

Estonia - Information on residency for tax purposes

Section I – Criteria for Individuals to be considered a tax resident

Relevant provisions of the Income Tax Act can be found at the web-page of Riigi Teataja (State Gazette) article 6 (1) <https://www.riigiteataja.ee/en/eli/502042015008/consolide>.

An individual is a tax resident in Estonia if his or her place of residence is in Estonia or if he or she stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. Estonian diplomats who are in foreign service are also deemed to be Estonian tax residents.

If the residency prescribed on the basis of a tax treaty differs from the residency prescribed pursuant to the Income Tax Act, the provisions of the tax treaty apply. Thus, if an individual is deemed to be a tax resident in foreign country in the sense of the tax treaty, she or he will be considered to be a non-resident according to the Estonian Income Tax Act.

An individual must notify the tax authority of any circumstances related to changing his or her residency for tax purposes and complete the form for determining residency for tax purposes. The form for determining natural person's residency for tax purposes is established by a regulation of the minister responsible for the area. The form R can be found here http://www.emta.ee/public/vormid/avaldused/Vorm_R_2014_taidetav.pdf.

Estonian Tax and Customs Board has published guidelines for the determination of residency of individuals at its web-page <http://www.emta.ee/index.php?id=1759#ankur2> or more thoroughly, but only in Estonian, here <http://www.emta.ee/?id=1529>.

Section II – Criteria for Entities to be considered a tax resident

Legal provisions concerning residency are in the Income Tax Act article 6 (2) (<https://www.riigiteataja.ee/en/eli/502042015008/consolide>).

A legal person is a tax resident in Estonia if it is established pursuant to Estonian law. European public limited companies (SE) and European associations (SCE) whose seat is registered in Estonia are also residents.

A legal person is either a legal person in private law or a legal person in public law. (General Part of the Civil Code Act § 24) <https://www.riigiteataja.ee/en/eli/528032014002/consolide>.

According to General Part of the Civil Code Act § 25 legal persons in private law in Estonia are the following: public limited company (aktsiaselts, AS), private limited company (osühing, OÜ) but there are also general partnership (täisühing, TÜ), limited partnership (usaldusühing, UÜ) and commercial association (tulundusühistu). Legal provisions can be found in the Commercial Code <https://www.riigiteataja.ee/en/eli/525032015007/consolide>. Non-profit associations (mittetulundusühing) and foundations (sihtasutus) are also Estonian residents. Legal provisions can be found in the Non-profit Associations Act <https://www.riigiteataja.ee/en/eli/529012015009/consolide> and the Foundations Act <https://www.riigiteataja.ee/en/eli/529012015010/consolide>.

The state, local governments and other legal persons founded in the public interest and pursuant to an Act concerning such legal person are legal persons in public law.

The concept of residency criteria for legal persons is further explained here <http://www.emta.ee/index.php?id=1759#ankur2>

Section III – Entity types that are as a rule not considered tax residents

Common fund (or contractual investment fund, *lepinguline investeerimisfond*) established on the basis of the Investment Funds Act is not considered to be a tax resident in Estonia as it is not a legal person according to Estonian law. Common funds (except pension funds) pay income tax in limited cases only.

The Law of Obligations Act provides for civil law arrangement (*seltsing*), based on a contract, which is not considered as a legal person and is transparent for tax purposes.

Relevant Acts can be found at the web- page of Riigi Teataja:

Investment Funds Act <https://www.riigiteataja.ee/en/eli/501042015006/consolide>

The Law of Obligations Act <https://www.riigiteataja.ee/en/eli/516092014001/consolide>

Section IV – Contact point for further information

Estonian Tax and Customs Board
Lõõtsa 8, 15176 Tallinn, Estonia

E-mail: emta@emta.ee (general).