

Donations to Ukraine and corporate tax 1/12/22

Since war broke out in Ukraine, many people have been eager to help Ukrainian people with various donations. Last week we [wrote](#) about the Latvian VAT treatment of donations and how the tax rules should be changed to cover various cases. This article explores the corporate income tax (CIT) treatment of donations.

Neither [the CIT Act](#) nor [the Support for Ukrainian Civilians Act](#) lays down any special procedures or easy terms for charging CIT on donations, gifts or any help offered to people in Ukraine. Accordingly, the existing tax rules apply.

Donations

Tax relief under [section 12 of the CIT Act](#) is available on donations made to a Latvian public benefit organisation (granted this status under the Public Benefit Organisations Act), to a government-funded establishment, to a national museum (a derived public entity), or to a state-owned company that performs national culture functions delegated by the Ministry of Culture. When donating and claiming CIT relief, it is important to check the donee's status.

A donation of cash or non-cash assets has to be covered by an agreement and passed to the donee for no consideration. This means that the donee cannot have any counter-obligation towards the donor and cannot publicise the donor's brand. If the donation agreement does impose a counter-obligation on the donee to do something as a reward, the donor is not entitled to CIT relief on the donation.

Three reliefs

Section 12(1) of the CIT Act permits a taxpayer to choose one of three reliefs for the financial year:

1. Excluding from the tax base donations totalling up to 5% of the after-tax profit for the previous financial year
2. Excluding from the tax base donations totalling up to 2% of the aggregate gross pay on which NSI contributions have been paid for the previous financial year
3. Reducing the CIT charge on dividends by 85% of donations capped at 30% of the CIT charge on dividends

The first and the second relief put a cap on donations that qualify as business costs and can stay out of the tax base, without creating an additional CIT liability on the donations.

The third relief in fact reduces the amount of CIT due, i.e. the donations can be deducted from the CIT charge on dividends. In practice, however, there is no way to take this relief unless the taxpayer distributes profits arising after 2017, because only this distribution creates a CIT charge to deduct donations from.

Claiming relief

The taxpayer is free to decide which of the reliefs will be claimed for the financial year. The chosen type of relief should be indicated on the CIT return for the month in which the donation was made. Yet the lawmaker has also made it possible to change during the financial year the type of relief taken initially. In

that case the taxpayer should amend the tax returns already filed and adjust the information reported initially.

It is important to note that the first and the second relief apply to total donations made during the financial year as long as they stay below the threshold. From the date it is exceeded, the excess is treated as a non-business expense, and the taxpayer should report it on the CIT return for the month in which the donation was made, as well as computing and paying CIT on the donation.

For the third relief, however, the donation is initially treated as a non-business expense and included in the tax base. The declared dividends are then deducted from the CIT charge up to the statutory limit. Yet Parliament is currently debating proposals for amending the CIT Act to provide that the donated amount is recognised as a business expense for the third type of relief as well.

There are some other provisions in [section 12 of the CIT Act](#) we need to follow, including section 12(6). For example, a donation does not qualify for CIT relief if the company's tax arrears exceeded EUR 150 on the first day of the month in which the donation was made.

The takeaway

If a donation is to qualify for a tax relief, we have to follow the provisions of [section 12 of the CIT Act](#) because there are no special provisions for the CIT treatment of donations made to support Ukrainian civilians. Companies may donate and provide help, for example, to a person that has suffered in the Ukraine war, to an employee's family member, or to a Ukrainian organisation by transferring money directly into Ukrainian bank accounts, but such aid does not qualify for the relief prescribed by [section 12 of the CIT Act](#). Thus, such aid costs should be recognised as non-business costs giving the company a CIT liability.

The State Revenue Service has approved this approach in their [guidelines of 21 March 2022 on the tax treatment of assistance related to the events in Ukraine](#). According to the tax authority, there is no additional CIT relief on payments made to people. Accordingly, the general CIT procedure for debtors applies in line with [section 9 of the CIT Act](#).