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DA LI FIZIČKO LICE - STRANI DRŽAVLJANIN, KOJI IMA STATUS REZIDENTA REPUBLIKE SRBIJE, MOŽE SA SVOG REZIDENTNOG RAČUNA DA TRANSFERIŠE SREDSTVA NA SVOJ NEREZIDENTNI RAČUN U INOSTRANSTVU

Složenost problematike poslovanja banaka po računima nerezidenata fizičkih i pravnih lica otvorenim kod domaćih banaka iziskivala je brojna dodatna tumačenja važeće zakonske regulative Narodne banke Srbije, što je rezultiralo donošenjem dokumenta "Preporuke za jednoobraznu bankarsku praksu - računi nerezidenata fizičkih i pravnih lica" koji je uradila Radna grupa pri Udruženju banaka Srbije a koji je nakon stručne analize i korekcije, verifikovala Narodna banka Srbije.

Međutim, ništa manje složeno i problematično nije ni poslovanje banaka po računima rezidenata otvorenim u inostranstvu, pri čemu je poseban problem bio utvrditi opravdan, zakonski osnov po kom rezidenti mogu imati otvoren račun kod banke u inostranstvu, odnosno način na koji rezidenti Republike Srbije mogu transferisati novčana sredstva iz inostranstva na svoj rezidentni račun u našoj zemlji (ostvarene penzije po osnovu boravka i rada u inostranstvu, prodaja nepokretnosti u inostranstvu i sl.).

Upravo ti i slični problemi su zahtevali da stručni Odbor za poslove sa inostranstvom pri Udruženju banaka Srbije uputi brojne inicijative za izmenu i dopunu zakonske regulative na način koji bi uredio ovu oblast poslovanja banaka a što su poslovne banke takođe činile u direktnoj komunikaciji sa Narodnom bankom Srbije kao nacionalnim regulatorom i supervizorom.

Ceneći značaj i opravdnost svih zahteva koji su joj bili upućeni Narodna banka Srbije je donela "Odluku o uslovima pod kojima i načinu na koji rezidenti mogu držati devize na računima kod

IS IT POSSIBLE FOR AN
INDIVIDUAL - FOREIGN
CITIZEN, WHO HAS THE
STATUS OF A RESIDENT OF
THE REPUBLIC OF SERBIA,
TO TRANSFER FUNDS
FROM HIS/HER RESIDENT
ACCOUNT INTO HIS/HER
NON-RESIDENT ACCOUNT
ABROAD?



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The complexity of the banks' operations in respect of non-resident individuals' and legal entities' accounts opened with domestic banks called for the numerous additional interpretations of the existing legal regulations by the National Bank of Serbia, which resulted in the adoption of the document "Recommendations for Uniform Banking Practice - Non-resident Individuals' and Legal Entities' Accounts", prepared by the Task Force within the Association of Serbian Banks, and verified by the National Bank of Serbia after its expert analysis and correction.

However, banks' operations in respect of residents' accounts opened abroad are not any less complex and problematic, with the particular problem being how to determine the justified, legal basis for residents to have an account opened with a foreign bank abroad, i.e. how residents of the Republic of Serbia may transfer their funds from abroad into their resident account in Serbia (achieved pensions on the basis of living and working abroad, sales of real estate abroad, etc.).

These and similar problems called for the ASB Foreign Operations Committee to launch numerous initiatives for amendments to the legal regulations concerning the method of regulating this field of banks' operations, which the commercial banks also conducted in direct communication with the National Bank of Serbia, as the national regulator and supervisor.

Appreciating the importance and justifiability of all requests that had been sent to it, the National Bank of Serbia passed the "Decision Specifying Terms and Conditions under which

banke u inostranstvu" koja je objavljena u "Sl. glasniku RS br 44/2009 i 64/2009 (u daljem tekstu: Odluka).

Ovom Odlukom se regulišu i propisuju uslovi pod kojima i način na koji rezidenti mogu držati devize na računu kod banke u inostranstvu.

U stavu 2. ove Odluke u osam tačaka se navode rezidenti koji mogu držati devize na računu kod banke u inostranstvu, tako da između ostalih su navedeni u tački 6) *strani državljani koji na osnovu dozvole za boravak odnosno radne vize borave u Republici Srbiji duže od jedne godine.*

Time je praktično rešen problem naveden u postavljenom pitanju, a to je da strani državljani definisani u stavu 2. tačka 6) Odluke, *mogu* ostvarena sredstva koja se nalaze na rezidentnom računu kod banke u Republici Srbiji da transferišu na svoj račun u inostranstvu.

Koristimo priliku da proširimo temu za sve one koji čitaju ovu rubriku, jer procenjujemo da je korisno da se upoznaju koji su to rezidenti koji mogu držati devize na računu u inostranstvu, time što ćemo navesti svih osam tačaka stava 2. Odluke i to:

1. diplomatska, konzularna i druga predstavništva Republike Srbije u inostranstvu koja se finansiraju iz budžeta Republike Srbije - do iznosa neophodnog za finansiranje tih predstavništava navedenog u rešenju ministarstva nadležnog za inostrane poslove, odnosno drugog nadležnog organa;
2. domaći državljani zaposleni u predstavništvima iz odredbe pod 1 ovog stava - do ukupnog iznosa zarada ostvarenih od momenta upućivanja u ta predstavništva;
3. lica koja se upućuju na rad u misiju Republike Srbije u inostranstvu na osnovu odluke nadležnog organa, kao i predstavnici državnog organa koji u inostranstvu borave na osnovu odluke Vlade Republike Srbije - do iznosa navedenih u tim odlukama;

4. lica koja se na stručno usavršavanje u inostranstvo upućuju na osnovu rešenja - u visini troškova iz tog rešenja, kao i lica kojima se mogu prenositi sredstva plaćanja po osnovu izdržavanja porodice - do iznosa utvrđenog propisom kojim se uređuju lični i fizički prenosi sredstava plaćanja u inostranstvo i iz inostranstva;
5. lica koja se iseljavaju iz Republike Srbije, uz dokaz o iseljenju - do iznosa koji je prenet, odnosno iznet iz Republike Srbije u smislu propisa iz odredbe pod 4 ovog stava;
6. strani državljani koji na osnovu dozvole za boravak, odnosno radne vize borave u Republici Srbiji duže od jedne godine;
7. vlasnici nepokretnosti u inostranstvu za prodaju ove nepokretnosti - do iznosa vrednosti nepokretnosti navedene u ugovoru o kupoprodaji;
8. lica koja imaju državljanstvo Republike Srbije i prebivalište u Republici Srbiji a imaju i državljanstvo druge države, zatim lica s prebivalištem u Republici Srbiji koja imaju državljanstvo samo Republike Srbije i čiji boravak u inostranstvu nije duži od godinu dana - i to na osnovu radne vize, posebne kategorije viza, boravišne dozvole ili drugog dokumenta kojim se dokazuje, odnosno omogućava ovaj boravak, kao i lica koja su ostvarila inostranu penziju u zemljama s kojima nije zaključen međudržavni sporazum - radi uplate penzija.

Posle prestanka razloga zbog kojih je rezidentu omogućeno da drži devize na računu kod banke u inostranstvu u smislu stava 1. ove tačke - rezident je dužan da u roku od narednih 30 dana unese u Republiku Srbiju preostala sredstva i ugasi taj račun.

I da kažemo da Odluka u stavu 3. reguliše i propisuje koji su to rezidenti koji mogu držati devize na računu kod banke u inostranstvu pod uslovom da su za to dobili odobrenje Narodne banke Srbije i koji su to slučajevi.

U ostalim stavovima Odluke reguliše se postupak podnošenja zahteva, kao i postupanje po rešenju Narodne banke Srbije.

Residents may Hold Foreign Exchange in Bank Accounts Abroad”, published in the “Official Gazette of the RS, No. 44/2009 and 64/2009) (hereafter referred to as: the Decision).

This Decision regulates and prescribes the terms and conditions under which residents may hold foreign exchange funds in bank accounts abroad.

Article 2 of this Decision, in eight items, lists the types of residents that may hold foreign exchange funds in bank accounts abroad, so that, among others, item 6 names the following: 6) *foreign nationals that, pursuant to a residency permit or work visa, have resided in the Republic of Serbia for over one year.*

This practically solves the problem mentioned in the asked question, i.e. that foreign citizens defined in Article 2, Item 6 of the Decision *may* transfer their funds from their resident account in a bank in the Republic of Serbia into their account abroad.

We will use the opportunity to expand this topic for the sake of all those reading this column, since we believe it is useful for them to get familiar with the types of residents that may hold foreign exchange in bank accounts abroad, by listing all eight Items of the Article 2 of the Decision, as follows:

1. diplomatic, consular and other representative offices of the Republic of Serbia abroad financed from the budget of the Republic of Serbia, up to the amount necessary for financing operations of such representative offices, as specified in the decision of the ministry in charge of foreign affairs or another competent authority;
2. domestic nationals employed in representative offices referred to in indent 1) hereof, up to the amount of the sum total of wages earned as of their appointment in such representative offices;
3. persons appointed to work in state missions abroad pursuant to decisions of the competent authority, and representatives of the state authority who shall reside abroad pursuant to a decision of the Government of the Republic of Serbia, up to the amounts specified in these decisions;
4. persons sent for professional training abroad

pursuant to a decision, up to the amount of costs specified in such decision, and persons to whom funds can be transferred as family allowance up to the amount specified in the regulation on personal and physical transfers of means of payment from and to the country;

5. persons emigrating from the Republic of Serbia, against evidence of such emigration, up to the amount transferred or taken out of the Republic of Serbia within the meaning of the regulation referred to in indent 4) hereof;
6. foreign nationals that, pursuant to a residency permit or work visa, have resided in the Republic of Serbia for over one year;
7. owners of real estate abroad for the purpose of selling such real estate, up to the amount of the real estate value specified in the sale contract;
8. persons having dual nationality - nationals of the Republic of Serbia and of another country but domiciled in the Republic of Serbia, then nationals of the Republic of Serbia domiciled in the Republic of Serbia whose stay abroad based on a work visa, special category of visa, residency permit or some other document to that effect, proving i.e. enabling such stay, does not exceed one year, as well as persons entitled to foreign pensions in the countries with which no international treaties have been concluded - for the purposes of pension payments.

After cessation of grounds for a resident to hold foreign exchange in a bank account abroad within the meaning of Paragraph 1 hereof, a resident will be required to repatriate the remaining funds and to close the account within 30 days from such cessation of grounds.

We should also mention that the Decision in Article 3 regulates and prescribes which residents may hold foreign exchange in bank accounts abroad provided that they have received the permission of the National Bank of Serbia and in which cases this is possible.

The remaining items of the Decision regulate the request submitting procedure, as well as the proceedings pursuant to the decision of the National Bank of Serbia.