

GUIDANCE

Support on how to fill out the declaration on residence for tax purposes

What does residence for tax purposes mean with regard to a business entity?

The country of residence for tax purposes is **typically the country of the business entity's registered seat**. Deviations are possible in the following cases:

- residence for tax purposes is determined by the venue of the business management and it is in a country different from the country of the registered seat;
- the business entity functions as a branch office;
- the business entity's registered seat was transferred to another country which did not concern the the residence for tax purposes.

Who is the beneficial owner? What is considered to be the residence for tax purposes with regard to the beneficial owner?

- The beneficial owner is **the natural person**, who:
 - possesses, directly or indirectly, at least 25% of the voting rights or ownership in a legal entity or other organisation, or
 - possesses decisive influence*, or
 - to whose benefit the legal entity or other organisation gave the order for transaction.
 - There are special rules in the case of foundations and fiduciary asset management contracts.

**A legal entity has a decisive influence if its member or shareholder is the person with influence and is entitled to elect or recall the majority of the members of the executive or supervisory board of the legal entity.*

If, on the basis of the above, a beneficial owner cannot be determined, then the executive officer classifies as the beneficial owner. You can find more detailed information about the definition of beneficial owner on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/AboutUs/DueDiligence>) in the Announcement on OTP Bank Plc's rules of customer identification.

- The beneficial owner's residence for tax purposes is determined by citizenship, the country of the registered address or other taxation aspects (e.g. permanent stay in the United States due to green card). One beneficial owner may be resident for tax purposes in several countries concurrently.

What does active or passive activity mean?

A business entity classifies as passive, if 50% or greater of its annual revenue is derived from interests earned, dividends, exchange rate profits and selling investment. In the opposite case, the business entity classifies as active.

What information needs to be provided on the declaration?

- A declaration needs to be made by all means on the residence for tax purposes of the business entity and – in case of foreign residence for tax purposes – the foreign tax identification number (TIN).
- A declaration needs to be made as to whether the business entity has a beneficial owner resident for tax purposes in a foreign country.
- Regardless of whether the business entity has a beneficial owner resident for tax purposes in a foreign country, you are requested to fill out the declaration on whether the business entity is involved in active or passive activity.
- Auxiliary information on the beneficial owners only needs to be provided if there is a natural person resident for tax purposes in a country other than Hungary among the beneficial owners and the business entity represented classifies as passive with regard to its business activity. In this case, the following data are required:
 - The residence for tax purposes of each beneficial owner (including the residence for tax purposes in Hungary);
 - The foreign tax identification number, in case the beneficial owner is resident for tax purposes in the United States or in one of the countries listed in the CRS/DAC2 announcement on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/Corporate>).
 - In the event of residence for tax purposes in one of the countries listed in the CRS/DAC2 announcement on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/Corporate>), the date of birth.

Who will OTP Bank report on?

Pursuant to the corresponding acts, OTP Bank is obliged to submit reports to the competent foreign tax authority via the National Tax and Customs Administration in two cases:

- The business entity is resident for tax purposes in the United States or in one of the countries listed in the CRS/DAC2 announcement on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/Corporate>).
- In addition to the business entity being involved in passive activity, there is a beneficial owner resident for tax purposes in the United States or in one of the countries listed in the CRS/DAC2 announcement on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/Corporate>).

Which countries – in addition to the United States – are affected by the reporting obligation?

From 1 January, 2016, being resident for tax purposes in the countries listed in the CRS/DAC2 announcement on the website of OTP Bank Nyrt. (<https://www.otpbank.hu/portal/en/Corporate>) in addition to the United States may result in a report submitted to the NTCA.