

# Finnish Central Tax Board Rules on Crediting Tax on PE Profits in Estonia

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The Central Tax Board of Finland (*keskusverolautakunta*, KVL) gave its ruling on 20 June 2023 in the case of [KVL:025/2023](#). Neither party appealed the ruling and hence the ruling has recently become final. Details of the ruling are summarized below.

(a) Facts. A Finnish company, FI Co, had a permanent establishment (PE) in Estonia. The profits attributable to the PE, EE PE, were included in the profits of FI Co in Finland for Finnish tax purposes. FI Co transferred the accumulated earnings of EE PE to the head office in Finland for the first time in 2022 and then paid income tax in Estonia. FI Co requested an advance ruling from the Central Tax Board on whether it could credit the tax paid in Estonia for the taxes paid in Finland for the same income. In addition, the question was how the credit would be allocated to different income years considering that the earnings in EE PE had accumulated for several years.

(b) Legal background. Under the Estonian tax legislation in force since 2000, profits become taxable only at the time of distribution. The same applies to earnings a PE in Estonia transfers to its head office. Under art. 1(b)(ii) of the [Estonia - Finland Income and Capital Tax Agreement \(1993\)](#) ([MLI synthesized text 2021](#)) taxes covered include corporate income tax in Estonia.

(c) Issue. The issue of the case was whether FI Co could credit the tax paid in Estonia in 2022.

(d) Decision. The board ruled by referring to the case law of the Supreme Administrative Court in KHO 2014:147 where the tax imposed in Estonia on the earnings of a PE in Estonia is similar to the tax covered by the tax treaty and hence Finland was to give relief to avoid double taxation. Considering that the transferred earnings of EE PE included profits from previous years, the tax paid in 2022 in Estonia must be allocated to those tax years in which the foreign positive net income had been included in the taxation of the head office in Finland. In the case at hand, this meant that the tax paid in Estonia was to be allocated since 2001. After the Estonian tax had been allocated into tax paid for different tax years, it was necessary to separately examine how much tax paid in Estonia could be credited in Finland. The board took the view that the provisions and restrictions of the Law on Elimination of International Double Taxation (*Laki kansainvälisen kaksinkertaisen verotuksen poistamisesta*) regarding foreign tax credits and unused foreign tax credits that were valid for each tax year had to be followed.

The board concluded that FI Co could credit the tax paid in Estonia for the tax year 2022 only per the principles described above.

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