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# New rules for taxation of income of remote employees

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## Establishing residence for tax purposes

The globalisation of the economy and the rapid development of Internet technologies has led to new opportunities in the field of employment for many professionals (eg, designers, software developers, accountants and copywriters) who can perform their functions remotely.

Russian companies are no exception and are actively using this trend, hiring the specialists they need for remote work or concluding one-time civil law contracts with them. These specialists they hire might be Russian or foreign citizens, and might reside in Russia or abroad. This means that there can be situations where remote workers are not tax resident in Russia at the time of commencement of employment with a Russian company, and can later become tax resident in Russia. Some may, during the course of employment, leave Russia for a period and then return. The latter case makes it particularly difficult to determine their tax residency status, because, as a general rule, tax residents are individuals who actually stay in the Russian Federation for at least 183 calendar days within 12 consecutive months, according to clause 2 of article 207 of the Tax Code of the Russian Federation (the Tax Code of Russia).

While, with physical presence in an office, there were doubts about the tax residency status of an employee, this issue is much more complex when it comes to remote employees. When hiring remote employees, the employer should clarify their tax residency status on each income payment date by requesting data through their foreign passport (the main method for confirming residence in Russia is to calculate the 183-day period based on the border crossing stamps in a foreign passport).

## Personal income tax deductions

The location of the employee's workplace as defined in the employment contract previously also played a significant role in determining whether personal income tax should be taken from payments made to a remote employee. If, under the employment contract, a remote employee's workplace was located in Russia and they were recognised as a Russian tax resident, personal income tax on payments to them was withheld by the employer at the rate of 13% (15% for income over 5 million Russian roubles per year – approximately £42,815). The employer would generally withhold personal income tax at the rate of 30%, regardless of the payment amount, from income of non-residents working in Russia (which was also determined by reference to the location of the workplace in the employment contract). If an employee's workplace was specified in the employment contract as being outside Russia, then, on the basis of sub-clause 6 of clause 3 of article 208 of the Tax Code of Russia, their income was considered income from outside the Russian Federation and not subject to personal income tax. In other words, up until recently, a remote employee could receive payments from a Russian company, but they were not taxed in Russia.

However, a new procedure for taxation of payments to remote employees, established in Federal Law No. 389-ФЗ dated 31 July 2023, was adopted in 2023 and came into force on 1 January 2024. Since then, all payments issued under employment contracts from Russian companies, as well as from Russian branches of foreign companies, are considered to be payments received in Russia, not foreign income. Therefore, payments to all remote employees (including to those who are not tax resident in Russia) will be taxed at the rate of 13% (or 15% once the 5 million threshold is exceeded). It follows from the changes introduced by clause 35 of article 2 of this new law that the personal income tax rate of 30% (which is standard for this category of taxpayers) does not apply to remote non-resident employees any longer.

It should be noted that the above changes apply only to remote employees working with Russian companies under an employment contract. If a person provides services under a civil law contract, the procedure for their taxation remains unchanged for the time being. However, the procedure will change from 1 January 2025. In accordance with clause 21 of article 2 and clause 10 of article 13 of Federal Law No. 389-ФЗ, from 1 January 2025, any income will be considered foreign income if work is performed, or services are provided, using Russian Internet resources (domain names and network addresses located in the Russian national domain zone) or software whose the technical facilities of operation are located in Russia. Additionally, at least one of the following conditions must be met:

- The contractor is a tax resident of the Russian Federation.
- Income is received on an account opened with a Russian bank.
- The source of payment is a Russian company or a Russian branch of a foreign company.

It is evident that most Russian employers use domain names and network addresses located in the Russian domain zone. Therefore, payments under civil law contracts to foreign contractors who are individuals will also be subject to Russian personal income tax from 2025.

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