can be requested by a written statement 30 days prior to the end of the instalment period to the competent tax authority to which the tax return, estimate of the tax base for the current year and information that proves such change have to be enclosed.

A business unit of a non-resident is also required to withhold the tax on types of income subject to withholding tax. More information on tax withholding is found on the following webpage: [http://www.fu.gov.si/en/taxes\\_and\\_other\\_duties/areas\\_of\\_work/international\\_taxation/#c1172](http://www.fu.gov.si/en/taxes_and_other_duties/areas_of_work/international_taxation/#c1172) .

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<sup>3</sup> A business unit of a nonresident and nonresident itself are considered to be associated enterprises for which transfer-pricing rules apply.

<sup>4</sup> According to Corporate Income Tax Act.

If a foreign business owned by a sole entrepreneur or a self-employed person qualifies as operating its business in or through the business unit of a non-resident (permanent establishment) in Slovenia according to Slovenian tax law or according to tax treaty and in or through a fixed base in Slovenia according to the tax treaty Slovenia concluded with the business' country of residence, it is subject to personal income tax governed by the Personal Income Tax Act – ZDoh-2.

Its tax liability in Slovenia therefore differs in certain points that are hereby emphasized. Such a taxpayer has to file a different Income Tax Return:

[http://www.fu.gov.si/fileadmin/Internet/Davki\\_in\\_druge\\_dajatve/Podrocja/Dohodnina/Dohodek\\_iz\\_dejavnosti/Obrazci/Obracun\\_akontacije\\_dohodnine\\_in\\_dohodnine\\_od\\_dohodka\\_iz\\_dejavnosti.pdf](http://www.fu.gov.si/fileadmin/Internet/Davki_in_druge_dajatve/Podrocja/Dohodnina/Dohodek_iz_dejavnosti/Obrazci/Obracun_akontacije_dohodnine_in_dohodnine_od_dohodka_iz_dejavnosti.pdf) and calculate the advance tax payments paid monthly at the rate depending on the monthly amount of the net tax rate schedule. The calendar tax year cannot be changed. Furthermore, under certain conditions, a non-resident self-employed person can also opt for a different system of taxation where the tax base is determined on the basis of actual revenues and nominally determined expenses in the amount of 80 % of the revenues.

More detailed information on the specifics of taxation of sole entrepreneurs or self-employed persons can be found on webpage of Financial Administration of Slovenia. The link is provided above.