



Finnish Tax Administration
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FINLAND



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REQUEST

375/BASE/2016/B¹⁽³⁾

ÉRKEZETT 2016 SZEPT-01

26.8.2016

Reference

091 2669284-2 59 12

SUBMITTING AN INCOME TAX RETURN

Your company has a permanent establishment in Finland because operation of your enterprise cannot be seen as international traffic in meaning of the Article 3.1 subparagraph H of the Treaty between Hungary and Finland for the avoidance of double taxation. The company must pay Finnish income tax on its profits.

Please submit the following details for the 1.1.2015-31.12.2015 accounting period:

- 1) Form 6B, the income tax return, with enclosures, for reporting the income attributable to the permanent establishment.
 - 2) Copies of the permanent establishment's profit-and-loss account and balance sheet drawn up as required by the Finnish Accounting Act. The P/L account is necessary for proving that the income tax return is reliable.
 - 3) If the permanent establishment has paid out salaries and wages to be deducted from its taxable income, also give us:
 - (a) annual notification for payments to persons with limited tax liability in Finland (Form 7809e) if the work has been done in Finland.
 - (b) annual Information Return of employers, Employer Payroll Report Form 7801e if the work has been done in Finland.
 - (c) if work has been done outside Finland, give us an account of how the work is connected to the operation of the permanent establishment in Finland.
- Paid wages are deductible expenses on the condition that you can prove that they are connected to the operation of the permanent establishment.

Submit the tax return and its enclosures by 9.9.2016. If you consider that you don't have a permanent establishment in Finland, you may instead give a description of the company's activities by 9.9.2016. The description must explain why the activities do not constitute a permanent establishment.

Grounds for being treated as having a permanent establishment

According to an Article 8.1 of the Treaty between Hungary and Finland for the avoidance of double taxation, profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

According to an Article 3.1 subparagraph H of the Treaty between Hungary and Finland for the avoidance of double taxation, the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

According to a Section 9 of the Finnish Income Tax Act, a foreign corporation is liable to tax on its income derived from Finland.

According to the information you have given, your enterprise has provided in Finland in 2015 operation of scheduled air services between the airports of Helsinki and Savonlinna from 2.2.2015 to 31 December 2015. Helsinki and Savonlinna are both Finnish towns. Hence, operation of your enterprise cannot be seen as international traffic in meaning of the Article 3.1 subparagraph H of the Treaty between Hungary and Finland for the avoidance of double taxation. Thus, Article 8.1 of the Treaty between Hungary and Finland for the avoidance of double taxation cannot be applied to the operation of your enterprise in Finland. Therefore under Section 9 of the Finnish Income Tax Act your enterprise is liable to tax on its income derived from operation of scheduled air services between the airports of Helsinki and Savonlinna.

If you don't send us the required information, we will estimate your taxable income.

In addition, we will impose a punitive tax increase unless you are able to prove that you had a valid reason for your failure to fulfil your reporting obligation. We will also assess the taxes by estimation and impose a punitive tax increase on your company if the description of the company's activities you give does not change the Tax Administration's view on the permanent establishment.

To file your income tax return online, you can use e-filing: Corporation Tax Online (vero.fi/yhteisonveroilmoitus). This e-service also accepts the required enclosures. Using Corporation Tax Online is easy as the interface gives you instructions as you advance.

If you are sending us an explanation letter instead of a tax return, address your response to me and quote the reference code above.

Please contact me if you need further guidance.

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After 1.9.2016
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Applied legal norm:

§ 7–11, 26–27 and 32, Act on Assessment Procedure

§ 9–10 and 13a, Income Tax Act

Articles 3, 5, 7 and 8 of the Treaty between Hungary and Finland for the avoidance of double taxation

Tax Administration's guidance: Taxation of foreign businesses – Ulkomaisen yhteisön tuloverotus Suomessa (dnro A86/200/2013, 29.1.2014)

Additional information

Bilateral tax treaties between Finland and other countries contain provisions that define the circumstances constituting a permanent establishment.

Permanent establishment means a fixed place of business through which the

company conducts some or all of its operations. To be held as a permanent establishment, the place of business must be fixed, established at a distinct geographical place and with a certain degree of permanence. However, operations of preparatory and auxiliary character do not constitute a permanent establishment even if a fixed place of business in Finland were available to the company.

A company is invariably treated as having a permanent establishment in Finland if the fixed place in Finland is where its management and business administration are. Additionally, the activity of a dependent agent may constitute permanent establishment even if the company did not have a fixed place of business. In this case, a dependent agent must have the authority to enter into contracts and to receive or fulfil orders.

Sites where a construction, installation or assembly operation is performed may also be regarded as permanent establishments. Such a site constitutes a permanent establishment only if it lasts longer than what the applicable tax treaty has defined as the time limit.

Nonresident foreign companies normally must pay Finnish taxes on their Finnish-sourced income only. However, if a company has a permanent establishment in Finland, it must pay tax on all the income that can be attributed to the permanent establishment.

Permanent establishment in Finland and related obligations:
tax.fi > Companies and organisations > Foreign business in Finland > Permanent establishments for purposes of income tax

Filing a tax return:
tax.fi > Companies and organisations > Foreign business in Finland > Income tax
returns from foreign companies

Tax treaties:
tax.fi > Precise information > International tax situations > Tax treaties

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