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Income Tax Act[1]

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RT I 1999, 101, 903
Entry into force 01.01.2000

Amended by the following acts

Passed	Published	Entry into force
14.06.2000	RT I 2000, 58, 377	01.01.2000
14.06.2000	RT I 2000, 55, 359	01.01.2001
06.12.2000	RT I 2000, 102, 667	01.01.2001
13.12.2000	RT I 2000, 102, 675	01.01.2001
single text on RT paper	RT I 2001, 11, 49	
17.01.2001	RT I 2001, 16, 69	01.03.2001
09.05.2001	RT I 2001, 50, 283	01.01.2002
13.06.2001	RT I 2001, 59, 359	01.01.2002
12.09.2001	RT I 2001, 79, 480	01.10.2001, in part 01.01.2002
24.10.2001	RT I 2001, 91, 544	01.01.2002, in part 01.01.2003
20.02.2002	RT I 2002, 23, 131	01.03.2002
25.04.2002	RT I 2002, 41, 253	18.05.2002
15.05.2002	RT I 2002, 44, 284	01.07.2002, in part 07.06.2002
15.05.2002	RT I 2002, 47, 297	01.01.2003, in part 01.01.2004
19.06.2002	RT I 2002, 62, 377	01.10.2002
11.12.2002	RT I 2002, 111, 662	01.01.2003
29.01.2003	RT I 2003, 18, 105	01.03.2003, amendment provided for in subsection 4 of § 25 applied retroactively as of 01.01.2003
07.08.2003	RT I 2003, 58, 387	01.09.2003
10.12.2003	RT I 2003, 82, 549	01.01.2004
17.12.2003	RT I 2003, 88, 587	01.01.2004, in part 01.05.2004, 01.01.2005, 01.01.2006 and 01.01.2007
17.12.2003	RT I 2003, 88, 591	01.01.2004
14.04.2004	RT I 2004, 36, 251	01.05.2004
14.04.2004	RT I 2004, 37, 252	01.05.2004
20.05.2004	RT I 2004, 45, 319	27.05.2004 (amendment applied retroactively as of 01.05.2004); entry into force in part also 01.01.2005, 01.01.2006 and 01.01.2007; subsection 8 of § 45, § 57² and subsection 24 of § 61 enter into force by separate act and these provisions apply to interest paid as of same date.
single text on RT paper	RT I 2004, 59, 414	
18.11.2004	RT I 2004, 84, 568	01.01.2005
08.12.2004	RT I 2004, 89, 604	01.01.2005 and 01.01.2006
06.04.2005	RT I 2005, 22, 148	01.01.2006

20.04.2005	RT I 2005, 25, 193	01.07.2005 (part of amendments applied retroactively as of 01.05.2004 and 01.01.2005)
20.06.2005	RT I 2005, 36, 277	01.07.2005 and 01.01.2006
28.09.2005	RT I 2005, 54, 430	01.01.2006
12.10.2005	RT I 2005, 57, 451	18.11.2005
26.01.2006	RT I 2006, 7, 40	04.02.2006
26.01.2006	RT I 2006, 7, 41	13.02.2006
10.05.2006	RT I 2006, 26, 193	01.01.2007
31.05.2006	RT I 2006, 28, 208	01.07.2006, in part 01.01.2007 and applied in part retroactively as of 01.01.2006
07.06.2006	RT I 2006, 30, 232	01.01.2007
15.11.2006	RT I 2006, 55, 406	01.01.2007
21.12.2006	RT I 2006, 63, 468	01.01.2007
21.12.2006	RT I 2007, 4, 19	01.09.2007
14.02.2007	RT I 2007, 24, 126	01.07.2007
21.02.2007	RT I 2007, 25, 130	01.01.2008
14.06.2007	RT I 2007, 44, 316	14.07.2007
14.06.2007	RT I 2007, 44, 318	01.01.2008
26.03.2008	RT I 2008, 17, 119	01.01.2009
19.06.2008	RT I 2008, 34, 208	01.09.2008
23.10.2008	RT I 2008, 48, 269	14.11.2008
19.11.2008	RT I 2008, 51, 283	01.01.2009, in part 01.01.2010
20.11.2008	RT I 2008, 51, 286	01.01.2009
04.12.2008	RT I 2008, 58, 323	01.01.2009
04.12.2008	RT I 2008, 58, 324	01.01.2009
17.12.2008	RT I 2008, 58, 329	01.01.2010
11.12.2008	RT I 2008, 60, 331	01.01.2009
18.12.2008	RT I 2009, 3, 15	01.02.2009
20.02.2009	RT I 2009, 15, 93	01.04.2009, in part 01.07.2009 and 01.01.2010
26.02.2009	RT I 2009, 18, 109	28.03.2009, in part 01.07.2009
22.04.2009	RT I 2009, 24, 146	01.06.2009
29.10.2009	RT I 2009, 54, 362	01.01.2010, in part 01.12.2009 (amendments applied retroactively as of 01.08.2009)
26.11.2009	RT I 2009, 59, 391	01.01.2010
18.11.2009	RT I 2009, 60, 395	01.07.2010
26.11.2009	RT I 2009, 62, 405	01.01.2010
16.12.2009	RT I 2010, 1, 2	01.01.2012 enters into force on the starting date of authority of XII composition of the Riigikogu, date of entry into force changed 01.01.2012; date of entry into force changed in part 01.01.2013 [RT I, 28.12.2011, 1]; date of entry into force changed 01.01.2014 [RT I, 29.12.2012, 1]
22.04.2010	RT I 2010, 22, 108	01.01.2011 enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.7.2010, p. 24–26).
03.06.2010	RT I 2010, 34, 181	01.01.2011, in part 01.07.2010 and 01.01.2024
17.06.2010	RT I 2010, 44, 262	01.09.2010
20.10.2010	RT I, 18.11.2010, 1	01.01.2011, in part 01.01.2012

08.12.2010	RT I, 28.12.2010, 6	01.01.2012
26.01.2011	RT I, 18.02.2011, 1	01.01.2012, in part 28.02.2011 and 01.08.2011
09.02.2011	RT I, 04.03.2011, 1	01.04.2011
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force changed 01.07.2014 [RT I, 22.12.2013, 1]
16.06.2011	RT I, 08.07.2011, 5	01.01.2012
23.11.2011	RT I, 13.12.2011, 1	01.01.2012
07.12.2011	RT I, 28.12.2011, 1	01.01.2012, in part on the tenth day after publication in the Riigi Teataja.
07.03.2012	RT I, 29.03.2012, 1	30.03.2012, in part 01.01.2013
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
13.06.2012	RT I, 10.07.2012, 2	01.04.2013, in part 20.07.2012
10.10.2012	RT I, 25.10.2012, 1	01.12.2012
07.12.2012	RT I, 22.12.2012, 1	01.01.2013, in part 01.01.2014 and 01.01.2015
12.12.2012	RT I, 29.12.2012, 1	01.01.2013, in part 01.04.2013 and 01.07.2013
23.01.2013	RT I, 14.02.2013, 1	01.01.2014
28.02.2013	RT I, 20.03.2013, 1	01.04.2013
15.05.2013	RT I, 01.06.2013, 1	01.07.2013
12.06.2013	RT I, 02.07.2013, 1	01.09.2013, in part 01.01.2014; date of entry into force changed in part 01.07.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, in part 01.01.2015 and 01.01.2020
05.12.2013	RT I, 23.12.2013, 3	01.01.2014, in part 01.01.2015
27.02.2014	RT I, 21.03.2014, 3	31.03.2014, in part 01.04.2014 and 01.01.2015
19.06.2014	RT I, 03.07.2014, 19	01.09.2014
30.06.2014	RT I, 11.07.2014, 2	21.07.2014, in part 01.01.2015
01.07.2014	RT I, 11.07.2014, 5	01.01.2015, in part 01.08.2014
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the titles of ministers replaced on the basis of subsection 4 of § 107³ of the Government of the Republic Act.
05.11.2014	RT I, 20.11.2014, 1	01.05.2015
19.11.2014	RT I, 13.12.2014, 1	01.01.2016 – date of entry into force changed to 01.07.2016 [RT I, 17.12.2015, 1]
02.12.2014	RT I, 23.12.2014, 1	01.01.2015
18.12.2014	RT I, 23.12.2014, 15	01.01.2015
18.02.2015	RT I, 19.03.2015, 2	29.03.2015
18.02.2015	RT I, 23.03.2015, 3	01.07.2015
18.02.2015	RT I, 23.03.2015, 5	01.07.2015
15.06.2015	RT I, 30.06.2015, 1	01.01.2016, in part 01.01.2017 and 01.01.2018
15.06.2015	RT I, 30.06.2015, 2	01.01.2016
10.06.2015	RT I, 07.07.2015, 1	01.01.2016
25.11.2015	RT I, 17.12.2015, 1	20.12.2015, in part 01.01.2016 and 01.07.2016
25.11.2015	RT I, 17.12.2015, 2	01.01.2016
20.04.2016	RT I, 04.05.2016, 2	01.11.2016, in part 01.01.2017
15.06.2016	RT I, 08.07.2016, 1	01.01.2017
23.11.2016	RT I, 07.12.2016, 1	17.12.2016
19.12.2016	RT I, 24.12.2016, 1	01.01.2017, in part 01.01.2018
14.12.2016	RT I, 31.12.2016, 3	10.01.2017

20.04.2017	RT I, 05.05.2017, 1	01.07.2017
07.06.2017	RT I, 26.06.2017, 1	06.07.2017, in part 01.09.2018
14.06.2017	RT I, 04.07.2017, 3	01.01.2018
19.06.2017	RT I, 07.07.2017, 3	01.08.2017, in part 01.01.2018
19.06.2017	RT I, 07.07.2017, 2	01.01.2018
26.10.2017	RT I, 17.11.2017, 3	23.02.2018 – date of entry into force changed: enters into force on the date of implementation of Directive (EU) 2016/97 of the European Parliament and of the Council on insurance distribution (recast) (OJ L 26, 2.2.2016, p. 19–59) [RT I, 30.12.2017, 3] – Directive (EU) 2018/411 of the European Parliament and of the Council of 14 March 2018 amending Directive (EU) 2016/97 as regards the date of application of Member States' transposition measures (OJ L 76, 19.3.2018, p. 28–29) – 01.10.2018
06.12.2017	RT I, 28.12.2017, 1	01.01.2018
13.12.2017	RT I, 28.12.2017, 73	01.01.2018
13.12.2017	RT I, 28.12.2017, 74	01.01.2018, in part 01.01.2019 and 01.01.2020; amended in part [RT I, 23.10.2018, 1]
13.12.2017	RT I, 30.12.2017, 3	03.01.2018
10.01.2018	RT I, 22.01.2018, 1	01.02.2018
17.01.2018	RT I, 30.01.2018, 1	01.01.2019
11.04.2018	RT I, 20.04.2018, 4	01.05.2018
06.06.2018	RT I, 29.06.2018, 1	01.07.2018
16.10.2018	RT I, 23.10.2018, 1	30.10.2018
21.11.2018	RT I, 06.12.2018, 2	16.12.2018, in part 01.01.2020
21.11.2018	RT I, 07.12.2018, 1	17.12.2018, in part 01.01.2019 and 01.01.2020
12.12.2018	RT I, 28.12.2018, 44	01.01.2019 (applied in part retroactively as of 01.01.2018); enters into force in part 01.06.2019 and 01.01.2020; amended in part [RT I, 23.12.2019, 2]
30.01.2019	RT I, 20.02.2019, 1	01.07.2019
13.02.2019	RT I, 04.03.2019, 1	01.07.2020 – enters into force on 1 January of the year following the year when the European Commission makes the decision specified in Article 4(3) or Article 9(3) of Council Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ L 248, 24.9.2015, p. 9–29). If the European Commission makes the decision after 1 October of the calendar year, then enters into force on 1 January of the second year following the year when the European Commission makes the decision; amended in part (clause 8 of § 2 enters into force on 01.01.2020, applied retroactively as of 01.01.2019) [RT I, 23.12.2019, 2]; date of entry into force changed in part [RT I, 28.02.2020, 2]
20.02.2019	RT I, 19.03.2019, 13	01.05.2019
11.12.2019	RT I, 23.12.2019, 2	01.01.2020, in part 01.01.2021 and 01.01.2022; applied in part retroactively as of 01.01.2018
17.02.2020	RT I, 28.02.2020, 1	01.03.2020

18.02.2020	RT I, 28.02.2020, 2	01.07.2020
15.04.2020	RT I, 21.04.2020, 1	22.04.2020, in part 01.05.2020; applied in part retroactively as of 1 January 2020
03.06.2020	RT I, 16.06.2020, 1	01.08.2020
17.06.2020	RT I, 10.07.2020, 4	01.01.2021
17.06.2020	RT I, 10.07.2020, 5	20.07.2020
11.03.2020	RT I, 27.10.2020, 1	01.01.2021
15.12.2020	RT I, 28.12.2020, 1	02.01.2021
17.03.2021	RT I, 26.03.2021, 1	05.04.2021, in part 01.07.2021 and 01.01.2022
08.12.2021	RT I, 22.12.2021, 4	01.01.2022
08.12.2021	RT I, 22.12.2021, 5	01.01.2023, in part 01.01.2022; applied in part retroactively as of 1 January 2021
16.02.2022	RT I, 10.03.2022, 1	21.03.2022
23.03.2022	RT I, 05.04.2022, 1	06.04.2022

Chapter 1
GENERAL PROVISIONS

§ 1. Object of taxation

(1) Income tax is imposed on the income of a taxpayer from which the deductions allowed pursuant to law have been made.

(2) Income tax provided for in § 48 is imposed on fringe benefits granted to a natural person.

(3) Income tax provided for in §§ 49–52 and $54^1$and $54^5$is imposed on profit made by a resident legal person and a profit-making state agency upon distribution, irrespective of the manner and form of distribution of profit, gifts made, donations and costs of entertaining guests, expenses and payments not related to business and objectives set out in the articles of association as well as assets to be taken out to a permanent establishment.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(3^1) Under the conditions provided for in § 52^1, income tax is imposed on the income earned by a resident company from international carriage of goods or passengers by sea.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(4) Income tax provided for in § 53 is imposed on the profit attributed to the permanent establishment located in Estonia of a non-resident legal person upon removal thereof, irrespective of the manner and form of profit withdrawal, special benefits made through the non-resident permanent establishment or on account thereof, gifts, donations and costs of entertaining guests and expenses and payments unrelated to business. The transfer of the economic activity of the permanent establishment of a non-resident legal person to another country is also considered as withdrawal of profits.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(5) Tax is charged on income received on a business account in accordance with the Simplified Business Income Taxation Act.
[RT I, 07.07.2017, 2 – entry into force 01.01.2018]

(6) Under the conditions provided for in subsection 7 of § 53 and § 54^2, income tax shall be charged through or on the account of the permanent establishment of the non-resident company located in Estonia or the residual borrowing costs made by the resident company other than financial undertaking.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(7) Under the conditions provided for in subsection 8 of § 53 and § 54^3, the profits of a permanent establishment in Estonia of a non-resident company or the profit of a controlled foreign company of a resident company shall be subject to income tax.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(8) Under the conditions provided for in subsection 9 of § 53 and §§ 54[7]and 54[8], income tax is imposed on the amount that gave rise to a mismatch in tax outcomes of a resident company or a permanent establishment of a non-resident company located in Estonia.
[RT I, 23.12.2019, 2 – entry into force 01.01.2022]

§ 2. Taxpayer

(1) Income tax specified in subsection 1 of § 1 is paid by natural persons, common investment funds, public limited funds and non-resident legal persons who derive taxable income. A common investment fund is a common fund established in Estonia or foreign state for the purposes of § 4 of the Investment Funds Act. A public limited fund a fund founded as a public limited company for the purposes of § 8 of the Investment Funds Act.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) Income tax specified in subsection 2 of § 1 is paid by employers who are natural persons and by resident legal persons, non-residents having a permanent establishment in Estonia, non-residents operating as employers in Estonia, and Estonian state and Estonian local government authorities who grant taxable fringe benefits.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(3) Income tax specified in subsections 3, 3[1]and 6–8 of § 1 is paid by resident legal persons. The provisions of this Act concerning resident companies also apply to profit-making state agencies.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020; amended in part [RT I, 23.12.2019, 2]; date of entry into force changed [RT I, 28.02.2020, 2]]

(4) Income tax specified in subsections 4 and 6–8 of § 1 is paid by non-resident legal persons which have a permanent establishment in Estonia (§ 7).
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5) Income tax is not paid by trust funds for the purposes of § 8 of the Investment Funds Act, except in the case of the income specified in § 54[8].
[RT I, 23.12.2019, 2 – entry into force 01.01.2022]

§ 3. Taxable period

(1) The period of taxation for income tax specified in subsection 1 of § 1 is one calendar year unless otherwise provided for in this Act.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(2) The period of taxation for income tax specified in subsections 2–4 of § 1 is one calendar month.

(3) The period of taxation for income tax specified in subsections 6 and 8 of § 1 is a financial year.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4) The taxation period for income tax specified in subsection 7 of § 1 is a financial year of a permanent establishment in Estonia of a non-resident company or a controlled foreign company of a resident company.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

§ 4. Tax rates

(1) Except in the cases specified in subsections 2, 4 and 5 of § 4 and subsection 4 of § 43, the rate of income tax is 20 per cent.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(1[1]) In the case of the object of taxation specified in subsections 2, 3, 4 and 6–8 of § 1, the taxable amount shall be divided by the number of 0.80 before it is multiplied by the tax rate, except in the event specified in subsection 5 of this section.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020; amended in part [RT I, 23.12.2019, 2]; date of entry into force changed [RT I, 28.02.2020, 2]]

(2) The rate of income tax for income specified in subsection 4 of § 20[1]and subsections 2 and 3 of § 21 is 10 per cent.
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

(3) [Repealed – RT I 2003, 88, 587 – entry into force 01.01.2005]

(4) In the case specified in subsection 1[3]of § 18, the rate of income tax is 7 per cent.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(5) In the case specified in §§ 47[1]and 50[1], the rate of income tax is 14 per cent. In the case specified in § 50[1], the taxable amount, before it is multiplied by the tax rate, shall be divided by the number of 0.86.

[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(6) In the cases specified in subsections 5 and 6 of § 13, the rate of income tax is 0 per cent.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

§ 5. Receipt of tax

(1) Income tax paid by resident natural persons is received as follows:
1) without taking into account the deductions provided for in Chapter 4, 11.96 per cent of the taxable income of a resident natural person shall be received by the local authority of the taxpayer's residence;
[RT I, 23.10.2018, 1 – entry into force 01.01.2020]
2) that part of the income tax which exceeds the amount specified in clause 1, and income tax paid on pensions, the dividend specified in subsection 1^3 of § 18 and gains derived from the transfer of property are received by the state.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(1^1) [Repealed – RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(2) The place of residence of a resident natural person as indicated on 1 January of a calendar year in the register of taxable persons maintained by the Tax and Customs Board is deemed to be his or her place of residence throughout the same calendar year. If the Tax and Customs Board does not have information concerning the place of residence of a resident natural person, the income tax paid by the person shall be divided between the local governments in proportion to their rated percentage according to the principle specified in subsection 1. Income tax shall be transferred to local governments and their rated percentages shall be calculated pursuant to the procedure established by a regulation of the minister in charge of the policy sector.

(3) Income tax not specified in subsection 1 is received by the state.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

§ 5^1. Transaction for purpose of obtaining tax advantage

(1) In the case of income tax, no account shall be taken of a transaction or chain of transactions the principal purpose of which or one of the principal purposes is to obtain a tax advantage which is contrary to the content or purpose of the applicable tax law or international agreement and which is not actual having regard to all the relevant circumstances. A chain of transactions may consist of more than one intermediate stage or part.

(2) Upon application of subsection 1 a transaction or chain of transactions shall not be considered actual unless it is made for real vital or commercial reasons, which reflect the actual economic substance of the transaction.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

Chapter 2
DEFINITIONS USED IN ACT

§ 6. Resident

(1) A natural person is a resident if his or her place of residence is in Estonia or if he or she stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. A person shall be deemed to be a resident as of the date of his or her arrival in Estonia. Estonian diplomats who are in foreign service are also residents. A resident natural person shall pay income tax on all income derived by him or her in Estonia and outside Estonia, regardless of whether the income is listed in §§ 13–22 or not.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(2) A legal person, excluding a trust fund, is a resident if it is established pursuant to Estonian law. European public limited companies (SE) and European associations (SCE) whose registered office is registered in Estonia are also residents. A resident legal person shall pay income tax on the objects of taxation prescribed in §§ 48–52^1 and withhold income tax from payments listed in § 41.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(3) A non-resident is a natural or legal person not specified in subsections 1 and 2. The provisions concerning non-residents apply also to a foreign association of persons or pool of assets (excluding contractual investment fund) without the status of a legal person, which pursuant to the law of the state of the incorporation or establishment thereof is regarded as a legal person for income tax purposes. A non-resident shall pay income tax pursuant to the provisions of § 29 only on income derived from Estonian sources. Unless otherwise provided for in this Act, the income of a non-resident legal person shall be declared and income tax shall be imposed, withheld and paid pursuant to the same conditions and procedure as in the case of a non-resident natural person.

[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(3[1]) [Repealed – RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(4) A non-resident legal person which has a permanent establishment in Estonia (§ 7) shall pay income tax pursuant to the procedure provided for in § 53. A non-resident natural person who has a permanent establishment in Estonia shall pay income tax pursuant to the procedure provided for in § 14. Subsection 3 does not apply to taxation of income derived by such non-residents through their permanent establishments.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5) If the residency prescribed on the basis of an international agreement differs from the residency prescribed pursuant to law or if the international agreement prescribes more favourable conditions for taxation of income than those provided by law, the provisions of the international agreement apply.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(6) A natural person shall notify the tax authority of any circumstances related to changing his or her residency for tax purposes and complete the form for determining residency for tax purposes. The form for determining natural person's residency for tax purposes shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 7. Permanent establishment

(1) Permanent establishment means a business entity through which the permanent economic activity of a non-resident is carried out in Estonia.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) A permanent establishment is created as a result of economic activity which is geographically enclosed or has mobile nature, or as a result of economic activity conducted in Estonia through a representative authorised to enter into contracts on behalf of the non-resident.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(3) When a non-resident carries on business in Estonia through a permanent establishment situated in Estonia, the income which the permanent establishment might be expected to derive if it were a distinct and separate taxpayer engaged in the same or similar activities under the same or similar conditions and dealing wholly independently of the non-resident of which it is a permanent establishment shall be attributed to the permanent establishment.

§ 8. Associated persons

(1) Persons are deemed to be associated if they have common economic interests or if one person has dominant influence over the other. In any case, the following persons shall be regarded associated persons:
1) spouses, cohabitees, direct blood or collateral relatives;
2) companies belonging to one group for the purposes of § 6 of the Commercial Code;
3) legal person and natural person who owns at least 10 per cent of the share capital, total number of votes or rights to the profits of the legal person;
4) one person, together with other persons with whom the person is associated, owns more than 50 per cent of the share capital, total number of votes or rights to the profits of a legal person;
5) legal persons where more than 50 per cent of the share capital, total number of votes or rights to the profits belong to one and the same person or associated persons;
6) persons who own more than 25 per cent of the share capital, total number of votes or rights to the profits of one and the same legal person;
7) legal persons where all members of the management boards or the bodies substituting for the management boards are the same persons;
8) employers and their employees, employee's spouses, cohabitees or direct blood relatives;
9) a person is a member of the management or controlling body of a legal person (§ 9), or the spouse or a direct blood relative of a member of the management or controlling body.

(2) Difference between the price of transaction between associated persons (hereinafter *transfer price*) and the value of similar transactions between non-associated persons (hereinafter *market value of transaction*) is subject to taxation on the basis of §§ 14, 50 or 53 if this is not a fringe benefit (§ 48).

(3) In the application of subsection 2, a non-resident and its permanent establishment located in Estonia and a resident of Estonia and its permanent establishment located in a foreign state are also deemed to be associated persons.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4) In the application of subsection 2, transactions between business entities belonging to a legal person are also deemed to be transactions between associated persons if tax is charged on the income of at least one of them on the basis of § 52[1].
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

§ 9. Management or controlling body of legal person

(1) A management or controlling body of a legal person is any authorised body or person who, pursuant to an Act governing the legal person, a partnership agreement, the articles of association or any other legislation regulating the activities of the legal person, has the right to participate in managing the activities of the legal person or in controlling the activities of the management body of the legal person.

(2) Management or controlling bodies include management boards, supervisory boards, partners authorised to represent general or limited partnerships, procurators, founders until registration of the legal person, liquidators, trustees in bankruptcy, auditors, controllers and revision committees. Directors of branches of foreign companies and managers of other permanent establishments of non-residents are also deemed to be management bodies.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(3) The provisions of subsections 1 and 2 apply to both legal persons in private and public law and to resident and non-resident legal persons.

§ 10. Low tax rate territory

[Repealed – RT I, 26.03.2021, 1 – entry into force 01.01.2022]

§ 10[1]. Non-cooperative jurisdiction for tax purposes

A non-cooperative jurisdiction for tax purposes means a jurisdiction entered in the list approved by "Council conclusions on the EU list of non-cooperative jurisdictions for tax purposes".
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]

§ 11. List of non-profit associations, foundations and religious associations benefiting from income tax incentives

[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(1) The list of non-profit associations, foundations and religious associations benefiting from income tax incentives (hereinafter *list*) shall be approved by a resolution of the Tax and Customs Board.
[RT I, 20.02.2019, 1 – entry into force 01.07.2019]

(2) A non-profit association, foundation or religious association (hereinafter *association*) which meets the following requirements shall be entered in the list:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) the association operates in the public interest;
2) the association operates for charitable purposes, offering goods, services or other benefits primarily free of charge or in another non-revenue seeking or publicly accessible manner;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
3) the association does not distribute its assets or income, grant monetarily appraisable benefits to its founders, members, members of the management or controlling body (§ 9), persons who have made a donation to the association during the last twelve months or to the members of the management or controlling body of such person or to the persons associated with such persons and listed in clause 1 of subsection 1 of § 8;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
4) upon dissolution of the association, the assets remaining after satisfaction of the claims of the creditors shall be transferred to an association entered in the list or specified in subsection 10 or to a legal person in public law;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
5) the administrative expenses of the association correspond to the character of its activity and the objectives set out in its articles of association;
6) the remuneration paid to the employees and members of the management or control body of the association (§ 9) does not exceed the amount of remuneration normally paid for similar work in the business sector.

(3) The requirement specified in clause 3 of subsection 2 does not apply to an association engaged in social welfare, to a religious association or to a case where a person specified in clause 3 of subsection 2 belongs to the target group of the association and does not receive additional benefits as compared with other persons belonging to the target group. The requirement specified in clause 4 of subsection 2 does not apply to religious associations established in Estonia and religious associations established in another Contracting State of the EEA Agreement (hereinafter *Contracting State*) which comply with § 27 of the Churches and Congregations Act.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(4) An association shall not be entered in the list if:
1) it does not operate in accordance with its articles of association;

1[1]) it has not operated by the time of submission of the application for entry in the list for at least six months and submitted an annual report for this period;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
2) the documents submitted for entry in the list do not conform to the requirements established by legislation;
3) it does not use the revenue received from economic activity primarily for the purposes provided for in clauses 1 and 2 of subsection 2 of § 11;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
4) it is engaged in advertising the goods or services of a founder or donor, or promotion of the professional activity or business of a person in the target group;
5) it has tax arrears for which no payment schedule has been arranged;
6) it has repeatedly failed to submit, by the term or pursuant to the procedure prescribed by legislation, a report or tax return, or it has repeatedly delayed payment of tax;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
7) it is being terminated or bankruptcy proceedings have been brought against it;
8) it is engaged in business support or mainly in support of the representatives of some profession or if it is a trade union or political association. An association is deemed to be a political association if it is a political party or election coalition or if the main objective or the principal activity of the association is organising campaigns or collecting donations for or against a political party or election coalition or a person running for an elected or appointed office for the performance of public duties.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(4[1]) The conditions specified in clause 11 of subsection 4 do not apply to a congregation, monastery or institution of a church operating on the basis of an international agreement which belongs to a church or association of congregations entered in the list.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(5) The requirement specified in clause 4 of subsection 4 does not apply if the association provides, based on a contract, advertising services at the market price.

(6) [Repealed – RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(7) The Tax and Customs Board has the right to delete an association from the list if:
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
1) the activity of the association does not meet the requirements set forth in subsection 2;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
2) the circumstances specified in subsection 4 become evident, which are not specified in subsection 7[1];
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
3) the association has failed to notify the Tax and Customs Board of such amendment of its articles of association as a result of which the association no longer meets the requirements for the entry in the list within thirty days after the date of entry of the amendment in the register of non-profit associations and foundations, or
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
4) the violation of the condition for payment of scholarships and grants provided for in subsection 6 or 7 of § 19 has been established.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(7[1]) An association shall be deleted from the list if:
1) it has submitted a written application therefor;
2) it has failed to submit at least for three consecutive times, by the term or pursuant to the procedure prescribed by legislation, a report or tax return, or it has delayed payment of amount of tax at least for three consecutive times;
3) it is dissolved.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(8) The minister in charge of the policy sector shall establish, by a regulation, the procedure for compiling the list, a list of documents to be submitted for such purpose and the procedure for entry in and deletion from the list of associations.
[RT I, 20.02.2019, 1 – entry into force 01.07.2019]

(9) An application for entry in or deletion from the list shall be submitted to the Tax and Customs Board. The Tax and Customs Board shall inform the association of a resolution to enter in the list, to deny entry in the list or to delete the association from the list within 30 days of the submission of the application. The association shall be entered in the list or shall be deleted from the list on the first day of the calendar month following the adoption of the resolution.
[RT I, 20.02.2019, 1 – entry into force 01.07.2019]

(10) An association established in another Contracting State is deemed to be an association benefiting from income tax incentives if it is supported by sufficient evidence that it meets the requirements set forth in subsection 2 and no circumstances specified in clauses 1, 3–5, 7 and 8 of subsection 4 do not exist.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

Chapter 3

TAXATION OF INCOME OF RESIDENT NATURAL PERSONS

§ 12. Income of resident natural person

(1) Income tax is charged on income derived by a resident natural person during a period of taxation from all sources of income in Estonia and outside Estonia, including:
1) income from employment (§ 13);
2) business income (§ 14);
3) gains from transfer of property (§ 15);
4) rent and royalties (§ 16);
5) interest (§ 17);
6) dividends (§ 18);
7) pensions, scholarships and grants, benefits, awards and gambling winnings (§ 19);
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
8) insurance indemnities and payments from pension funds (§§ 20, $20^1$and 21);
9) income of a legal person located in a non-cooperative jurisdiction for tax purposes (§ 22).
[RT I, 26.03.2021, 1 – entry into force 01.01.2022]

(2) The taxable income of a natural person does not include fringe benefits, gifts and donations, dividends or other profit distributions subject to taxation pursuant to §§ 48–53, except the dividends and profit distributions taxable pursuant to § $50^1$and the dividends and other profit distributions that have been paid out of the profit earned upon application of the procedure provided for in § 52^1.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(3) Any compensation for certified expenses incurred for the benefit of another person, compensation for non-patrimonial damage paid by the state or local government authority or ordered by a court, and any compensation for direct patrimonial damage shall not be deemed to be income of a natural person, except for compensation paid in connection with business. The provisions of this subsection do not apply to compensations for which taxation separate terms, conditions and limits are established.
[RT I, 20.11.2014, 1 – entry into force 01.05.2015]

§ 13. Income from employment

(1) Income tax is charged on all emoluments received for work and other payments arising from the employment or service relationship, including remuneration, wages and salaries, additional remuneration, holiday pay, compensation prescribed in the case of cancellation of the employment contract or release from service, compensation or fines for delay ordered by a court or a labour dispute committee, sickness benefit and holiday pay compensated from the state budget. Income tax is charged on compensation for health damage caused by an accident at work or an occupational disease unless such compensation is paid as insurance indemnity.
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(1^1) Income tax shall be charged on remuneration or service fees paid on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations.

(2) Income tax is charged on all emoluments paid by a legal person to a member of a management or controlling body (§ 9) for the performance of his or her official duties.

(3) Income tax is not charged on:
1) compensation for expenses related to official travel or business travel, daily allowances during assignments abroad and remuneration for business travel abroad paid to an official, an employee or a member of the management or controlling body of a legal person by the employer or a third person instead of the employer, compensation for such expenses paid for a family member of an official, and compensation for relocation expenses arising from appointment to a position located in another area. The tax exempt limit of daily allowances during assignments abroad is 50 euros for the first 15 days of an assignment abroad, but at most for 15 days per calendar month, and 32 euros for each following day. The procedure for the payment of compensation for the expenses and daily allowances during assignments abroad exempt from income tax and specified in the first sentence of this clause shall be established by a regulation of the Government of the Republic;
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]
1^1) payments specified in clause 1 made to a person specified in clause 1 by his or her employer or by a third person instead of employer within the limits in force in the place where the work is performed if the work is performed in a foreign state;

1[2]) daily allowances paid to experts participating in an international civil mission based on the Participation in International Civil Missions Act which do not exceed the limit of daily allowances and compensation for travel, accommodation and other expenses agreed for civil missions in the Council of the European Union.
[RT I, 04.03.2011, 1 – entry into force 01.04.2011]

1[3]) daily allowances paid to persons in active service of the Defence Forces participating in an international military operation on the basis of the Defence Forces Service Act, which shall not exceed four times the tax exempt limit of daily allowances during assignments abroad provided for in clause 1 of this subsection;
[RT I, 20.03.2013, 1 – entry into force 01.04.2013]

1[4]) daily allowances paid to experts participating in twinning or technical assistance and information exchange projects funded by the European Union, which do not exceed the upper limit of daily allowances established by the European Commission;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

1[5]) daily allowances paid to officials or employees performing the duties of an official expert at an institution or agency of the European Union, which shall not exceed the upper limit of daily allowances established by this institution or agency, and compensation for travel, accommodation and other expenses;
[RT I, 17.12.2015, 2 – entry into force 01.01.2016, applied retroactively as of 1 January 2015.]

1[6]) daily allowances paid to officials or employees participating in long-term secondments and short-term deployments of the European Border and Coast Guard Agency and in deployments of an asylum support team of the European Asylum Support Office, which do not exceed the upper limit of daily allowances established by the European Border and Coast Guard Agency and the European Asylum Support Office, and compensation for travel, accommodation and other expenses;
[RT I, 26.03.2021, 1 – entry into force 05.04.2021, applied retroactively as of 1 January 2021.]

2) compensation for service or employment related use of a personal automobile paid to an official, employee, or member of the management or controlling body of a legal person. A personal automobile is deemed to be an automobile in the possession of a person specified in the first sentence which is not in the ownership or possession of the employer; If driving records are kept, the tax exempt limit of compensation paid to one person is 0.30 euros per kilometre, but not more than 335 euros during each calendar month per each employer paying the compensation. The procedure for keeping driving records and for the payment of compensation shall be established by a regulation of the Government of the Republic;
[RT I, 03.07.2014, 19 – entry into force 01.09.2014]

2[1]) compensation paid to a handicapped person specified in clause 2 for the use of a personal motor vehicle for transport between his or her residence and place of employment if it is impossible to make the journey using public transport or if the use of public transport would cause a material decrease of the person's ability to move or work. In total, the costs provided for in this clause and clause 2 may be compensated for exempt from tax within the limits provided for in clause 2. The compensation shall be paid and driving records shall be kept pursuant to the procedure specified in clause 2;
[RT I 2009, 18, 109 – entry into force 01.07.2009]

2[2]) compensations for lay judge's expenses related to participation in the meeting of a labour dispute committee pursuant to § 10 of the Labour Dispute Resolution Act in accordance with clauses 1 and 2 of this subsection;
[RT I, 04.07.2017, 3 – entry into force 01.01.2018]

2[3]) compensation for parking fee paid to a person specified in clause 2 in connection with use of an automobile in the personal ownership upon the performance of the functions or official duties;
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, clause 23 applied retroactively as of 1 July 2017.]

3) payments made to members of the *Riigikogu*to compensate for the expenses related to work and official travel and housing expenses and costs related to the provision of residential space to members of the *Riigikogu*pursuant to the Status of Member of Riigikogu Act;
[RT I 2007, 44, 316 – entry into force 14.07.2007]

4) payments made for compensation of representation expenses and other expenses to the President of the Republic and his or her spouse, and to the President and his or her spouse after the termination of the President's authority, on the basis of the President of the Republic Official Benefits Act;

4[1]) payments made to members of the Government of the Republic on the basis of § 31[1]of the Government of the Republic Act;
[RT I 2010, 1, 2 – entry into force 01.01.2014 (entry into force changed – RT I, 29.12.2012, 1)]

4[2]) payments made to the Chief Justice of the Supreme Court on the basis of § 76[1]of the Courts Act;
[RT I, 23.12.2014, 1 – entry into force 01.01.2015]

4[3]) payments made to the Prosecutor General on the basis of § 22[3]of the Prosecutor's Office Act;
[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

4[4]) payments made to the Chancellor of Justice on the basis of subsection 5[1]of § 14 of the Chancellor of Justice Act;
[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

4[5]) payments made to the Auditor General on the basis of subsection 7[1]of § 27 of the National Audit Office Act;
[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

4[6]) payments made to the State Secretary on the basis of subsection 3[1]of § 79 of the Government of the Republic Act;
[RT I, 28.12.2017, 1 – entry into force 01.01.2018]

5) [Repealed – RT I 2003, 88, 587 – entry into force 01.01.2004]

6) cost of meals given to members of the crews of ships during voyages and to members of the crews of civil aircraft during flights, which does not exceed 10 euros per day per person;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
7) childbirth allowances paid to an employee, in an amount not exceeding 5/12 of the basic exemption (§ 23) granted to a resident natural person during a period of taxation;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
8) [Repealed – RT I, 11.07.2014, 5 – entry into force 01.01.2015]
9) in-service training and re-training of employees paid for by the employer upon termination of the employment or service relationship due to redundancy;
10) expenses incurred by an employer for the treatment of damage caused to the health of an employee or official as a result of an accident at work or an occupational disease;
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]
11) payments made to diplomats based on subsection 1 of § 62 of the Foreign Service Act;
12) [Repealed – RT I, 10.07.2012, 2 – entry into force 01.04.2013]
13) cost of meals given to members of the Defence Forces during military training or training exercises, international military operations, on board an aircraft or warship belonging to the Defence Forces;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
14) remuneration paid to persons who have been recruited for secret co-operation;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
15) insurance premiums of supplementary funded pension paid for an official, an employee or a member of the management or controlling body of a legal person and amounts paid for acquisition of units of voluntary pension funds as provided for in § 28, which shall exceed neither 15 per cent of payments made to them during a calendar year and subject to income tax nor 6,000 euros.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]
16) compensation for uniform of police officers payable on basis of subsection 8^1 of § 37^1 of the Police and Border Guard Act.
[RT I, 19.03.2015, 2 – entry into force 29.03.2015]
17) compensations for the expenses of in-service training or retraining paid to an active serviceman who has participated in an international military operation and an active servicemen who has received permanent health damage due the performance of duties on the basis of the Military Service Act;
[RT I, 17.12.2015, 2 – entry into force 01.01.2016]
18) compensation payable on the basis of subsection 2 of § 67 of the Estonian Defence League Act to a member of the Defence League for use of a personal automobile upon the performance of a duty.
[RT I, 20.04.2018, 4 – entry into force 01.05.2018]

(3^1) For the purposes of this Act, official also means a person specified in subsection 3 of § 2 of the Public Service Act.
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(4) If a person receives income or fringe benefit (§ 48) specified in subsections 1, 1^1 or 2 for working in a foreign state, it is not subject to income tax in Estonia if all the following conditions are met:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) the person has stayed in the foreign state for the purpose of employment for at least 183 days over the course of a period of 12 consecutive calendar months;
2) the specified income has been the taxable income of the person in the foreign state and if this is certified and the amount of income tax is indicated on the certificate (even if the amount is zero).

(5) Income tax is charged on the remuneration paid to a crewmember at the rate specified in subsection 6 of § 4 if the remuneration has been received for employment on a ship:
1) with a gross tonnage of at least 500 and used for international carriage of goods or passengers by sea within the meaning of subsection 5 of § 52^1, except passenger ships engaged in regular service in the European Economic Area; and
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]
2) flying the flag of a Contracting State.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(6) Income tax is charged on the remuneration paid to a crewmember at the rate specified in subsection 6 of § 4 if the remuneration has been received for employment on a ship specified in subsection 11 of § 52^1 with gross tonnage of at least 500 and flying the flag of a Contracting State, provided that more than 50% of the operational time of the ship is spent in maritime transport.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(7) The income tax calculated on the remuneration of a crewmember is State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union. Upon granting State aid, the Community guidelines on State aid to maritime transport (hereinafter *maritime aid guidelines*) and the respective decision of the European Commission authorising the grant of the State aid are followed. The State aid recipient is the

person specified in subsection 1 of § 40, who complies with the conditions provided for in subsection 5 and in clauses 4 and 5 of subsection 3 of § 52^1.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(8) The Ministry of Economic Affairs and Communications or an authority authorised thereby shall calculate the amount of the State aid on the basis of the necessary information communicated by the Tax and Customs Board and enter the information in the register of State aid and de minimis aid provided for in § $49^2$of the Competition Act, as well as exercise supervision over the compliance with the State aid rules specified in subsection 7 of this section.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

§ 14. Business income

(1) Income tax is charged on income derived from business (business income), regardless of the time of its receipt.

(2) Business is a person's independent economic or professional activity (including the professional activity of a notary or bailiff and the creative activity of a creative person), the aim of which is to derive income from the production, sale or intermediation of goods, provision of services, or other activities, including creative or scientific activity.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

(3) Transfer of securities owned by a natural person does not constitute business.

(4) Types of income specified in § 16 may also be included in business income.

(5) Sole proprietors entered in the commercial register or the register of a Contracting State and non-resident sole proprietors who have a permanent establishment registered in Estonia may make the deductions allowed under Chapter 6 from their business income. Expenses incurred before registration of a sole proprietor may be deducted from business income if they are related to the registration of the sole proprietor or obtaining of activity licences and registrations necessary for commencement of business activities.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(5^1) [Repealed – RT I, 2006.28, 208 – entry into force 01.01.2007]

(5^2) [Repealed – RT I, 2006.28, 208 – entry into force 01.01.2007]

(5^3) Deductions relating to enterprise shall be made from the business income of the period of taxation of a sole proprietor and the received amount shall be divided by 1.33 before it is multiplied by the tax rate, if the Social Tax Act is applied upon taxation of business income.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(5^4) If the amount received by multiplying the amount calculated pursuant to subsection $5^3$and the factor 0.33 is less than the amount of social tax calculated pursuant to subsection 5 of § 2 of the Social Tax Act, such amount shall not be divided in the manner specified in subsection $5^3$and income tax shall be calculated on business income from which deductions relating to enterprise have been made and which has been reduced by the social tax calculated pursuant to subsection 5 of § 2 of the Social Tax Act. The amount of social tax exceeding the business income subject to taxation shall be carried forward, on the basis of § 35, to subsequent periods of taxation.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(5^5) If the amount received by multiplying the amount calculated pursuant to subsection $5^3$and the factor 0.33 is more than the amount of social tax calculated pursuant to clause 5 of subsection 1 of § 2 of the Social Tax Act, then such amount shall not be divided in the manner specified in subsection $5^3$and income tax shall be calculated from business income from which deductions relating to enterprise have been made and which has been reduced by the social tax calculated pursuant to clause 5 of subsection 1 of § 2 of the Social Tax Act.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(6) The provisions of this Act concerning sole proprietors entered in the commercial register also apply to notaries and bailiffs.
[RT I, 23.12.2013, 1 – entry into force 01.01.2014]

(7) If the price of a transaction concluded between a sole proprietor and a person associated with the sole proprietor in the course of business differs from the market value of the above transaction, income tax shall be imposed on the amount which the taxpayer would have received as income or the amount which the taxpayer would not have incurred as expenses if the transfer price had conformed to the market value.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(8) The methods for determining the market value of transactions specified in subsection 7 shall be established by a regulation of the minister in charge of the policy sector.

[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(9) Subsection 7 shall not apply to difference between the transfer price and the market value of transaction if a sole proprietor has paid income tax on the difference or income tax has been withheld from the difference pursuant to § 41. Subsection 7 shall also not apply in the case provided for in subsection 7 of § 37.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(10) If a sole proprietor earns business income in a foreign state, it is not subject to income tax in Estonia if both of the following conditions are met:
1) the business income has been earned through his or her permanent establishment situated in the foreign state;
2) the specified income has been taxable income in the foreign state and if this is certified and the amount of income tax is indicated on the certificate.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

§ 15. Gains from transfer of property

(1) Income tax is charged on gains (§ 37) from the sale or exchange of any transferable and monetarily appraisable objects, including real or movable property, securities, registered shares, contributions made to a general or limited partnership or an association, units of investment funds, rights of claim, rights of pre-emption, rights of superficies, usufructs, personal rights of use, rights of commercial lessees, redemption obligations, mortgages, commercial pledges, registered securities over movables, or other restricted real rights, or the ranking thereof, or other proprietary rights (hereinafter *property*). If a security becomes invalid, it shall be considered sales of the security.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(2) In the case of a reduction in the share capital of a public limited company, private limited company or association or in the contributions of a general or limited partnership, and in the case of redemption or return of shares or contributions or in other cases, income tax is charged on the portion of the payments received from the equity which exceeds the acquisition cost of the holding (shares, contributions), unless the portion of the specified payments or the share of profit which is the basis of the proceeds has been taxed with income tax, taking account of the provisions of the second sentence of subsection 2^1 of § 50.
[RT I 2008, 51, 286 – entry into force 01.01.2009]

(3) Income tax is charged on the amount in which the liquidation proceeds received by a person upon the liquidation of a legal person exceed the acquisition cost of the holding, unless the portion of the liquidation proceeds or the share of profit which is the basis of the proceeds has been taxed with income tax, taking account of the provisions of the second sentence of subsection 2^1 of § 50.
[RT I 2008, 51, 286 – entry into force 01.01.2009]

(3^1) Income tax is charged on the part of payment received upon the return of a unit of common investment fund or a share of public limited fund and the liquidation of a common investment fund or public limited fund, which exceeds the acquisition cost of the unit or share, excluding a part of the specified payment if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5^1 or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(3^2) Income tax is charged upon merger of a company with the assets of a natural person on the difference between the revenue received from the company in monetary or non-monetary form and the taken over liabilities, which exceeds the acquisition cost of the holding unless income tax has been charged on the portion of the proceeds or the share of profit which is the basis of the proceeds. If a liability taken over from the company ceases to exist later due to waiver of a claim, limitation period, consolidation of an obligor and an obligee or other reason, income tax shall be charged on the amount of a liability which ceased to exist and by which the income received from the company upon merger was reduced.
[RT I, 21.03.2014, 3 – entry into force 01.01.2015]

(4) Income tax is not charged on:
1) accepted estate;
2) property returned in the course of ownership reform;
3) fee and compensation payable for the acquisition, including expropriation, and establishment of compulsory possession on the basis of the Acquisition of Immovables in Public Interest Act, as well as income and compensation received from the exchange of immovables and land consolidation;
[RT I, 29.06.2018, 1 – entry into force 01.07.2018]
3^1) compensation received in the course of a land consolidation act;
[RT I, 29.06.2018, 1 – entry into force 01.07.2018]
4) income from the transfer of movable in personal use;

5) income from the transfer of land returned in the course of ownership reform;
6) income derived by a person holding a public capital bond from the sale of privatisation vouchers issued to him or her on the basis of the public capital bond;
7) income derived by an entitled subject of the agricultural reform from the sale of the employment share issued in his or her name;
8) income derived by a person who is an entitled subject of the ownership reform from the sale of privatisation vouchers issued to him or her on the basis of an unlawfully expropriated property compensation order;
8^{1}) compensation paid for unlawfully expropriated property, and compensation for privatisation vouchers issued to but not used by an entitled subject of ownership reform;
9) income from the exchange of a holding (shares, contributions) in the course of a merger, division or transformation of companies or non-profit co-operatives;
10) income from the increase or acquisition of a holding (shares, contributions) in a company by way of a non-monetary contribution;
11) income from the switch of units or shares of an investment fund of a Contracting State on the conditions provided for in clause 2 of subsection 3 of § 14 or clause 2 of subsection 5 of § 18 of the Investment Funds Act and income from the switch of units of or other holding in an investment fund in the course of the merger of investment funds.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(5) Gains from the transfer of immovable property, contributions to a housing association or membership in a building association are not subject to income tax if:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling which was used by the taxpayer as his or her place of residence until transfer, or
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
2) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling, and the immovable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property, or
3) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling and such dwelling and the land adjacent thereto has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption and the size of the registered immovable property does not exceed 2 hectares, or
4) a summer cottage or garden house has been in the taxpayer's ownership as a movable or an essential part of an immovable for more than two years and the size of the registered immovable does not exceed 0.25 hectares, or
5) a structure or apartment as a movable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property or through privatisation with the right of pre-emption, or
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
6) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]
7) an apartment in a residential building belonging to the housing association or building association was used by the taxpayer as his or her place of residence until transfer.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) If the tax exemption specified in subsection 5 is based on the use of the dwelling as the taxpayer's residence, the tax exemption is not applied to more than one transfer in two years. If an immovable, structure or apartment was used simultaneously with its use as place of residence also for other purposes, the tax exemption is applied according to the proportion of the area of the rooms used as residence and the area of the rooms used for other purposes.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 16. Income from rent and royalties

(1) Income tax is charged on rent, consideration for constitution of right of superficies and tolerating a real encumbrance, and other consideration received for tolerating a restriction on the use of an object arising from law or transaction (hereinafter *income from rent*). The income from rent shall not include the bearing of accessory expenses for the purposes of § 292 and duties for the purposes of § 293 of the Law of Obligations Act for the recipient of the income from rent or compensation for the bearing thereof to the recipient of the income from rent, and the amount specified in clause 15 of subsection 3 of § 19 of this Act.
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

(2) Income tax is charged on consideration for the right to use a copyright of a literary, artistic or scientific work (including cinematographic films or videos, recordings of radio or television programmes or computer programs), and for the right to use a patent, trade mark, industrial design or utility model, plan, secret formula or process, or consideration for transfer of the right to use the above (hereinafter *royalties*).

(3) Income tax is charged on consideration for the right to use industrial, commercial or scientific equipment or industrial, commercial or scientific know-how, or on consideration for transfer of the right to use the above (hereinafter *royalties*).
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

§ 17. Interest

(1) Income tax is charged on all interest accrued from loans, leases and other debt obligations, as well as securities and deposits, including such amount calculated on the debt obligations by which the initial debt obligations are increased. Interest shall also include monetary payments made to unit-holders on account of a contractual investment fund, excluding the payments specified in subsection 3^1 of § 15. The fine for delay (late interest) payable in the event of delay in performance of a monetary obligation is not deemed to be interest.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(1^1) Income tax is not charged on interest specified in subsection 1 if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5^1 or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(2) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(3) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

§ 17^1. Income on financial assets

(1) Income tax liability arising from gains or income received on financial assets specified in subsection 2 of this section (hereinafter *financial assets*) can be postponed upon compliance with the conditions provided for in § 17^2.

(2) The following are considered financial assets:
1) securities which are publicly offered in a Contracting State or a member state of the Organisation for Economic Cooperation and Development for the purposes of the Securities Market Act or the legislation of a respective foreign state;
2) securities which are admitted for trading on a regulated securities market or multilateral trading facility of a state specified in clause 1 (hereinafter in this section *market*) or concerning which a request has been submitted for admission for trading on such market on the condition that financial supervision is exercised over such market and this market is recognized by such state and operates regularly, and on which the public can acquire or transfer securities;
3) shares or units of investment funds not covered by clauses 1 and 2 for the purposes of the Investment Funds Act or shares or units of such investment funds established in a foreign state specified in clause 1 which are subject to financial supervision;
4) deposits opened with a credit institution which is a resident of a state specified in clause 1 or in the permanent establishment of a credit institution located in the above state;
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]
5) unit linked life assurance contracts entered into as of 1 August 2010 which underlying assets are financial assets specified in clauses 1–4 and clause 1 of subsection 3 and which were entered into with an insurer of a state specified in clause 1;
6) derivative instruments not covered by clauses 1 and 2, the party to which is a management company, investment firm or credit institution which is a resident of a state specified in clause 1 and which underlying assets are financial assets specified in clauses 2–4, and
7) short-term debt securities not covered by clauses 1 and 2 if the debt security is liquid and its value can be accurately determined at any time, and it was issued by a resident of a state specified in clause 1, which meets the requirements provided for in clauses 1–4 of subsection 2 of § 107 of the Investment Funds Act.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(3) Financial assets also include shares or units of investment funds of a state not specified in clause 1 of subsection 2 and securities admitted for trading on the market of such state on the condition that:
1) financial supervision is exercised over such investment fund, management company or market, and
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
2) a taxpayer concludes a transaction involving the financial assets in the framework of the provision of investment services specified in § 43 of the Securities Market Act with a credit institution, investment firm or management company which is a resident of a state specified in clause 1 of subsection 2.

(4) Contributions made also after the entry into a deposit or insurance contract on the basis thereof are considered acquisition of financial assets.

(5) Financial assets at the time of acquisition shall meet the requirements provided for in subsection 2 or 3.

(6) The provisions concerning financial assets are also applied to assets which were acquired as financial assets, but which at the time of transfer of these assets, receiving income on these or at the time of the termination of the contract do not meet the requirements established for financial assets in this section.

(7) Financial assets do not include insurance contracts for a funded pension and units of pension funds (§§ 28 and 28^1).
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(8) For the purposes of this Act, a unit linked life insurance contract is deemed to be a contract where the investment risk related to the underlying assets thereof is borne, pursuant to the insurance contract, by the policyholder and where the preservation of the nominal value of the insurance premiums paid for the acquisition of the underlying assets is not guaranteed.
[RT I, 17.11.2017, 3 – entry into force 01.10.2018]

§ 17^2. Investment account

(1) The following shall be done for the deferral of income tax liability:
1) financial assets shall be acquired exclusively for the funds on a cash account opened for such purpose with a credit institution or in the permanent establishment of a credit institution (hereinafter *investment account*), and
2) any income received on financial assets shall be immediately transferred to the investment account.

(2) The requirements provided for in subsection 1 do not apply in case of switching financial assets.

(3) An investment account may be opened with a credit institution which is a resident of a state specified in clause 1 of subsection 2 of § 17^1or in the permanent establishment of a credit institution located in the above state.

(4) When making payments from an investment account, the tax shall be charged on the amount by which the payments made from all the investment accounts exceed following such payment the balance of the contributions made to all the investment accounts. The balance of the contributions is calculated after each contribution and payment by adding a contribution to the previous balance or deducting a payment from the previous balance.

(5) Payments from an investment account include all transfers made from the investment account, which are not used for the acquisition of financial assets or for transfer of money to another investment account. Payments also include the income specified in § 17^1, which is not transferred pursuant to clause 2 of subsection 1 of this section to an investment account. Payments do not include currency conversions in an investment account.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(6) Contributions to an investment account include all transfers made to the investment account. Contributions also include the income specified in § 17^1, if income tax has been imposed thereon, and the balance of account before the adoption of the account as an investment account. Contributions do not include either income received on financial assets which has not been taxed or money which was transferred from another investment account.

(7) Any certified expenses directly related to the acquisition and transfer of financial assets are considered contribution to an investment account unless these have been already accounted as part of the contribution.

(8) For the deferral of income tax liability arising from income received on financial assets, which could not be acquired for money due to the substance of a transaction, the acquisition cost of the specified financial assets shall be declared in the tax return as contribution to an investment account.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(9) If upon closing an investment account the money therein is not transferred to another investment account, it shall be considered a payment from the investment account. The balance of contributions of an investment account shall be reduced by the acquisition cost of financial assets available at the time of closing the last investment account.

(10) Any loss incurred upon the transfer of financial assets which have been acquired for the money in an investment account at a price which is lower than the market price to a person associated with the taxpayer or upon the transfer of financial assets acquired from such person at a price which is higher than the market price or invalidity of financial assets in favour of a person associated with the taxpayer on the conditions different from the market conditions shall be declared as payment from the investment account.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(11) If the financial assets giving the right to receive dividends is acquired for the money in an investment account within thirty days before the date on which the persons with the right to receive dividends are specified and is transferred on the date on which the persons with the right to receive dividends are specified, or within thirty days after such date, the loss incurred upon the transfer of these financial assets shall be declared as payment from the investment account.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(12) The money in an investment account shall not be used as a security for such liabilities which are not connected with the acquisition of financial assets.

(13) Upon non-compliance with the condition specified in subsection 12, the tax liability created on gains or income received on financial assets shall not be deferred. In such case, the balance of money in such an investment account shall be declared as payment. The acquisition cost of available financial assets acquired for the money in such an account shall also be declared as payment from the investment account.

(14) In cases specified in subsections 9 and 13, financial assets are not considered the financial assets acquired for the money in an investment account.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

§ 18. Dividends and income from holding

[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(1) Income tax is charged on all dividends and other profit distributions received by a resident natural person from a foreign legal person in monetary or non-monetary form.

(1^1) Income tax shall not be charged on dividends if income tax has been paid on the share of profit on the basis of which the dividends are paid or if income tax on the dividends has been withheld in a foreign state.

(1^2) Subsection 1^1shall not apply with regard to such a transaction or chain of transactions which is devoid of economic substance and the main objective or one of the main objectives of which is obtaining a tax advantage.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(1^3) Income tax is charged on all dividends and other profit distributions received by a resident natural person from a resident company in monetary or non-monetary form if they are subject to taxation pursuant to § 50^1at the level of the company that is paying the dividend or at the level of the company that distributed the profit that served as a basis for payment of the dividend and if they are not subject to taxation pursuant to subsection 1 of § 50 or if they have been paid out of the profit earned upon application of the procedure provided for in § 52^1.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(2) A dividend is a payment which is made from the net profit or the retained profits from previous years pursuant to a resolution of a competent body of a legal person, and the basis for which is the recipient's holding in the legal person (ownership of shares, partnership in a general or limited partnership or membership in a commercial association, or other forms of holding pursuant to the legislation of the home country of the company).

(3) Payments made upon a reduction in share capital or contributions, redemption of shares or liquidation of a legal person are taxed pursuant to the provisions of subsections 2 and 3 of § 15.

(4) If a resident natural person is a member of such association of persons without the status of a legal person or shareholder or co-owner of such pool of assets, which pursuant to the law of the state of the incorporation or establishment thereof is not regarded as a legal person for income tax purposes, a part of the net profit of the specified association or pool of assets shall be taxed in proportion to the holding, voting rights or share in common ownership of a resident natural person. Income tax shall not be imposed on profit distributions received on account of the share of profit taxed in such way.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(5) Subsection 4 does not apply to any holding in a pool of assets concerning which a security for the purposes of § 2 of the Securities Market Act has been issued. The income gained from such pool of assets shall be taxed on the basis of subsections 1–$3^1$of § 15 or subsection 1 of § 17.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(6) If a resident natural person is the shareholder of a trust fund, tax is charged on the income derived by the trust fund in proportion to his or her share in the trust fund. Income tax is not charged on profit distributions received on account of the specified income.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

§ 19. Pensions, scholarships and grants, benefits, awards, gambling winnings and maintenance support

[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(1) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) Income tax is charged on all pensions, benefits, scholarships and grants, cultural, sports and scientific awards, gambling winnings, benefits received on the basis of the Family Benefits Act and compensation and

daily allowances related to sports assignments and paid by an artistic association to creative persons for business trips relating to the creative activity of the creative persons.
[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

(3) Income tax is not charged on:
1) [Repealed – RT I 2003, 88, 587 – entry into force 01.01.2004]
2) [Repealed – RT I 2001, 79, 480 – entry into force 01.01.2002]
3) benefits provided by law or a rural municipality or city council regulation, except for benefits paid in connection with business or an employment or service relationship or with membership of the management or controlling body of a legal person and the benefits specified in subsection 4;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
3^1) transport and accommodation benefits, and grants paid to unemployed persons from the European Union structural aid for the purposes of the Labour Market Services and Benefits Act;
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, clause 3^1 applied retroactively as of 1 July 2017.]
3^2) benefits paid to natural persons from the European Union structural aid for the construction of water and sewerage piping or installation of a collection tank on a registered immovable;
[RT I, 06.12.2018, 2 – entry into force 16.12.2018, clause 3^2 applied retroactively as of 1 June 2018.]
3^3) benefits paid on the basis of the State Budget Act and the Atmospheric Air Protection Act to natural persons for improving the living conditions of families with many children and increasing the energy efficiency of small residential buildings;
[RT I, 23.12.2019, 2 – entry into force 01.01.2021]
4) international and state cultural and scientific awards and educational and sports awards granted by the Government of the Republic;
[RT I, 22.01.2018, 1 – entry into force 01.02.2018]
5) [Repealed – RT I, 11.07.2014, 5 – entry into force 01.01.2015]
6) gifts and donations received from a natural person, a state or local government authority, a resident legal person, or from a non-resident through or on account of its permanent establishment located in Estonia, and gifts and donations received from a non-resident legal person if tax is imposed on the gift or donation at the level of natural or legal person in a foreign state;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
7) winnings from gambling organised on the basis of an operating permit or registration;
[RT I 2009, 24, 146 – entry into force 01.06.2009]
8) benefits paid to victims of crime pursuant to law;
9) conscripts' allowances paid pursuant to law and non-monetary benefits granted in connection with business pursuant to law;
10) compensation for expenses and daily allowances during assignments abroad which are related to sports assignments and paid to persons specified in § 7 of the Sport Act, and which are paid by an artistic association to creative persons for business trips relating to the creative activity of the creative persons within the limits and pursuant to the procedure specified in clause 1 of subsection 3 of § 13.
[RT I, 13.12.2011, 1 – entry into force 01.01.2012]
10^1) compensation for expenses relating to the activity of a volunteer referee paid on the basis of § $9^2$of the Sport Act and the athlete benefit paid on the basis of § $10^5$of the Sport Act;
[RT I, 28.02.2020, 1 – entry into force 01.03.2020]
11) maintenance support and maintenance allowance received on the basis of the Family Benefits Act;
[RT I, 08.07.2016, 1 – entry into force 01.01.2017]
12) compensation or benefit payable on the basis of § 49 of the Public Service Act, subsections 1 and 7 of § 196 of the Defence Forces Service Act, subsections 4–5 of § 61 of the Estonian Defence League Act, § $7^{53}$of the Police and Border Guard Act, § $24^2$of the Security Authorities Act, § 38 of the Assistant Police Officer Act, § 41 of the Rescue Act, § 44 of the Emergency Act and § $55^1$of the National Defence Act;
[RT I, 10.03.2022, 1 – entry into force 21.03.2022]
13) cost of catering provided to members of the National Defence League upon the performance of the functions provided for in subsection 1 of § 4 of the National Defence League Act and the participation in the activities provided for in subsection 2 of § 4 of the National Defence League Act;
[RT I, 20.03.2013, 1 – entry into force 01.04.2013]
14) daily allowances and compensation for expenses during assignments abroad paid to active members of the National Defence League on the basis of the National Defence League Act within the limits and pursuant to the procedure specified in clause 1 of subsection 3 of § 13;
[RT I, 20.03.2013, 1 – entry into force 01.04.2013]
15) payment made for tolerating utility networks on the basis of § $15^4$of the Law of Property Implementation Act to the extent of one third;
[RT I, 30.01.2018, 1 – entry into force 01.01.2019]
16) compensations for the expenses of in-service training or retraining paid to a person who has received permanent health damage due the performance of duties and therefore released from active service on the basis of the Military Service Act;
[RT I, 17.12.2015, 2 – entry into force 01.01.2016]
17) payments made to a person specified in subsection $4^1$of § 49 who performs in a foreign state a duty conferred by an association specified in § 11, which does not exceed the tax exempt limit of daily allowances during assignments abroad provided for in clause 1 of subsection 3 of § 13 per each day spent in the foreign state;
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, clause 17 applied retroactively as of 1 July 2017.]

18) compensation for the expenses of the study provided for in subsection 2 of § 48 of the Heritage Conservation Act and for the expenses of the exercise of the heritage conservation supervision provided for in subsection 3 of § 56 of the Heritage Conservation Act.
[RT I, 19.03.2019, 13 – entry into force 01.05.2019]

(4) The exemption from income tax provided for in clause 3 of subsection 3 does not apply to the following benefits:
1) benefits to persons in alternative service;
2) benefits to reservists;
3) benefits paid on the basis of the European Union Common Agricultural Policy Implementation Act.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(5) Income tax is not charged on scholarships and grants:
1) which payment is provided by law or a rural municipality or city council regulation or which are paid from the state budget;
2) which are paid to their pupils or students by an educational institution specified in the Republic of Estonia Education Act or an equivalent foreign educational institution;
3) which are paid to students by a state or local government research and development institution or a research and development institution operating as a legal person in public law or an agency of such person in connection with the teaching and scientific research of a research and development institution;
4) which are paid by the government of a foreign state or foreign local government, or an international or intergovernmental organisation;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
5) which are paid by the Education and Youth Authority.
[RT I, 16.06.2020, 1 – entry into force 01.08.2020]

(6) Income tax is not charged on scholarships and grants, which are paid by a person included in the list provided for in subsection 1 of § 11 or specified in subsection 10 of § 11, if the following conditions are met:
1) scholarships and grants are paid to a person not specified in clause 3 of subsection 2 of § 11;
2) scholarships and grants are determined by way of public competition with regard to which a notice has been published in a national daily newspaper, local newspaper, website of the payer of a scholarship or grant or website containing sectoral information.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(6^1) Income tax is not charged on athlete scholarships or grants if they have been paid on the basis, within the limits and pursuant to the procedure provided for in §§ 10^1 and 10^6 of the Sport Act. The scholarships or grants paid to athletes by the person specified in subsection 6 of this section are also included in the aforementioned limits.
[RT I, 28.02.2020, 1 – entry into force 01.03.2020]

(7) Scholarships and grants for the purposes of this Act shall mean future-oriented benefits, which are paid for the promotion of the acquisition of knowledge or skills, development of competences and creative or scientific activities. Scholarships and grants shall not include payments which recognise or remunerate any activities or by making which a person who made the payment acquires the rights to the work.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 20. Insurance indemnities

(1) Income tax is charged on benefits for temporary incapacity for work, paid on the basis of the Health Insurance Act.

(2) Income tax is charged on benefits paid on the basis of the Unemployment Insurance Act.

(3) Income tax is charged on amounts paid to a policyholder, insured person or beneficiary under a unit linked life insurance contract, from which the insurance premiums paid on the basis of the same contract have been deducted. Such amounts are not subject to taxation if these are paid following the expiry of twelve years as of the entry into the insurance contract and the insurance contract has been entered into before 1 August 2010.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(3^1) If the insurance premiums paid under a unit linked life insurance contract have been deducted from the income of the taxpayer in the form of an insurance premium on a supplementary funded pension (§ 28) during one or several periods of taxation, the amounts are subject to taxation pursuant to § 21.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(4) Income tax is charged on an insurance indemnity paid in a case where the insured event occurred under non-life insurance conditions if the taxpayer has deducted the insurance premiums related to such insured event, the acquisition cost of the insured assets, or the depreciation of fixed assets applied with regard to the same assets

on the basis of the Income Tax Act in force before the entry into force of this Act from the taxpayer's business income. The insurance indemnities received are subject to taxation as gain from the sale of property (§ 37) and the amount of the insurance indemnity is deemed to be the sales price of the property.

(5) Income tax is not charged on sums insured and insurance indemnities not specified in subsections 1–4 or §§ 20^1 and 21, the surrender value payable upon termination of a life insurance contract, or insurance indemnities paid in the event of death on the basis of a contract specified in subsection 3.

§ 20^1. Mandatory funded pension

(1) Income tax is charged on payments made to a policyholder and insured person of an insurance contract for a mandatory funded pension (hereinafter *pension contract*) and from a mandatory pension fund to a unit-holder and from a pension investment account to the person using it, taking into account the specifications provided for in subsections 2–4. Income tax is charged on payments made to a beneficiary of a pension contract and to other successors of the persons specified in the first sentence.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021]

(2) Payments do not include:
1) the surrender value of a cancelled pension contract in the case provided for in § 52^2 of the Funded Pensions Act;
2) redemption of units of a mandatory pension fund upon the switch of the units, entry into a pension contract pursuant to § 49 of the Funded Pensions Act or transfer of money to a pension investment account pursuant to clause 2 of subsection 1 of § 26 of the same Act;
3) transfer of the money in a pension investment account upon entry into a pension contract pursuant to § 49 of the Funded Pensions Act or for the acquisition of units of a mandatory pension fund pursuant to clause 1 of subsection 1 of § 26 of the same Act; or
4) transfer of money from one pension investment account to another pursuant to subsection 1 of § 26 of the Funded Pensions Act, acquisition of the financial assets provided for in § 17^1 of this Act for the money in a pension investment account or switching the financial assets, transfer of the income earned on the financial assets to a pension investment account or transfer of money to a pension investment account upon transfer of the financial assets or expiry of a contract entered into upon acquisition of the financial assets.

(3) Income tax is not charged on payments made to:
1) a person who has been established to have no work ability or who had no work ability immediately before the pensionable age;
[RT I, 22.12.2021, 5 – entry into force 01.01.2022, applied retroactively as of 1 January 2021]
2) a policyholder who is at the pensionable age provided for in the State Pension Insurance Act or attains this age in up to five years, on the basis of a lifetime pension contract periodically at least once every three months;
3) a unit-holder of a mandatory pension fund or policyholder who is at the pensionable age provided for in the State Pension Insurance Act or attains this age in up to five years, as a fund pension or on the basis of a pension contract entered into for a specified term periodically at least once every three months if the fund pension has been agreed upon or the pension contract has been entered into at least for the term provided for in subsection 3 of § 52^3 of the Funded Pensions Act;
4) a person until the end of his or her life on the basis of subsection 5 of § 72^4 of the Funded Pensions Act by the Social Insurance Board.

(4) Income tax at the rate provided for in subsection 2 of § 4 of this Act is charged on the payments not specified in subsection 3 which are made to a policyholder, unit-holder and from a pension investment account to the person using it as well as the payments made on the basis of subsection 5 of § 72^4 of the Funded Pensions Act if the recipient of the payment is at the pensionable age provided for in the State Pension Insurance Act or attains this age in up to five years.

(5) [Repealed – RT I, 28.12.2020, 1 – entry into force 02.01.2021]

§ 21. Supplementary funded pension

(1) Income tax is charged on payments made to a policyholder and insured person of an insurance contract for a supplementary funded pension and from a voluntary pension fund to a unit-holder, taking into account the specifications provided for in subsections 2–7. Income tax is charged on negative changes in the provisions formed pursuant to the provisions of subsection 1^1 of § 28 with a view to securing a supplementary funded pension and on payments made to a beneficiary of an insurance contract for a supplementary funded pension and to other successors of the persons specified in the first sentence.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021]

(1^1) Payments do not include the surrender value of a cancelled insurance contract for a supplementary funded pension in the case provided for in subsection 5^2 of § 63 of the Funded Pensions Act, a pension from an expired insurance contract for a supplementary funded pension in the case provided for in subsection 5^3 of the same section and the redemption of units of a voluntary pension fund upon the switch of the units or entry into an insurance contract for a supplementary funded pension pursuant to § 64 of the Funded Pensions Act.

[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) The rate provided for in subsection 2 of § 4 is applicable to the following payments made by an insurer holding an activity licence in a Contracting State to a policyholder under an insurance contract for a supplementary funded pension which meets the conditions provided for in § 63 of the Funded Pensions Act or an equivalent insurance contract:
[RT I 2006, 28, 208 – entry into force 01.07.2006, introductory sentence part of subsection 2 applied retroactively as of 1 January 2006.]
1) payments made by the insurer after the policyholder has attained the age provided for in subsection 3 of § 63 of the Funded Pensions Act, but not before five years have passed since the entry into the contract;
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]
2) [Repealed – RT I, 27.10.2020, 1 – entry into force 01.01.2021]
3) payments made in the event of liquidation of the insurer.

(2^1) If the surrender value of a cancelled supplementary funded pension insurance contract was used for the payment of an insurance premium to a supplementary funded pension insurance contract pursuant to subsection $5^2$of § 63 of the Funded Pensions Act, the five-year term shall be calculated as of the entry into the earlier of the above contracts. If a supplementary funded pension insurance contract was entered into pursuant to § 64 of the Funded Pensions Act for the redemption price of the units of a voluntary pension fund, the five-year term shall be calculated as of the initial acquisition by the insurance undertaking of the units of the voluntary pension fund if it has taken place earlier than the entry into the contract.
[RT I, 29.03.2012, 1 – entry into force 01.01.2013]

(3) The rate provided for in subsection 2 of § 4 is applicable to the following payments made to a unit-holder of a voluntary pension fund founded in Estonia on the basis of the Funded Pensions Act or a voluntary pension fund operating in a Contracting State on equivalent bases:
[RT I 2006, 28, 208 – entry into force 01.07.2006, introductory sentence part of subsection 3 applied retroactively as of 1 January 2006.]
1) payments made after the unit-holder has attained the age provided for in subsection 3 of § 63 of the Funded Pensions Act, but not before five years have passed since the initial acquisition of the units of a voluntary pension fund;
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]
2) [Repealed – RT I, 27.10.2020, 1 – entry into force 01.01.2021]
3) payments made from a voluntary pension fund in the event of liquidation of the pension fund.

(3^1) If units of a voluntary pension fund have been acquired for the surrender value of a cancelled supplementary funded pension insurance contract pursuant to subsection $5^2$of § 63 of the Funded Pensions Act, the five-year term shall be calculated as of the entry into the cancelled contract if it has taken place earlier than the initial acquisition by the unit-holder of the units of the voluntary pension fund.
[RT I, 29.03.2012, 1 – entry into force 01.01.2013]

(4) Income tax is not charged on:
1) payments made to a person who has been established to have no work ability or who had no work ability immediately before the pensionable age;
[RT I, 22.12.2021, 5 – entry into force 01.01.2022, applied retroactively as of 1 January 2021]
2) the pension paid after the policyholder has attained the age provided for in subsection 3 of § 63 of the Funded Pensions Act on the basis of the insurance contract specified in subsection 2 of this section periodically at least once every three months until his or her death;
3) the pension paid and payments from a voluntary pension fund made after the policyholder or unit-holder has attained the age provided for in subsection 3 of § 63 of the Funded Pensions Act on the basis of the insurance contract specified in subsection 2 of this section or from the voluntary pension fund periodically at least once every three months and at least until the time limit calculated on the basis of the average life expectancy of men and women rounded to full years and published by Statistics Estonia in respect of the calendar year before the previous calendar year, which corresponded to his or her age at the start of payment of the pension or at the time of agreeing upon the payments to be made from the voluntary pension fund.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021, applied as of 01.01.2021]

(5) Income tax is not charged on insurance indemnities paid in the event of death on the basis of an insurance contract for supplementary funded pension.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(6) Subsections 2, $2^1$and 4 also apply to payments made by insurance undertakings to whom an authorisation has been issued in a state not specified in subsection 2 upon compliance with both of the following conditions:
[RT I, 29.03.2012, 1 – entry into force 01.01.2013]
1) the insurer has the right to enter into insurance contracts for a supplementary funded pension in Estonia either on cross-border basis or through a branch;

2) an international agreement is in force between Estonia and the state that issued the activity license to the insurer, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information necessary for the application of the tax rate provided for in subsection 2 of § 4 and the tax exemption provided for in subsection 4 of this section.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

(7) Subsections 3 and 3^1 also apply to payments made to unit-holders of a voluntary pension fund operating on the equivalent basis in a state not specified in subsection 3 upon compliance with both of the following conditions:
1) the units of pension fund can be offered in Estonia on cross-border basis;
2) an international agreement is in force between Estonia and the state of the place of business of the pension fund, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information necessary for the application of the tax rate provided for in subsection 2 of § 4.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

§ 22. Taxation of income of legal persons located in non-cooperative jurisdictions for tax purposes

[RT I, 26.03.2021, 1 – entry into force 01.01.2022]

(1) Income tax is charged on the income of a legal person located in a non-cooperative jurisdiction for tax purposes (§ 10^1) and controlled by Estonian residents, irrespective of whether the legal person has distributed any profits to taxpayers or not.
[RT I, 26.03.2021, 1 – entry into force 01.01.2022]

(2) A legal person is deemed to be controlled by Estonian residents if one or several legal or natural persons who are Estonian residents own at least 50 per cent of the shares, votes or rights to the profits of the legal person directly or together with associated persons (§ 8).

(3) The income of a foreign legal person is deemed to be the taxable income of a resident if the condition prescribed in subsection 2 is fulfilled and the resident owns at least 10 per cent of the shares, votes or rights to the profits of the legal person directly or together with associated persons (§ 8).

(4) The part of the gross income of a foreign legal person specified in subsection 2 which is attributable to a resident taxpayer is deemed to be the income of the taxpayer. The part attributable to a taxpayer is a proportional part of the income of the legal person, which corresponds to the holding of the taxpayer in the share capital, total number of votes or rights to the profits of the legal person.

(5) A taxpayer has, under the conditions prescribed in Chapter 6, the right to deduct the business-related expenses made by a foreign legal person from the taxable income of the foreign legal person. In proportion to the share of a taxpayer in the income of a legal person, the taxpayer has the right to deduct the part of the income tax withheld from the legal person on the basis of § 41 and, in accordance with § 45, the part of the home country income tax paid by the legal person from the income tax to be paid by the taxpayer.

(6) Resident natural persons shall declare the shares, votes and rights to the profits of a legal person located in a non-cooperative jurisdiction for tax purposes which were held by them in the calendar year in their income tax returns. A resident taxpayer specified in subsection 3 shall include the part of the income of a foreign legal person attributable to the taxpayer in the taxpayer's taxable income and declare such income in the taxpayer's income tax return. The formats of income tax returns and the procedure for declaration of the income of legal persons registered in non-cooperative jurisdictions for tax purposes shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 26.03.2021, 1 – entry into force 01.01.2022]

(7) If a resident taxpayer has paid income tax on income specified in subsection 1, dividends (subsection 2 of § 18) or other profit distributions received by the taxpayer out of the income taxed in accordance with subsection 1 shall not subsequently be subject to income tax.

Chapter 4
DEDUCTIONS FROM INCOME OF RESIDENT NATURAL PERSONS

§ 23. Basic exemption

(1) The basic exemption deductible from the income of a resident natural person during a period of taxation shall be 6,000 euros, taking into account subsection 2.
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(2) If the income is larger than 14,400 euros, the amount of the basic exemption shall be calculated pursuant to the following formula: 6,000 – 6,000 / 10,800 × (amount of income – 14,400). Thereby the basic exemption may not be less than zero and larger than 6,000.

[RT I, 28.12.2018, 44 – entry into force 01.01.2019, applied retroactively as of 01.01.2018]

(3) For the purposes of subsection 2, income shall also include, in addition to the income subject to income tax, the income specified in subsection 1^3 of § 44 and received during a period of taxation, income specified in § 50 and not subject to additional taxation at the level of a natural person and amounts subject to taxation under the Simplified Business Income Taxation Act which have been reduced by the part of the social tax of the business income tax.
[RT I, 07.07.2017, 2 – entry into force 01.01.2018]

(4) The recipients of the maternity benefit and adoption benefit paid out on the basis of the Health Insurance Act and the recipients of compensation for cancellation or release from service paid out due to lay-off on the basis of the Employment Contracts Act, Civil Service Act or Unemployment Insurance Act in the fourth quarter of a period of taxation shall have the right to apply for recalculation of income tax in the income tax return in respect of such benefit or compensation, which is paid for the period of taxation following the calendar year when the payment is made, changing respectively the tax calculation of the year of payment and the calendar year following it. The recalculation procedure shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020, applied retroactively as of 1 January 2018.]

(5) For the purposes of subsection 2 of this section, income shall not include the payments specified in subsections 1 and 4 of § 20^1 and subsections 2 and 3 of § 21.
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

§ 23^1. Increased basic exemption upon provision of maintenance to child

[RT I 2007, 44, 318 – entry into force 01.01.2008]

(1) One resident parent or guardian of a child or other person maintaining a child, who maintains two or more minor children, may deduct increased basic exemption from his or her income in the period of taxation for a child of up to 17 years of age, starting from the second child. The amount of the increased basic exemption is 1,848 euros for the second child and 3,048 euros starting from the third child.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(2) The increased basic exemption is applicable as of the year in which the child is born, a guardian is appointed for him or her or the maintenance obligation arises until the year in which the child attains 17 years of age to the extent by which the child's income specified in subsection 3 of § 23, except for the survivor's pension and national pension upon loss of a provider as set out in law, is lower than the basic exemption specified in subsection 1.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(3) In the event of a dispute, the person to whom child allowance is paid pursuant to § 17 of the Family Benefits Act is deemed to be the person maintaining the child within the meaning of subsection 1.
[RT I, 08.07.2016, 1 – entry into force 01.01.2017]

§ 23^2. Increased basic exemption in event of pension

[Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

§ 23^3. Increased basic exemption in event of compensation for accident at work or occupational disease

[Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

§ 23^4. Increased basic exemption for spouse

(1) A resident natural person has the right to deduct from the income which he or she receives during the period of taxation an increased basic exemption of 2,160 euros for the spouse if the resident natural person's and his or her spouse's income specified in subsection 3 of § 23 during the period of taxation in total does not exceed 50,400 euros, taking into account the provisions of subsections 2 and 3.
[RT I, 04.03.2019, 1 – entry into force 01.01.2020, applied retroactively as of 1 January 2019; entry into force changed [RT I, 23.12.2019, 2]]

(2) Increased basic exemption may be deducted in the part by which the spouse's income specified in subsection 3 of § 23 during the period of taxation is smaller than the increased basic exemption specified in subsection 1.
[RT I, 04.03.2019, 1 – entry into force 01.01.2020, applied retroactively as of 1 January 2019; entry into force changed [RT I, 23.12.2019, 2]]

(3) The amount specified in subsection 2 cannot be larger than the difference between 50,400 euros and the total taxable income of the spouses.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, § 23^4applied retroactively as of 1 January 2017]

§ 24. [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 25. Housing loan interest

(1) A resident natural person has the right to deduct interest payments made during a period of taxation to a credit institution which is a resident of a Contracting State, a financial institution belonging to the same group with such company or branch of a non-resident credit institution registered in a Contracting State for a loan or finance lease taken in order to acquire a house or apartment for himself or herself from the income which he or she receives during the period of taxation. Interest payments for a loan or lease taken in order to acquire a plot of land in order to build a house may be deducted from income under the same conditions.
[RT I 2006, 28, 208 – entry into force 01.07.2006, subsection 1 applied retroactively as of 1 January 2006.]

(2) The erection, expansion and reconstruction of construction works for the purposes of the Building Code, changing the division of space in construction works and the building and installation work related to the technical refitting of construction works on the basis of a building permit or building design documentation is also deemed to be acquisition.
[RT I, 23.03.2015, 3 – entry into force 01.07.2015]

(3) Only the loan or finance lease interest payments made upon the acquisition of one house or apartment shall be deducted from taxable income at any one time.

(4) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2017]

§ 26. Training expenses

(1) A resident natural person has the right to deduct the training expenses of himself or herself or a relative in descending line, sister or brother of less than 26 years of age or, if no such training expenses are incurred, the training expenses of one permanent resident of Estonia of less than 26 years of age, from the income which the resident natural person receives during the period of taxation.
[RT I 2010, 34, 181 – entry into force 01.07.2010]

(2) Training expenses are certified expenses incurred for studying at a state or local authority educational establishment, university in public law, private school which holds an activity licence with regard to the relevant study programme, is registered in the Estonian Education Information System or has the right to provide instruction of higher education, and a foreign educational establishment of equal status with the aforementioned, or for studying on fee-charging courses organised by such educational establishments. Training expenses incurred by a person on account of a dedicated scholarship or grant which is exempt from income tax on the basis of subsection 5 or 6 of § 19 or compensated to a person pursuant to clause 17 of subsection 3 of § 13 or clause 16 of subsection 3 of § 19 shall not be deducted from income.
[RT I, 17.12.2015, 2 – entry into force 01.01.2016]

(2^1) The expenses for the student's participation in in-service training shall be considered training expenses in case the person conducting the training holds an activity licence for conducting the in-service training or they have submitted a notice of economic activities therefor and if the student participated in the in-service training of the person conducting the aforementioned in-service training which study programme objective consisted in the achievement of a professional, occupational or vocational competence included in a study programme of formal vocational education or described in a professional standard or language learning. Training expenses shall not include the expenses paid for participation in motor vehicle driver's training for category AM, category A, subcategory A1, subcategory A2, category B and subcategory B1. Expenses paid for studies at a hobby centre shall be considered training expenses in case a person studying at a hobby centre is below 18 years of age on 1 January of the calendar year of the payment of the training expenses.
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

(3) [Repealed – RT I 2009, 54, 362 – entry into force 01.01.2010]

(4) [Repealed – RT I 2009, 54, 362 – entry into force 01.01.2010]

§ 27. Gifts and donations

[RT I 2009, 54, 362 – entry into force 01.01.2010]

(1) A resident natural person has the right to deduct certified gifts and donations which are made during a period of taxation to associations included in the list specified in subsection 1 of § 11 or specified in subsection 10 of § 11 from the income for the period of taxation.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) [Repealed – RT I 2009, 54, 362 – entry into force 01.01.2010]

(3) [Repealed – RT I, 30.06.2015, 1 – entry into force 01.01.2016]

(4) Gifts and donations specified in subsection 1 may be made in monetary or non-monetary form. The cost of a non-monetary gift or donation is the market price of the property, and in the case of sale of the property at a preferential price, the cost of the gift or donation shall be the difference between the market price and selling price of the property. Services provided free of charge or at a price below the market price are not deemed to be gifts or donations and their value is not deducted from income.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

§ 28. Insurance premiums and acquisition of pension fund units

[RT I 2004, 37, 252 – entry into force 01.05.2004]

(1) A resident natural person has the right to deduct the following from the income which he or she receives during a period of taxation:
1) that part of the insurance premiums paid to an insurer holding an activity licence issued by a Contracting State during the period of taxation under an insurance contract for a supplementary funded pension which meets the conditions of § 63 of the Funded Pensions Act or an equivalent insurance contract, the purpose of which is to ensure payment of the insured sum as a pension, excluding the cases provided for in subsections $5^2$and $5^3$of § 63 and § 64 of the same Act;
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
2) amounts paid to acquire units of a voluntary pension fund established in Estonia or a voluntary pension fund operating in a Contracting State on equivalent basis in accordance with the procedure provided for in the Funded Pensions Act, excluding the cases provided for in § 55 and subsections $5^2$and $5^3$of § 63 of the Funded Pensions Act.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(1^1) The principles of calculation of the part of an insurance premium specified in clause 1 of subsection 1 shall be established by a regulation of the minister in charge of the policy sector. A negative change which occurs in a technical provision established on the basis of an insurance contract with a view to securing a supplementary funded pension and which is due to deduction of the amounts charged for an insurance cover not specified in § 63 of the Funded Pensions Act shall be added to the taxable income of a natural person.
[RT I, 07.07.2015, 1 – entry into force 01.01.2016]

(1^2) In case of an insurer or voluntary pension fund operating in a state not specified in subsection 1, the amounts specified in subsection 1 may be deducted from the income for a period of taxation upon compliance with both of the following conditions:
1) the insurer has the right to enter into insurance contracts for a supplementary funded pension in Estonia either on cross-border basis or through a branch or the units of pension fund can be offered in Estonia on cross-border basis;
2) an international agreement is in force between Estonia and the state that issued the activity license to the insurer or the state of the place of business of the pension fund, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information specified in subsections 4 and 5 of § 57^1.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

(2) The deductions specified in subsection 1 are limited to 15 per cent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions allowed under Chapter 6 have been made, but no more than 6,000 euros. If the above amounts were also paid for the taxpayer by the employer pursuant to clause 15 of subsection 3 of § 13, the limits specified in the previous sentence shall be reduced by the amounts paid by the employer, which are not subject to income tax.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

(3) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]

§ 28^1. Mandatory social security contributions

(1) Contributions to a mandatory funded pension withheld pursuant to clauses 1 and 2 of subsection 1 of § 11 and calculated and paid pursuant to subsection 2 of § 11 of the Funded Pensions Act shall be deducted from the income of a resident natural person during a period of taxation.

(2) Unemployment insurance premiums withheld on the basis of the Unemployment Insurance Act shall be deducted from the income received by a resident natural person during a period of taxation.

(3) A resident natural person has the right to deduct social security taxes and contributions paid in a foreign state during a period of taxation payment of which is mandatory arising from legislation of the foreign state

or an international agreement from the income which he or she receives during the period of taxation. A tax or contribution may be deducted from income if the objective of payment was to guarantee pension, health, maternity, unemployment, accident at work or occupational disease insurance to the person.

(4) Payments and contributions paid on account of income not subject to income tax in Estonia shall not be deducted from income.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

§ 28[2]. Restriction on deductions from taxable income

(1) The deductions provided for in §§ 25–27 are in total limited to 1,200 euros per taxpayer during a period of taxation, and to no more than 50 per cent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions relating to enterprise have been made. In this respect, the housing loan interest specified in § 25 may be deducted from income up to 300 euros.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(1[1]) If the deductions specified in §§ 25 and 26 exceed the limits provided for in subsection 1 or if the deduction specified in § 23[1]exceeds a taxpayer's taxable income, the part of the deductions remaining unused, taking into account the specified limits, may be deducted from his or her taxable income by the taxpayer's spouse if jointness of property was in force during the period of taxation as the proprietary relationship of the spouses. When using the right of deduction specified in § 23[1], the children of both spouses may be taken into account with regard to whom increased basic exemption is not deducted by a third party.
[RT I, 24.12.2016, 1 – entry into force 01.01.2017]

(2) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(3) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4) The deductions provided for in §§ 23–28[1]may not be made from the remuneration taxed under subsection 5 or 6 of § 13.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

§ 28[3]. [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

Chapter 5
TAXATION OF INCOME OF NON-RESIDENTS

§ 29. Non-resident's taxable income

(1) Income tax is charged on income derived by a non-resident natural person from employment in Estonia (subsections 1 and 1[1]of § 13) if the employer of the person is an Estonian state or local government authority or resident, or a non-resident operating in Estonia as an employer, or a non-resident through or on account of its permanent establishment (§ 7) located in Estonia, or if the person has stayed in Estonia for the purpose of employment for at least 183 days over the course of 12 consecutive calendar months. If a non-resident who receives remuneration on the basis of a contract under the law of obligations has been entered in the commercial register in Estonia as a sole proprietor and such remuneration is his or her business income, the income is subject to taxation pursuant to subsection 3.
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(1[1]) Income tax is charged on the remuneration received by a non-resident natural person for employment on aircraft engaged in international transport or ship engaged in international carriage of goods or passengers by sea if the employer of the person or operator of such aircraft or ship is the person specified in subsection 1.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(1[2]) Income tax is charged on the remuneration paid to a non-resident crewmember at the rate specified in subsection 6 of § 4 if the remuneration has been received for employment on a ship complying with the conditions specified in subsection 5 or 6 of § 13.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(1[3]) If a non-resident natural person performs official duties in Estonia in the form of temporary agency work at a user undertaking that is an Estonian state or local government authority or resident, or a non-resident operating in Estonia as an employer, or a non-resident through its permanent establishment located in Estonia, the user undertaking is regarded as the employer of the person for the purposes of subsection 1 of this section.
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(1[4]) Income tax is charged on the remuneration paid to a non-resident on the basis of § 5[2]of the Working Conditions of Employees Posted to Estonia Act.

[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(2) Income tax is charged on income derived by a non-resident for the performance of the functions of a member of the management or controlling body of a resident legal person (§ 9) or of a member of the management body of the permanent establishment of a non-resident located in Estonia.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(3) Income tax is charged on business income derived by a non-resident in Estonia (§ 14). If the non-resident is a legal person located in a non-cooperative jurisdiction for tax purposes (§ 10^1), income tax is charged on all income derived by the non-resident from the provision of services to Estonian residents, irrespective of where the services were provided or used.
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]

(4) Income tax is charged on gains derived by a non-resident from a transfer of property (subsection 1 of § 15) if:
1) the sold or exchanged immovable is located in Estonia, or
2) the movable subject to entry in a register was in an Estonian register prior to the transfer, or
2^1) the timber felled on an immovable located in Estonia was transferred, or
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
3) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]
4) the transferred real right or right of claim is related to an immovable or a structure as a movable, which is located in Estonia, or
5) the transferred or returned holding is a holding in a company, contractual investment fund or other pool of assets of whose property, at the time of the transfer or return or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the non-resident had a holding of at least 10 per cent at the time of conclusion of the specified transaction.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]
6) gains were derived upon liquidation of a public limited fund, common investment fund or other pool of assets on the conditions specified in clause 5 of this subsection.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(4^1) Income tax is not charged on the part of the gains derived from the return of holding specified in clause 5 of subsection 4 or liquidation of an investment fund specified in clause 6 of the same subsection if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5^1or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(4^2) A non-resident natural person shall be entitled, upon transfer or return of securities in the case specified in clause 5 of subsection 4 or upon liquidation of a contractual investment fund in the case specified in clause 6 of the same subsection, to deduct from the derived gains and carry forward to the following periods of taxation the loss suffered upon transfer or return of such securities or upon liquidation of a contractual investment fund on the terms and conditions provided for in § 39.
[RT I, 04.05.2016, 2 – entry into force 01.01.2017]

(5) Income tax is charged on payments specified in subsections 2 and 3 of § 15 which are made to a non-resident by a resident legal person.

(5^1) [Repealed – RT I, 2008.51, 286 – entry into force 01.01.2009]

(6) Income tax is charged on income derived by a non-resident from a commercial lease or royalties (§ 16) if:
1) [Repealed – RT I, 30.06.2015, 1 – entry into force 01.01.2016]
2) the income from rent is derived from an object which is entered or subject to entry in an Estonian register, or
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]
3) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]
4) the payer of the consideration specified in subsection 2 or 3 of § 16 is the Estonian state, a local government, a resident or a non-resident through or on account of its permanent establishment located in Estonia.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
5) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]

(7) Income tax is charged on interest which a non-resident received in connection with holding in a contractual investment fund or other pool of assets of whose property, at the time of the payment of interest or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the non-resident had a holding of at least 10 per cent at the time of the receipt of interest. Income tax is not charged on interest if the income of the investment fund

constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5^1 or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(7^1) Income tax is charged on a dividend (subsection 2 of § 18) or other profit distribution received by a non-resident natural person from a resident company if it is subject to taxation pursuant to § 50^1 at the level of the company that is paying the dividend or at the level of the company that distributed the profit that served as a basis for payment of the dividend and if it is not subject to taxation pursuant to subsection 1 of § 50 or if it has been paid out of the profit earned upon application of the procedure provided for in § 52^1.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(8) [Repealed – RT I 2008, 51, 286 – entry into force 01.01.2009]

(9) Income tax is charged on pensions, scholarships and grants, cultural, sports and scientific awards, benefits and gambling winnings paid on the conditions provided for in § 19, and benefits paid on the basis of the Family Benefits Act which are paid to a non-resident by the Estonian state, a local government, a resident or a non-resident through or on account of its permanent establishment located in Estonia. Income tax is charged on insurance indemnities paid on the conditions provided for in §§ 20–21 of this Act to a non-resident by the Estonian Health Insurance Fund, Estonian Unemployment Insurance Fund or a resident insurance company, or through or on account of the permanent establishment of a non-resident insurance company located in Estonia, and on payments made from a pension fund registered in Estonia and from a pension investment account as well as on payments made by the Social Insurance Board on the basis of subsection 5 of § 72^4 of the Funded Pensions Act.
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

(10) Income tax is charged on remuneration paid to a non-resident artist or athlete in connection with his or her performance or competition in Estonia or the presentation of his or her works in Estonia. Income tax is also charged on remuneration paid to a non-resident third person in connection with the activities of a resident or non-resident artist or athlete in Estonia.

(11) Tax is charged on the income provided for in this section of a foreign association of persons or pool of assets (excluding common investment fund) without the status of a legal person, which pursuant to the law of the state of the incorporation or establishment thereof is not regarded as a legal person for income tax purposes, as income of the shareholders or members of such association or co-owners of the pool of assets in proportion to their holdings, voting rights or share in common ownership. Tax is charged on the income specified in this section of a trust fund and such foreign legal person, which pursuant to the law of the state of the incorporation thereof is not regarded as a legal person for income tax purposes, as non-resident's income in proportion to its share in the trust fund, or holding or voting rights in the specified person.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(12) Tax is charged on gains specified in clauses 5 and 6 of subsection 4 that were derived by a trust fund and legal person specified in subsection 11 as gains of a non-resident shareholder in proportion to its share in the trust fund, or holding or voting rights in the legal person specified in subsection 11, regardless of the amount of its indirect holding in a company, investment fund or other pool of assets specified in clause 5 of subsection 4, if the trust fund or the legal person specified in subsection 11 had a holding of at least 10 per cent therein at the time of conclusion of the transaction specified in clauses 5 and 6 of subsection 4.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(13) If the shareholders or members of an association or legal person specified in subsection 11 or the co-owners of a pool of assets are unknown or if their residency is not proved, the income is attributed to the association, legal person or pool of assets, and income tax shall be withheld from and paid on the payments made thereto and the income shall be declared according to the provisions applicable to non-residents. If an association or pool of assets without the status of a legal person is located in a non-cooperative jurisdiction for tax purposes, income tax shall be withheld according to the provisions of law applicable to legal persons located in non-cooperative jurisdictions for tax purposes.
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]

§ 30. Non-residents whose income is not subject to income tax

(1) Income tax is not charged on income received for the performance of official duties in Estonia by a foreign diplomatic or consular representative, a representative of a special mission or a member of a diplomatic delegation, a member of a representation of an international or intergovernmental organisation, or a person employed by such representation, who is not a citizen or permanent resident of Estonia.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(2) Persons specified in subsection 1 shall be registered with the Ministry of Foreign Affairs. The procedure for registration shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 31. Non-resident's income not subject to income tax

(1) Income tax is not charged on the following income of a non-resident:
1) accepted estate;
2) property returned in the course of ownership reform;
3) fee and compensation payable for the acquisition, including expropriation, and establishment of compulsory possession on the basis of the Acquisition of Immovables in Public Interest Act, as well as income and compensation received from the exchange of immovables and land consolidation;
[RT I, 29.06.2018, 1 – entry into force 01.07.2018]
3^1) compensation received in the course of a land consolidation act;
[RT I, 29.06.2018, 1 – entry into force 01.07.2018]
4) income from sale of movable in personal use;
4^1) gains from transfer of immovable pursuant to conditions provided for subsections 5 and 6 of § 15;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
5) [Repealed – RT I, 14.02.2013, 1 – entry into force 01.01.2014]
6) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]
7) compensation for expenses and daily allowances during assignments abroad which are specified in clauses 1–1^4 of subsection 3 of § 13 under the conditions and within the limits specified in the same clauses;
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]
8) the compensations specified in clauses 2 and 2^1 of subsection 3 of § 13 under the conditions and according to the limits specified in the same clauses;
9) the income specified in clauses 9–11 of subsection 4 of § 15.

(2) [Repealed – RT I 2004, 45, 319 – entry into force 27.05.2004]

(3) [Repealed – RT I 2004, 45, 319 – entry into force 27.05.2004]

(4) Income tax is not charged on royalties (§ 16) paid by a resident company or through or on account of a permanent establishment of a resident company of a member state of the European Union or the Swiss Confederation registered in Estonia, if the condition specified in clause 1 and at least one of the conditions set in clauses 2–4 have been fulfilled:
1) the recipient of royalty is a resident company of another member state of the European Union or the Swiss Confederation either directly or through its permanent establishment registered in another member state of the European Union or the Swiss Confederation;
2) the company receiving the royalty owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company paying the royalty;
3) the company paying the royalty owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company receiving the royalty;
4) one and the same resident company of the European Union or the Swiss Confederation owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company paying the royalty and the company receiving the royalty.
[RT I 2006, 28, 208 – entry into force 01.07.2006, subsection 4 applied retroactively as of 1 January 2006.]

(5) The tax exemption referred to in subsection 4 is not applied to the part of royalty which exceeds the value of similar transactions conducted between non-associated persons.

§ 31^1. Deductions from income of non-resident natural persons

(1) Unemployment insurance premiums withheld on the basis of the Unemployment Insurance Act shall be deducted from the income received by a non-resident natural person during a period of taxation.

(2) A resident natural person of a Contracting State who has received his or her taxable income in Estonia can make the deductions provided for in Chapter 4 from his or her income taxable in Estonia.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(3) [Repealed – RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(4) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

Chapter 5^1
TAXATION OF INCOME OF COMMON INVESTMENT FUNDS AND PUBLIC LIMITED FUNDS

[RT I, 31.12.2016, 3 - entry into force 10.01.2017]

§ 31[2]. Gains from transfer of property

(1) Income tax is charged on gains derived from the transfer of property by a common investment fund and public limited fund if:
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
1) the transferred immovable is located in Estonia or
2) the transferred real right or right of claim is related to an immovable or a structure as a movable, which is located in Estonia, or
3) the transferred or returned holding is a holding in a company, contractual investment fund or other pool of assets of whose property, at the time of the transfer or return or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the transferor had a holding of at least 10 per cent at the time of conclusion of the specified transaction.
4) gains were derived on the conditions specified in clause 3 upon liquidation of a company, contractual investment fund or other pool of assets specified in the same clause.

(2) Income tax is not charged on the part of the gains derived from the return of holding specified in clause 3 of subsection 1 or liquidation specified in clause 4 of the same subsection if the income constituting the basis thereof has been taxed with income tax pursuant to the provisions of this Chapter or at the level of a company that has repurchased the holding or paid the liquidation proceeds pursuant to subsection 2 of § 50.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

§ 31[3]. Income from rent

Income tax is charged on the income from rent of a common investment fund and public limited fund derived from the membership in a building association established in Estonia, an apartment ownership located in Estonia, an immovable located in Estonia or limited real rights related thereto.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

§ 31[4]. Interest

(1) Income tax is charged on interest which a common investment fund or public limited fund received in connection with holding in a common investment fund or other pool of assets of whose property, at the time of the payment of interest or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or construction works as movables located in Estonia and in which the recipient of interest had a holding of at least 10 per cent at the time of the payment of interest.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) Income tax is not charged on the interest specified in subsection 1 if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of this Chapter or exempt from income tax pursuant to subsection 2 of § 31[2].
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

§ 31[5]. Investment funds whose income is not subject to income tax

Sections 31[2]–31[4]do not apply to:
1) pension funds established in Estonia;
2) pension funds established in another Contracting State which are subject to financial supervision and the prudential requirements applying to which or the management company thereof are at least as stringent as those established for the pension fund management companies in the Investment Funds Act.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

§ 31[6]. Certification of tax exemption of unit-holders

The management company of a common investment fund established in Estonia and a public limited fund founded in Estonia is required, at the request of a unit-holder or shareholder, to provide him or her with a certificate concerning the income constituting the basis for payment made to the unit-holder or shareholder upon the redemption of units or shares, liquidation of the fund or made as interest, on which income tax has been charged pursuant to the provisions of this Chapter or exempt from income tax pursuant to subsection 2 of § 31[2], by the fifth day of the calendar month following the making of the specified payment.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

Chapter 6

DEDUCTIONS FROM BUSINESS INCOME

§ 32. Expenses related to business

(1) All certified expenses incurred by a taxpayer in relation to business during a period of taxation may be deducted from the taxpayer's business income.

(2) Expenses are related to business if they have been incurred for the purposes of deriving income from taxable business or are necessary or appropriate for maintaining or developing such business and the relationship of the expenses with business is clearly justified, or if the expenses arise from subsection 1 of § 13 of the Occupational Health and Safety Act.

(3) If expenses incurred by a taxpayer are only partly related to business, only the part related to business may be deducted from business income.

(4) A sole proprietor may additionally deduct up to 5,000 euros during a period of taxation from his or her income derived from the sale of self-produced agricultural products after the deductions specified in subsection 1 have been made.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021, applied as of 01.01.2021]

(4^1) A sole proprietor may additionally deduct up to 5,000 euros during a period of taxation from his or her income derived from the sale of timber felled from an immovable belonging to him or her and the transfer of the right to cut the standing crop growing there as well as Natura 2000 support for private forest land after the deductions specified in subsection 1 have been made.
[RT I, 21.04.2020, 1 – entry into force 01.05.2020, applied retroactively as of 1 January 2020]

(5) [Repealed – RT I, 28.12.2020, 1 – entry into force 02.01.2021, applied as of 01.01.2021]

(6) Expenses related to business shall also include expenses made by a sole proprietor for improving his or her own health and certified expenses incurred in connection with personal meals of a sole proprietor during temporary engagement in business in a foreign state under the conditions provided for in subsections 4 and 5 of § 33.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

§ 33. Limitations on deduction of expenses

(1) Certified expenses incurred in connection with the provision of catering, accommodation, transportation or entertainment to guests and co-operation partners may be deducted from the business income of a period of taxation in an amount not exceeding 2 per cent of the business income after the deductions allowed under subsections 1 and 4 of § 32 have been made. In addition, such expenses may be deducted from the business income of a period of taxation in the amount of up to 32 euros per calendar month.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(2) Expenses incurred in granting fringe benefits may be deducted from business income only after the income tax prescribed in § 48 has been paid.

(3) Expenses of goods transferred or services provided for the purposes of advertising may be deducted from the business income of a period of taxation if the value of the goods or services without value added tax is up to 10 euros.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(4) Expenses made by a sole proprietor for improving his or her own health may be deducted from the business income of a period of taxation in accordance with the conditions provided for in subsection $5^5$of § 48.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(5) Certified expenses incurred in connection with personal meals of a sole proprietor during temporary engagement in business in a foreign state may be deducted from the business income of a period of taxation. The expenses of meals may be deducted from the business income of a period of taxation to the extent of the limits provided for in clause 1 of subsection 3 of § 13. Temporary engagement in business in a foreign state is deemed to be a situation where a sole proprietor is temporarily engaged in business in a state where a substantial part of his or her business is not conducted.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

§ 34. Expenses not deductible from business income

The following shall not be deducted from business income:

1) income tax established by this Act, except for income tax paid on the basis of § 48 of this Act;
2) [Repealed – RT I 2000, 58, 377 – entry into force 01.01.2000]
3) fines and non-compliance levies imposed on the basis of law and interest paid on the basis of the Taxation Act, except for the interest paid on the tax arrears to be paid in instalments on the basis of § 111 of the Taxation Act if the tax has not been imposed by a notice of assessment;
[RT I, 07.12.2018,1 – entry into force 01.01.2020]
4) the cost of property seized from the taxpayer;
5) [Repealed – RT I 2006, 28, 208 – entry into force 01.07.2006]
6) the environmental charge paid at an increased rate pursuant to the Environmental Charges Act, and compensation paid for damage caused to the environment or a third party by pollution or through violation of requirements prescribed by law;
7) expenses incurred on account of benefits not subject to income tax pursuant to this Act;
8) the cost of gifts or donations, except in the case specified in subsection 3 of § 33;
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]
9) any loss (§ 37) from the transfer, at a price lower than the market price, of property to a person associated with the taxpayer (§ 8), unless income tax has been paid on such loss pursuant to § 48;
10) any loss (§ 37) from the transfer, at a price higher than the market price, of property purchased from a person associated with the taxpayer (§ 8);
11) gratuities and bribes;
12) payments and contributions paid in Estonia or a foreign state if the objective of payment was to guarantee pension, health, maternity, unemployment, accident at work or occupational disease insurance to the person, if the Social Tax Act is applied upon taxation of business income.
[RT I, 30.06.2015, 1 – entry into force 01.01.2017]
13) amounts that have been paid to a natural person for providing services and that are subject to taxation on the basis of the Simplified Business Income Taxation Act;
[RT I, 07.07.2017, 2 – entry into force 01.01.2018]
14) the calculated sickness benefit specified in clause 18 of § 3 of the Social Tax Act;
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]
15) expenses incurred for earning the business income specified in subsection 10 of § 14.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

§ 35. Carrying forward of expenses exceeding business income

(1) If the total amount of the deductions allowed in subsections 1–3 of § 32 exceeds the business income derived by a taxpayer during a period of taxation, the amount by which expenses exceed business income (hereinafter *expenses carried forward*) may be deducted from business income during up to ten subsequent periods of taxation.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(2) If the amount of expenses carried forward exceeds business income derived during a period of taxation, the expenses carried forward are partly deducted from business income derived during the period of taxation and the remaining part of the expenses is carried forward to subsequent periods of taxation.

(3) If a taxpayer incurs expenses to be carried forward during more than one period of taxation, such expenses are recorded in accounting documents on a yearly basis in the order in which they were incurred. Expenses or parts of expenses which have been carried forward for more than ten years shall not be carried forward to subsequent periods of taxation.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

Chapter 7
RULES FOR CALCULATION OF TAXABLE INCOME

§ 36. Calculation of taxable income

(1) Income derived by a natural person (including business income) shall be recorded for income tax purposes during the period of taxation in which such income was derived. Deductions from taxable income (including expenses related to business) shall be recorded during the period of taxation in which such expenses were paid. Income tax paid or withheld shall be recorded during the period of taxation in which the tax was paid or withheld.

(2) A taxpayer shall keep account of its income and expenses in a manner which clearly sets out the data necessary for determining the taxable income. A taxpayer is also required to preserve the documents related to income and expenses.

(3) Business income and deductions therefrom are calculated in accordance with the rules prescribed in legislation regulating accounting, as far as this Act does not prescribe otherwise. The calculation method prescribed in subsection 1 also applies to sole proprietors who use the accrual method of accounting.

(4) If taxable income is received in a non-monetary form, the taxpayer is deemed to have received income in the amount of the market price of the object or proprietary right received.

(5) Income, deductions from income, and income tax paid or withheld in foreign currency shall be converted into euros on the basis of the European Central Bank exchange rate on the date on which the income was received, the payment was made or the income tax was paid or withheld.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(6) Upon declaration of bankruptcy of a natural person, the income and expenses subject to income tax and income tax paid or withheld shall be recorded separately as originating in the part of the period of taxation which preceded the declaration of bankruptcy and in the part which followed.

(7) A sole proprietor specified in subsection 5 of § 14 may open one special account with a credit institution which is a resident of a Contracting State or a branch of a non-resident credit institution registered in a Contracting State, and any increase in the amount in the account during a period of taxation is deducted from the business income of the same period and any decrease in the amount in the bank account is added to the business income of the same period. The increase in the amount in the special account during a period of taxation is deducted from the business income of the same period of taxation if amounts calculated as business income and benefits and compensations received in connection with business are transferred to the special account within ten working days as of their receipt. If the increase in the amount in the special account during a period of taxation exceeds the business income derived by the taxpayer and the amount of benefits and compensations received in connection with business during the period of taxation, from which the deductions provided for in § 32 have been made, the portion exceeding the specified proceeds shall not be deducted from the business income of the period of taxation and the decrease in the amount in the special account in this respect shall not be added to the business income. Receipt of the business income specified in subsection 10 of § 14 in the special account is not deemed to be an increase in the amount in the special account.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(7^1) The decrease in the amount in the special account is not added to the business income for a period of taxation upon the transfer of the special account in the case specified in subsection 7 of § 37.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(7^2) The decrease in the amount in the special account specified in subsection 7 of this section is not added to the business income if the decrease in the amount is due to closing the existing special account and opening a new special account provided that the entire amount in the special account being closed is transferred to the new special account within ten working days as of closing the special account.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(8) The interest paid by a credit institution for depositing money in a special account specified in subsection 7 is deemed to be business income derived by the account holder. In the case of termination of engagement in business, the amount in the special account is added to the business income.

§ 37. Calculation of gains and loss derived from transfer of property

(1) The gains or loss derived from the sale of property (subsection 1 of § 15) is the difference between the acquisition cost and the selling price of the sold property. The gains or loss derived from the exchange of property is the difference between the acquisition cost of the property subject to exchange and the market price of the property received as a result of the exchange. A taxpayer has the right to deduct certified expenses directly related to the sale or exchange of property from the taxpayer's gain or to add such expenses to the taxpayer's loss.

(2) In the case of transfer of property the acquisition cost of which the taxpayer has deducted from the taxpayer's business income or which has been acquired pursuant to the procedure provided for in subsection 7, the selling price of the property or the market price of the property received through exchange is deemed to be business income derived by the taxpayer.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(3) If a taxpayer has deducted the depreciation of fixed assets calculated on the basis of the Income Tax Act in force before the entry into force of this Act from the taxpayer's business income and if the fixed assets are transferred, the acquisition cost of such fixed assets is, upon calculation of the gains, reduced by the amount of the depreciation of the assets.

(4) Upon taking property specified in subsection 2 into personal use (either during engagement in business or in the case of termination of engagement in business), the market price of the property is included in the taxpayer's business income. Upon any future transfer of such property, the amount which pursuant to this subsection is added to business income is deemed to be the acquisition cost of the property.

(5) Upon taking property specified in subsection 3 into personal use (either during engagement in business or in the case of termination of engagement in business), the market price of the property minus the difference between the acquisition cost and the depreciation of fixed assets is included in the taxpayer's business income.

Upon any future transfer of such property, the amount which pursuant to this subsection is added to business income is deemed to be the acquisition cost of the property.

(6) If the activities of a sole proprietor are suspended pursuant to the provisions of the Commercial Code and the activities of a notary and bailiff are suspended pursuant to the provisions of the Taxation Act for longer than twelve months, the assets specified in subsections 2 and 3 of this section are deemed to have been taken into personal use.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(7) If the assets of a sole proprietor which belonged among the assets of an enterprise are transferred or bequeathed to a person who will continue the activities of the enterprise, the assets shall not be deemed to have been taken into personal use. The procedure for application of tax exemption upon transfer of the assets shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(8) Upon the transfer of the right to cut standing crop and felled timber, certified expenses relating to forest management shall also be deemed to be expenses related to the transfer and the taxpayer has the right to deduct the expenses from the income received from the transfer of the right to cut standing crop or felled timber during the same period of taxation or three following periods of taxation if the following conditions are met:
1) forest management is carried out, as defined in the Forest Act;
2) the owner of the forest has submitted a forest notification concerning the forest management activity to the Environmental Board in the case provided for in the Forest Act and the Environmental Board has permitted the activity planned in the forest notification.
[RT I, 08.07.2011, 5 – entry into force 01.01.2012]

(9) The expenses relating to forest management for the purposes of subsection 8 do not include any expenses incurred on account of grant not subject to income tax.
[RT I, 08.07.2011, 5 – entry into force 01.01.2012]

(10) The gains derived from the transfer of the right to cut standing crop and felled timber may be carried forward to up to three following periods of taxation. A taxpayer has the right to reduce the gains carried forward by the expenses specified in subsection 8 which were incurred during this period of taxation.
[RT I, 08.07.2011, 5 – entry into force 01.01.2012]

(11) A natural person may additionally deduct up to 5,000 euros during a period of taxation from his or her income derived from the sale of timber felled from an immovable belonging to him or her and the transfer of the right to cut the standing crop growing there as well as Natura 2000 support for private forest land after the deductions specified in subsection 8 have been made.
[RT I, 21.04.2020, 1 – entry into force 01.05.2020, applied retroactively as of 1 January 2020]

§ 38. Acquisition cost

(1) Acquisition cost means all certified expenses which a taxpayer makes in order to obtain, improve or supplement property, including any commissions and fees paid.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(1^1) The acquisition cost of property received by succession shall include only the expenses made by a successor.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(2) The acquisition cost of property acquired by way of a finance lease is the total amount of contractual lease payments or down payments, without interest.

(3) The acquisition cost of a self-manufactured object means the total amount of certified expenses incurred in manufacturing the object.

(4) The acquisition cost of property acquired for privatisation vouchers issued to a natural person by the state or received by succession or from his or her spouse, parent or child is deemed to be the average selling price of the privatisation vouchers as quoted on the stock exchange on the date of acquiring the property. The acquisition cost of property acquired before privatisation vouchers came to be quoted on the stock exchange is deemed to be the average local selling price of the privatisation vouchers on the date of acquiring the property.

(5) The acquisition cost of a holding (shares, contributions) acquired as a result of a merger, division or transformation of companies or non-profit co-operatives is deemed to be the acquisition cost of a holding in the company or non-profit co-operative being acquired, acquiring or being divided or transformed or contributions made to acquire such holding, to which additional contributions made during the merger, division or transformation have been added, and from which payments received have been deducted.

(5^1) The acquisition cost of a holding (shares, contributions) acquired by way of a non-monetary contribution shall be equivalent to the acquisition cost of the assets which constituted the non-monetary contribution. If the acquisition cost of the thing or proprietary right which constituted a non-monetary contribution has previously been deducted from the business income of the natural person and income tax has not been charged on it as

assets taken into personal use, the acquisition cost of the holding shall be deemed to be zero. The provisions of the previous sentence also apply to membership in non-profit associations if the joining fee or membership fee paid to the association has been deducted from the business income.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5^2) Additional contributions made shall be added to the acquisition cost determined pursuant to subsection $5^1$and payments received shall be deducted therefrom. In the calculation of acquisition cost, supply of labour or other services shall not be considered to be a non-monetary contribution.

(6) The acquisition cost of securities of the same class which are acquired at different prices and different times shall be calculated by consistently applying one of the following methods:
1) FIFO – transfer takes place in the order of purchase or
2) the weighted average method – the acquisition cost of one transferred security shall be calculated by dividing the amount of the acquisition costs of securities of the same class existent at the time of transfer by the number of securities of the same class.

(7) If, in the case of an assets sales transaction with the obligation or right to repurchase the assets in the future within a specified term and at a specified price (repo agreement), the repurchase price of the assets is higher than the sales price, the sales price of the assets sold by way of the repo agreement shall be deemed to be the acquisition cost of the repurchased assets.

(8) The acquisition cost of assets on which income tax is charged pursuant to §§ 48–50 or in a foreign state shall be increased by the amount of income tax charged.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(9) The acquisition cost of the units or shares of an investment fund which are transferred in the course of a switch is deemed to be the acquisition cost of the units or shares acquired upon the switch of the units or shares of an investment fund specified in clause 11 of subsection 4 of § 15 of this Act.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

§ 39. Calculation of loss suffered upon transfer of securities

(1) A resident natural person has the right to deduct any loss suffered upon the transfer of securities during a period of taxation from the gains derived from the transfer of securities during the same period of taxation. Gains derived from or a loss suffered in connection with securities in the cases provided for in subsections 1–$3^1$of § 15 shall also be considered the gains derived from or loss suffered upon the transfer of securities. Any loss from the transfer, at a price lower than the market price, of securities to a person associated with the taxpayer (§ 8) or from the transfer of securities acquired from such person at a price higher than the market price or invalidity of securities in favour of a person associated with the taxpayer on the conditions different from the market conditions or from the transfer of securities acquired for the money in the investment account specified in § 17^2shall not be deducted.
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]

(1^1) If the security giving the right to receive dividends is acquired within thirty days before the date on which the persons with the right to receive dividends are specified and is transferred on the date on which the persons with the right to receive dividends are specified, or within thirty days after such date, then the loss from the transfer of such security shall not be deducted from the gains derived from the transfer of other securities.
[RT I 2006, 28, 208 – entry into force 01.07.2006]

(2) The amount by which the loss suffered upon transfer of securities during a period of taxation exceeds the gains derived from transfer of securities during the same period of taxation shall not be deducted from the taxable income.

(3) If the amount of loss suffered upon transfer of securities during a period of taxation exceeds the amount of gains derived by a taxpayer from transfer of securities during the same period of taxation, the amount by which the loss exceeds the gains may be deducted from the gains derived from transfer of securities during subsequent periods of taxation.

(4) If the total amount of loss suffered during a period of taxation and carried forward from previous periods of taxation exceeds the gains derived from transfer of securities during the period of taxation, the loss is covered only to the extent of the gains from the period of taxation and the remaining amount of loss is carried forward to subsequent periods of taxation.

§ 39[1]. Calculation of rent

Twenty per cent shall be deducted in the tax return from the rent derived on the basis of a lease contract of a dwelling for the purposes of the Law of Obligations Act (subsection 1 of § 16) for covering the expenses related to the lease.
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

Chapter 8
WITHHOLDING OF INCOME TAX

§ 40. Withholding agent for income tax

(1) A withholding agent for income tax is a resident legal person, state or local government authority, sole proprietor, employer who is a natural person, or non-resident with a permanent establishment or operating as an employer in Estonia, who makes payments subject to income tax pursuant to Chapters 3, 5 or 5[1] of this Act to a natural person, non-resident, public limited fund or common investment fund.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) A withholding agent is required to withhold income tax on payments listed in § 41, pursuant to the rates prescribed in subsection 1 of § 43. Income tax is withheld upon the making of a payment. Income tax shall not be withheld on the following payments:
1) payments made to resident legal persons, except public limited funds;
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
2) payments made to non-residents' permanent establishments registered in Estonia;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
3) payments made to sole proprietors entered in the commercial register or the register of a Contracting State if the payments are the business income of the recipients;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
4) interest (subsection 1 of § 17) and insurance indemnities (subsection 3 of § 20) paid to resident natural persons if the taxpayer has notified a withholding agent for income tax that the interest or insurance indemnity has been received on financial assets acquired for the money in the investment account specified in § 17[2] or in the pension investment account specified in § 3[1] of the Funded Pensions Act.
[RT I, 22.12.2021, 4 – entry into force 01.01.2022]

(2[1]) [Repealed – RT I 2003, 88, 587 – entry into force 01.01.2004]

(3) An employer who is a natural person (except a sole proprietor) and a non-resident who operates as an employer in Estonia but does not have a permanent establishment (§ 7) in Estonia are required to withhold income tax only on payments specified in clauses 1 and 2 of § 41.

(3[1]) Income tax shall not be withheld on payments specified in clause 1 of § 41 if the recipient of the payment performs his or her official duties outside Estonia, and:
1) the payment is made through or on account of a resident legal person's permanent establishment in a foreign state, or
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
2) the withholding agent has a certificate issued by the foreign tax administrator stating that the recipient of the payment is a taxable person in the foreign state with regard to that income.

(3[2]) A non-resident who has provided an Estonian user undertaking with temporary agency workers (subsection 1[3] of § 29) is required to withhold income tax on the remuneration payable for performing work in Estonia (subsections 1 and 1[1] of § 13).
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(4) A withholding agent is required to transfer withheld income tax to the bank account of the Tax and Customs Board not later than by the tenth day of the month following the month during which the payment was made.

(5) A withholding agent is required to submit a tax return to the Tax and Customs Board by the due date specified in subsection 4. A resident of Estonia and a state or local authority shall submit the tax return electronically if it includes more than five recipients of payments. The format of the tax return and the procedure for completing the form shall be established by a regulation of the minister in charge of the policy sector. The amount of income tax withheld during a calendar year from the payments made to a resident natural person and specified in the tax return shall not be reduced after 15 February of the year following the calendar year. A withholding agent shall submit a tax return specified in the first sentence of this subsection with regard to employees employed on the basis of an employment contract or officials in a service relationship, whose employment has not been suspended according to the data in the employment register.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017]

(5^1) In case of the declaration of bankruptcy of a taxable person, the tax return specified in subsection 5 shall be submitted separately for the part of the period of taxation preceding the declaration of bankruptcy and following the declaration.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) At the request of a taxpayer, a withholding agent is required to issue a certificate to the taxpayer concerning payments made and the income tax withheld during a calendar year, broken down by types of income and tax rates, not later than by 1 February of the year following the withholding of the tax or, if the taxpayer leaves work, together with the final settlement. The format of the certificate and the procedure for completing the certificate shall be established by a regulation of the minister in charge of the policy sector.

(6^1) A withholding agent who during a calendar year has paid for the taxpayer the insurance premiums of supplementary funded pension or amounts for acquisition of units of voluntary pension funds shall provide, at the request of the taxpayer, a certificate regarding the above by 1 December of the calendar year.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

(7) The income tax of employees of such authorities whose staff, consolidated data or specific duties constitute a state secret shall be calculated pursuant to the procedure established by a regulation of the minister in charge of the policy sector.

§ 41. Payments from which income tax is withheld

Income tax is withheld from:
1) salaries, wages and other remuneration subject to income tax and paid to a resident natural person (subsections 1, 5 and 6 of § 13), and remuneration paid to members of the management and controlling bodies of a legal person (subsection 2 of § 13), taking into account the deduction allowed under § 42;
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]
2) salaries, wages and other remuneration paid to a non-resident (subsections 1 and 1^1 of § 29), and remuneration paid to non-resident members of the management and controlling bodies of a legal person (subsection 2 of § 29), taking into account the deduction specified in subsection 5 of § 42;
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]
3) remuneration or service fees paid to a natural person on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations (subsection 1^1 of § 13, subsection 1 of § 29);
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
4) interest payment subject to income tax paid to a resident natural person, common investment fund, public limited fund or non-resident (subsection 1 of § 17, § 31^4 and subsection 7 of § 29);
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
5) [Repealed – RT I 2008, 51, 286 – entry into force 01.01.2009]
6) insurance indemnities, pensions, payments made on the basis of a pension contract, from a pension fund and a pension investment account, scholarships and grants, benefits, gambling winnings and benefits paid on the basis of the Family Benefits Act (subsection 2 of § 19, subsections 1–3 of § 20, subsection 1 of § 20^1, subsection 1 of § 21 and subsection 9 of § 29) which are subject to income tax and paid to a non-resident or to a resident natural person, except for the payments specified in clause 12 and Natura 2000 support for private forest land;
[RT I, 28.12.2020, 1 – entry into force 02.01.2021; applied as of 01.01.2021]
7) income from rent (subsection 1 of § 16, clause 2 of subsection 6 of § 29) payable to a non-resident or a resident natural person, and royalties payable to a resident natural person (subsections 2 and 3 of § 16);
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]
7^1) income from rent payable to a common investment fund or public limited fund (§ 31^3);
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
7^2) a dividend or other profit distribution paid to a natural person if it is subject to taxation pursuant to § 50^1 at the level of the company that is paying the dividend or at the level of the company that distributed the profit that served as a basis for payment of the dividend and if it is not subject to taxation pursuant to subsection 1 of § 50 or if it has been paid out of the profit earned upon application of the procedure provided for in § 52^1 (subsection 1^3 of § 18 and subsection 7^1 of § 29);
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]
8) royalties paid to a non-resident (clause 4 of subsection 6 of § 29);
9) payments made to a non-resident artist or athlete for activities conducted in Estonia, and payments made to a third person who is a non-resident or a natural person for activities conducted in Estonia by an artist or athlete (subsection 10 of § 29);
10) payments to a non-resident for services provided in Estonia (subsection 3 of § 29);
11) payments to a legal person located in a non-cooperative jurisdiction for tax purposes (§ 10^1) for services provided to an Estonian resident (subsection 3 of § 29);
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]
12) payments listed in subsection 4 of § 20^1 and subsections 2 and 3 of § 21 which are made to a natural person;
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

13) payments of taxable income made to a resident natural person, which are not specified in the previous clauses, except for income specified in § 15.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 42. Deductions upon withholding of income tax

(1) On the basis of a written application of a taxpayer, the amount calculated pursuant to the following formula: 500 – 500 / 900 × (payment – 1,200) shall be deducted in each calendar month from the payments specified in § 41, which have been made to a resident natural person of a Contracting State, before calculating the income tax to be withheld. This amount may not be less than zero and larger than 500. A taxpayer may prescribe in his or her application that a smaller amount be deducted.
[RT I, 26.03.2021, 1 – entry into force 01.01.2022]

(1^1) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(1^2) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(2) If a recipient of payments receives taxable income from several withholding agents, he or she may submit the application specified in subsection 1 to only one withholding agent chosen by him or her, except in the case provided for in subsection 2^3.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(2^1) Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from a pension paid pursuant to law may be deducted from the mandatory funded pension payment provided for in subsection 4 of § 20^1 of this Act. Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from a payment made on the basis of subsection 5 of § 72^4 of the Funded Pensions Act and specified in subsection 4 of § 20^1 may be deducted from the other mandatory funded pension payments provided for in the same subsection. Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from a payment made on the basis of a pension contract provided for in the Funded Pensions Act may be deducted from the payment made from a mandatory pension fund. Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from a payment made from a mandatory pension fund may be deducted from the payment made from a pension investment account.
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

(2^2) In order to calculate the basic exemption, the registrar of the pension register, the Social Insurance Board and insurance undertakings entering into pension contracts shall exchange data pursuant to the procedure established by a regulation of the minister in charge of the policy sector.
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(2^3) If a recipient of payments receives taxable income simultaneously from the Social Insurance Board and the payer of the emolument specified in § 13, he or she may submit an application to both withholding agents. In such case, the total basic exemption indicated in the applications may not exceed one-twelfth of the amount provided for in subsection 1 of § 23.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(3) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(4) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5) The unemployment insurance premium withheld pursuant to clause 1 of subsection 1 of § 42 of the Unemployment Insurance Act from a payment made to a natural person in accordance with § 41 shall be deducted from the payment before calculation of the income tax to be withheld.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) The contributions to a mandatory funded pension withheld pursuant to clauses 1 and 2 of subsection 1 of § 11 of the Funded Pensions Act from a payment made to a resident natural person in accordance with § 41 shall be deducted from the payment before calculation of the income tax to be withheld.

(7) The insurance premiums of supplementary funded pension and amounts paid for the acquisition of units of voluntary pension funds for a resident natural person shall be deducted to the extent provided for in clause 15 of subsection 3 of § 13 before calculation of the income tax to be withheld from the amounts paid to the resident natural person, which are specified in clause 1 of § 41. The accounting shall be kept in total as of the beginning of a calendar year.
[RT I, 29.03.2012, 1 – entry into force 30.03.2012]

(8) If, upon withholding of income tax, basic exemption per taxpayer has been calculated in a larger amount than that calculated pursuant to the formula set out in subsection 1 of § 42, the Tax and Customs Board shall have the right to notify the withholding agent.

[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(9) Subsection 1 does not apply to taxation of the income specified in subsection 5 or 6 of § 13.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

§ 43. Rates of withheld income tax

(1) Income tax is withheld from payments specified in § 41 according to the following rates:
1) from payments specified in clauses 1–7^1, 11 and 13 pursuant to subsection 1 of § 4;
[RT I, 14.02.2013, 1 – entry into force 01.01.2014]
1^1) from the payment specified in clause 7^2) – 7 per cent;
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]
2) from payments specified in clauses 8–10 and 12 – 10 per cent.
[RT I 2008, 51, 286 – entry into force 01.01.2009]
3) [Repealed – RT I 2008, 51, 286 – entry into force 01.01.2009]

(2) If an international agreement prescribes lower rates for withholding income tax from a payment made to a non-resident than the rates specified in subsection 1, the rates prescribed by the international agreement are applied if the withholding agent submits a document certifying the recipient of income and the residency of the recipient of income to the Tax and Customs Board together with the tax return specified in subsection 5 of § 40. The document need not be submitted if data on the recipient of income and the residency of the recipient of income have been entered in the register of taxable persons provided for in the Taxation Act.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(3) The requirements for documents specified in subsection 2 shall be established by a regulation of the minister in charge of the policy sector.

(4) Income tax withheld in accordance with the rates specified in subsection 1 or in foreign agreements specified in subsection 2 is, for a non-resident recipient, the final income tax on income from Estonian sources as regards payments specified in § 41. This provision does not apply to a non-resident who derives income through a permanent establishment in Estonia (§ 7).

Chapter 9
DECLARATION OF INCOME AND PAYMENT OF INCOME TAX

§ 44. Income tax returns

(1) The taxpayer specified in subsection 1 of § 2 is required to submit an income tax return to the Tax and Customs Board concerning the income or gains of a period of taxation no later than by 30 April of the year following the period of taxation. Non-resident natural persons who have transferred securities during the period of taxation and want to exercise the right provided for in subsection $4^2$of § 29 shall submit an income tax return by the same date. Non-residents, management companies of common investment funds and public limited funds are required to submit an income tax return concerning only such income on which income tax has not been withheld on the basis of § 41. It is possible to submit an income tax return through the e-service of the Tax and Customs Board as of 15 February of the year following the period of taxation.
[RT I, 23.12.2019, 2 – entry into force 01.01.2021]

(1^1) The Tax and Customs Board shall complete the income tax return concerning the income of a resident natural person during a period of taxation and the deductions made therefrom on the basis of §§ 23 and 28 and subsections 1 and 2 of § 28^1, and concerning the transfer of the securities with the data specified in subsection $5^2$of § 57^1on the basis of the data at the disposal of the Tax and Customs Board and make the pre-completed tax return available to the taxpayer through the e-service of the Tax and Customs Board and at the service point of the Tax and Customs Board as of 15 February of the year following the period of taxation. If the taxpayer uses the pre-completed tax return, he or she is required to verify the correctness of the data contained in the tax return and submit an amended and supplemented tax return in the event of incorrectness or deficiency of the data.
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(1^2) A natural person who has not been resident during the whole period of taxation shall submit an income tax return concerning only income received during the period when the person was resident and may make deductions allowed under Chapter 4 for the same period of time. The deductions provided for in §§ 23 and 23^1may be made and the limit on deductions specified in § 28^2shall be taken into account in proportion to the number of months during which the person was resident.

[RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(1^3) A resident natural person who received income which, pursuant to subsection 4 of § 13, subsection 10 of § 14, subsection 1^1 of § 18 or an international agreement, is exempt from income tax in Estonia is required to declare such income.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(1^4) A resident natural person who is a member of a building association established in Estonia or who owns an apartment ownership or an immovable located in Estonia, or right of superficies or right of superficies in apartments related an immovable located in Estonia shall warrant in the tax return the receipt or non-receipt of income from rent (subsection 1 of § 16) during a period of taxation.
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

(2) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2017]

(2^1) A resident taxpayer who was married as at the last day of the period of taxation may deduct in his or her income tax return the increased basic exemption provided for in § 23^4 for his or her spouse and make the deductions provided for in §§ 25 and 26, taking into account the restrictions provided for in § 28^2. The deductions provided for in this subsection may also be used by spouses, one of whom is a resident and another is a resident of a Contracting State or both of whom are residents of a Contracting State.
[RT I, 26.03.2021, 1 – entry into force 05.04.2021, applied retroactively as of 1 January 2021.]

(3) In the case provided for in subsection 6 of § 36, a natural person is required to submit an income tax return within one month after the declaration of bankruptcy.

(3^1) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5^1) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5^2) A non-resident specified in subsection 2 or 3 of § 31^1 submits the income tax return of a resident natural person to use the deductions permitted in the aforementioned subsections.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) The following persons are not required to submit an income tax return:
1) a resident natural person whose income does not exceed the rate of basic exemption provided for in § 23 or whose income of the period of taxation is not subject to additional income tax, except in the case specified in subsection 6^1;
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]
1^1) a resident natural person of a Contracting State whose income does not exceed the rate of basic exemption provided for in § 23 or whose income of the period of taxation is not subject to additional income tax, except if the person derives business income from Estonia subject to taxation pursuant to subsection 3 of § 29 or wants to exercise the right provided for in subsection 4 of § 23;
[RT I, 26.03.2021, 1 – entry into force 01.01.2022]
2) persons specified in subsection 4 of § 43.
3) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]

(6^1) The following persons shall submit an income tax return regardless of the provisions of clause 1 of subsection 6:
1) sole proprietors;
2) persons who have made contributions to or payments from an investment account specified in § 17^2 during the period of taxation;
3) persons specified in subsection 6 of § 22 and subsection 1^3 of this section;
4) persons who want to exercise the right provided for in subsection 4 of § 23;
5) persons who have transferred securities during the period of taxation and want to exercise the right provided for in subsection 3 of § 39;
[RT I, 23.12.2019, 2 – entry into force 01.01.2020, applied retroactively as of 01.01.2018]

(7) The formats of income tax return and annexes thereto, and the procedure for completion thereof shall be established by a regulation of the minister in charge of the policy sector.

§ 45. Calculation of income tax paid abroad

(1) If a resident taxpayer has derived income from abroad during a period of taxation, all income derived from abroad is included in the taxable income of the person and income tax paid or withheld on such income

abroad is deducted from the income tax to be paid, in accordance with the conditions specified in subsections 2–6. Income tax is calculated separately for income derived in Estonia and for income derived in each foreign state. Income tax paid in a foreign state on income which is not subject to tax in Estonia shall not be taken into account.

(2) If the income tax calculated in accordance with this Act on income derived in a foreign state exceeds the amount of income tax paid in the foreign state, the taxpayer is required to pay the difference between the foreign income tax and Estonian income tax as income tax to be paid in Estonia.

(3) If the income tax calculated on income derived in a foreign state is less than the income tax paid in the foreign state or if the income tax calculated according to the taxpayer's income tax return on income from all sources is less than the income tax paid in the foreign state, the overpaid amount of income tax paid in the foreign state is not refunded in Estonia.

(4) If a resident natural person has derived taxable income pursuant to subsection 4 of § 18 or § 22, he or she has the right to deduct a proportional share of the income tax paid or withheld abroad by a foreign legal person, association of persons or pool of assets, which corresponds to the resident's share of profit taxable as income, from the income tax to be paid by him or her. If a resident natural person has derived taxable income pursuant to subsection 4 of § 18, he or she has the right to deduct a proportional share of the income tax paid or withheld abroad on the income of a trust fund, which corresponds to the resident's share in the trust fund, from the income tax to be paid by him or her.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(5) Income tax paid or withheld in a foreign state may be deducted from income tax payable in Estonia only if the taxpayer submits a certificate issued by the foreign tax administrator or withholding agent certifying the payment of income tax or another tax equivalent to income tax.

(6) If more income tax is paid or withheld in a foreign state than prescribed by the law of the country or an international agreement, only the mandatorily payable part of the income tax of the foreign state may be deducted from income tax payable in Estonia.

(7) If the income tax on income derived in a foreign state is paid during a period of taxation different from the period when the income was derived, it shall be taken into account in Estonia during the period of taxation when the income taxable in a foreign state was received.

(8) If a resident natural person has received interest from which income tax has been withheld arising from Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (OJ L 157, 26.6.2003, p. 38–48) or from an agreement concluded by Estonia or the European Union on the basis of that directive, then the withheld income tax may be deducted from the income tax payable on the income of the same period of taxation in Estonia. The part of income tax not deducted shall be returned by the due date provided in subsection 6 of § 46.
[RT I 2006, 28, 208 – entry into force 01.07.2006, subsection 8 applied retroactively as of 1 January 2006.]

§ 46. Payment and refund of income tax

(1) The Tax and Customs Board shall calculate any amount of tax subject to payment additionally (additional amount due) and issue a written tax notice to this effect to the taxpayer. Tax notices shall not be issued in the case of an electronically submitted tax return and to a non-resident, except for in the case specified in subsection $5^2$of § 44. The tax authority shall publish the tax calculation in the e-service environment of the Tax and Customs Board "e-Tax Board/ e-Customs" and shall notify of the due date of liabilities incurred and of the possibility to examine the tax calculation in the environment "e-Tax Board/ e-Customs".
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(1^1) If a taxpayer uses the right provided for in subsection 10 of § 37, the additional amount due on the gains derived from the transfer of the right to cut standing crop and felled timber is calculated on the basis of an income tax return submitted no later than for the third calendar year following the calendar year of deriving the gains.
[RT I, 08.07.2011, 5 – entry into force 01.01.2012]

(2) Income tax withheld or paid during a period of taxation on the basis of §§ 41 and 47 is deducted from the total income tax of the period of taxation. Income tax withheld or paid in a foreign country is also deducted to the extent specified in § 45.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) A taxpayer is required to pay any additional amount due which is specified in the tax notice into the bank account of the Tax and Customs Board no later than by 1 October of the calendar year following the period of taxation.

[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4^1) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5) [Repealed – RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(6) The Tax and Customs Board shall refund the amount of tax overpaid by a natural person to the bank account of the taxpayer indicated in the tax return or, on the basis of a written application of the taxpayer, to the bank account of a third person, except in the cases prescribed in the Taxation Act. Overpaid amounts of tax shall be refunded no later than by the due date provided for in subsection 3.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

§ 47. Advance payments

(1) A sole proprietor who derived business income during a previous period of taxation is required to make advance payments of income tax during the period of taxation. The size of an advance payment is one-quarter of the total amount of income tax calculated on the business income derived by the person during the previous period of taxation.
[RT I 2006, 28, 208 – entry into force 01.07.2006]

(2) Advance payments shall be made into the bank account of the Tax and Customs Board in equal amounts by 15 September and 15 December. Advance payments need not be paid if the quarterly payment does not exceed 300 euros.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(3) A taxpayer who derives business income is not required to make advance payments of income tax during the first period of taxation.

(4) A sole proprietor whose business is registered in the commercial register as temporary or seasonal or suspended is not required to make advance payments of income tax.
[RT I 2008, 60, 331 – entry into force 01.01.2009]

(5) The Tax and Customs Board has the right to reduce the size of advance payments or exempt a taxpayer from making advance payments if the taxpayer's estimated business income during the period of taxation is considerably smaller than the income of the previous period of taxation and if the taxpayer submits a corresponding reasoned application.

§ 47^1. Advance payments of credit institution

(1) A resident credit institution and Estonian branch of a non-resident credit institution are required to make an advance payment of income tax on the profit earned in the previous quarter before performance of the tax liabilities provided for in this subsection, subsections 1 and 2 of § 50, § $50^1$and subsection 4 of § 53 into the bank account of the Tax and Customs Board at the rate provided for in subsection 5 of § 4 by the tenth day of the third month of each quarter.

(2) The profit of a quarter shall be reduced by the income of the same quarter specified in subsection $1^1$of § 50 and subsection $4^1$of § 53 and by the loss of up to 19 previous quarters. The loss of previous quarters can be used for reducing the profit to the extent that has not been used for reducing the profit before.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

Chapter 10
SPECIAL CASES OF PAYMENT OF INCOME TAX

§ 48. Income tax on fringe benefits

(1) An employer shall pay income tax on fringe benefits granted to employees.

(2) For the purposes of subsection 1, an employer is a resident legal or natural person, a state or local government authority, or a non-resident who has a permanent establishment in Estonia (§ 7) or whose employees work in Estonia.

(3) For the purposes of subsection 1, an employee is a person employed under an employment contract, an official (subsection 1 of § 13), a member of the management or controlling body (§ 9), or a natural person who sells goods to an employer during a period longer than six months. A natural person who works or provides services on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations is also deemed to be an employee within the meaning of subsection 1.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(4) Fringe benefits are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to a person specified in subsection 3 in connection with an employment or service relationship, membership in the management or controlling body of a legal person, or a long-term contractual relationship, regardless of the time at which the fringe benefit is granted. Fringe benefits include:
1) full or partial covering of housing expenses;
2) the use of a vehicle or other property of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business;
3) payment of insurance premiums, unless such obligation is prescribed by law;
4) [Repealed – RT I, 30.06.2015, 1 – entry into force 01.01.2016]
5) compensation for use of a private automobile, in so far as it exceeds the limits provided for in clause 2 of subsection 3 of § 13 (clauses 2 and 2^1 of subsection 3 of § 13 and clause 8 of subsection 1 of § 31);
[RT I 2009, 18, 109 – entry into force 01.07.2009]
6) loans granted with an interest rate below the market conditions, except if the interest at the moment of the payment thereof is at least twice the interest rate last published pursuant to subsection 2 of § 94 of the Law of Obligations Act;
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]
7) transfer free of charge or sale or exchange at a price lower than the market price, of a thing, security, proprietary right or service;
8) purchase of a thing, security, proprietary right or service at a price higher than the market price;
9) waiver of a monetary claim, unless the estimated reasonable costs of collecting the monetary claim exceed the claimed amount;
10) covering of expenses on formal education or in-service training for the purposes of § 1 of the Adult Education Act, except for covering of expenses on formal education or in-service training which are directly related to employment and service relationship and functions of a member of management board of a legal person, director of a branch of a foreign company and manager of another permanent establishment of a non-resident;
[RT I, 23.03.2015, 5 – entry into force 01.07.2015]
11) income received from transfer of share options granted by the employer or acquisition of holding that constitutes the underlying assets of the option, taking into account the provisions of subsection 5^3.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5) Fringe benefits do not include cash payments ordinarily regarded as salary, wages, additional remuneration, additional payments, remuneration of a member of a management or controlling body, or payments for goods or services. Payments made to natural persons on which income tax has been withheld on the basis of § 41 or which pursuant to §§ 13–21 or §§ 30–31 are not subject to income tax are also not classified as fringe benefits.

(5^1) Compensation for the ticket price of the public transport used to transport employees between the place of residence and place of work is not subject to taxation as a fringe benefit. Compensation for other transport expenses is not subject to taxation as a fringe benefit if it is impossible to make the journey using public transport with a reasonable expenditure of time and money, or if disabled employees are unable to use public transport or if use of public transport causes a material decrease in the persons' ability to move or work.
The employer's enterprise-related expenses for the transportation of an employee working on the basis of an employment contract between the place of residence and place of work are not subject to taxation as fringe benefits if the place of residence of the employee is located at a distance of at least 50 kilometres from the place of work or if the employer arranges transportation using a vehicle with at least eight seats or with a bus for the purposes of the Traffic Act.
[RT I, 06.12.2018, 2 – entry into force 01.01.2020]

(5^2) Expenses incurred by a foreign mission of the Republic of Estonia in connection with the participation of a diplomat in a diplomatic reception, meeting or other event organised for the purpose of foreign relations are not classified as fringe benefits.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5^3) Fringe benefits do not include the granting of share options. If the underlyings to which the option refers are the holding in the employer or a company that belongs to the same group as the employer, the acquisition of the holding that constitutes the underlying assets of the share option is not classified as fringe benefits, if the holding is acquired no earlier than three years as of the granting of the share option. An employee is required to notify the employer of the transfer of the share option. In case the underlyings to which the option refers are changed, the specified term shall be calculated as of the granting of the initial option. If the entire holding in the employer or a company that belongs to the same group as the employer is transferred during the term of at least three-year option contract, and also in case an employee is established to have no work ability or in the event of the death of an employee, fringe benefits do not include the acquisition of the holding constituting the underlyings to which the option refers to the extent that corresponds to the proportion of the time of keeping the option prior to the specified event. Unless the option contract is digitally signed and notarially authenticated, the employer is required to submit the specified contract to the Tax and Customs Board within five working days as of the entry into the contract.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, subsection 5^3 applied retroactively as of 1 July 2017.]

(5[4]) Fringe benefits do not include expenses made for granting medical devices to an employee who has been established to have partial or no work ability (in the case of an auditory disability, decrease of auditory ability of 30 decibels and more) or whose degree of disability has been determined to the extent of up to 50 per cent of the amount paid to the employee during this calendar year, which is subject to social tax. The creation of a fringe benefit shall be determined in a tax return specified in subsection 1 of § 54, which is to be submitted for the last month of a calendar year of granting the medical devices.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, subsection 5[4]applied retroactively as of 1 July 2017.]

(5[5]) Tax is not imposed as fringe benefits on the following expenses made for improving the employees' health to the extent of 100 euros per employee in a quarter if the employer has enabled these to all employees:
1) participation fee in public sports events;
2) expenses directly related to regular use of sporting or mobility venues;
3) expenses made for maintenance of the employer's existing sports facilities;
4) expenses made for the services of a rehabilitation therapist, physiotherapist, occupational therapist, clinical speech therapist or clinical psychologist entered in the state register of health care professionals or holding a corresponding professional certificate;
5) insurance premiums of a sickness insurance contract.
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]

(5[6]) The employer's enterprise-related expenses for the accommodation of an employee working on the basis of an employment contract are not classified as fringe benefits, if both of the following conditions are met:
1) the place of residence of an employee is located at the distance of at least 50 kilometres from the place of work and the employee does not own any immovable property used as a housing, which is located closer to the place of work, and these conditions are met throughout the period of accommodation;
2) the expenses per employee accommodated are up to 200 euros per calendar month in case of accommodation in Tallinn or Tartu and up to 100 euros in other cases.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017, subsection 5[6]applied retroactively as of 1 July 2017.]

(6) Benefits specified in subsection 4 which an employer grants to the spouse, cohabitee or direct blood or collateral relative of a person specified in subsection 3 or which are granted by a person that belongs to the same group as the employer are also deemed to be fringe benefits granted by the employer. An employee is required to notify the employer of receiving the fringe benefit from the person specified in the previous sentence.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(7) In general, the price of a fringe benefit shall be determined on the basis of the market price of the goods or services provided as a fringe benefit. The procedure for determining the price of a fringe benefit shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(8) The price of a fringe benefit for enabling the use of an automobile in the ownership or possession of the employer for activities not related to employment or service duties or to the employer's business is 1.96 euros per month for an engine power unit (kW) of the automobile as indicated in the motor register. In the case of an automobile older than five years, the price of a fringe benefit is 1.47 euros for an engine power unit (kW) of the automobile. No fringe benefit shall arise during the period of taxation when the automobile has been deleted from the motor register temporarily or the register entry has been suspended.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(8[1]) The procedure for determining the price of a fringe benefit provided for in subsection 8 may also be used upon enabling the use of a truck with a maximum mass not exceeding 3500 kilograms for the purposes of the Traffic Act for activities not related to employment or service duties or to the employer's business.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(8[2]) If an employer who is the owner or authorised user of an automobile for the purposes of the Traffic Act does not enable the use of an automobile in the ownership or possession of the employer for activities not related to employment or service duties or to the employer's business, the employer shall notify, upon acquisition or commencement of use of the automobile, the Road Administration that shall make a notation in the data of the vehicle in the motor register concerning the use of the automobile only for the performance of employment or service duties. In the case of commencement of use of such an automobile for activities not related to employment or service duties or to the employer's business, the employer shall notify the Road Administration thereof in advance.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(9) Income tax is not charged on fringe benefits granted to an employee in connection with work in a foreign state if the conditions provided for in subsection 4 of § 13 are met.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 49. Income tax on gifts, donations and costs of entertaining guests

(1) Resident legal persons, except persons included in the list specified in subsection 1 of § 11, shall pay income tax on gifts and donations on which income tax has not been withheld on the basis of § 41 or not

been paid on the basis of § 48, taking into consideration the specifications specified in subsections 2 and 4. Income tax is not charged on goods transferred or services provided for the purposes of advertising which value excluding value added tax is up to 10 euros. Gifts also include prizes of commercial lotteries with the prize fund of up to 10,000 euros regardless of the limit provided for in the previous sentence.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) Income tax is not charged on gifts and donations made during a calendar year to persons included in the list specified in subsection 1 of § 11 or persons specified in subsection 10 of § 11 in an amount not exceeding one of the following limit values:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) 3 per cent of the amount of the payments subject to social tax pursuant to clauses 1–4 and 6 of subsection 1 of § 2 of the Social Tax Act (hereinafter *individually registered social tax*) made by the taxpayer during the same calendar year;
2) 10 per cent of the profits for the last financial year of a taxpayer which ended as of 1 January of a calendar year, calculated pursuant to the legislation regulating accounting.

(3) The taxpayer has the right to calculate the gifts and donations specified in subsection 2 made during the calendar year in total. The taxpayer shall determine the total annual exemption for such gifts and donations, based on only one limit value of the taxpayer's choice specified in the same section.

(4) Income tax is not charged on payments by persons included in the list specified in subsection 1 of § 11 made in connection with the provision of catering, accommodation, transportation or entertainment to guests and co-operation partners. In the case of other resident legal persons, income tax is not charged on such payments in the amount of up to 32 euros per calendar month. In addition, if such legal person is making payments subject to individually registered social tax, the legal person may make, in a calendar month, payments exempt from income tax in connection with the provision of catering, accommodation, transportation or entertainment to guests and co-operation partners in the amount of up to 2 per cent of the total amount of the payments subject to individually registered social tax made by the legal person during the same calendar month.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(4^{1}) Co-operation partners of a non-profit association and foundation shall also include natural persons who participate in the activities of a non-profit association or foundation in his or her free time and without charge.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(5) If, during some months of a calendar year, a resident legal person has not made the payments specified in subsection 4 or has made them in an amount below the limit values for exemption provided for in the same subsection, the legal person has the right to apply recalculation in total to the payments made during that month and the following months until the end of the calendar year.

(6) Persons included in the list specified in subsection 1 of § 11 shall pay income tax on all gifts and donations on which income tax has not been withheld on the basis of § 41 or not been paid on the basis of § 48, except the following gifts and donations made in pursuance of the objectives set out in their articles of association:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) gifts and donations made to persons included in the list specified in subsection 1 of § 11 and specified in subsection 10 of § 11;
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
2) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]
3) material assistance granted to a natural person for subsistence, including financial assistance to the extent of the amount of average monthly expenses of a member of a household per calendar month according to the latest information disseminated by Statistics Estonia;
[RT I 2006, 28, 208 – entry into force 01.07.2006]
4) souvenirs presented to participants in a permanent youth camp or youth project camp in the amount of up to 32 euros per participant in camp or project;
[RT I 2010, 44, 262 – entry into force 01.09.2010]
5) souvenirs presented at a sports event to the participants in the event, in the amount of up to 32 euros per participant in event;
[RT I 2010, 22, 108 – entry into force 01.01.2011]
6) goods transferred or services provided for the purposes of advertising which value excluding value added tax is up to 10 euros.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6^{1}) Gifts and donations shall not include the transfer of the assets of a person included in the list specified in subsection 1 of § 11 for the achievement of the objectives of its charitable activities carried out in the public interest.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(7) [Repealed – RT I 2003, 88, 587 – entry into force 01.01.2004]

§ 50. Income tax on dividends and other profit distributions

(1) A resident company, including a general and limited partnership, shall pay income tax on profit distributed as dividends or other profit distributions upon payment thereof in monetary or non-monetary form, taking into account the provisions of § 50^1. Income tax is not charged on profit distributed by way of a bonus issue.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(1^1) The income tax provided for in subsection 1 is not charged on dividends if:
1) the resident company paying the dividend has derived the dividend which is the basis for the payment from a resident company of a Contracting State or the Swiss Confederation subject to income tax (except for a company located in a non-cooperative jurisdiction for tax purposes) and at least 10 per cent of such company's shares or votes belonged to the company at the time of deriving the dividend;
[RT I, 26.03.2021,1 – entry into force 01.07.2021]
2) the dividend is paid out of profit attributed to a resident company's permanent establishment located in a Contracting State or Swiss Confederation;
3) the company paying the dividend has derived the dividend which is the basis for the payment from a company of a foreign state not specified in clause 1 (except for a company located in a non-cooperative jurisdiction for tax purposes) and at least 10 per cent of such company's shares or votes belonged to the company at the time of deriving the dividend, and income tax has been withheld from the dividend or income tax has been charged on the share of profit which is the basis thereof;
[RT I, 26.03.2021,1 – entry into force 01.07.2021]
4) the dividend is paid out of the profit attributed to foreign permanent establishment of a resident company and income tax has been charged on such profit;
5) the dividend is paid on account of the portion of payments specified in subsection 2^1;
[RT I 2008, 51, 286 – entry into force 01.01.2009]
6) the dividend is paid on account of income of a public limited fund, on which income tax has been charged pursuant to the provisions of Chapter 5^1or exempt from income tax pursuant to subsection 2 of § 31^2;
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]
7) the dividend is paid on account of a repaid loan subject to taxation pursuant to § 50^2;
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]
8) the dividend is paid on account of the dividend received from the foreign controlled company or on account of the gains from the sale of such company in the amount subject to income tax on the basis of § 54^3;
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]
9) the dividend is paid on account of the assets that have been taken out to a permanent establishment and have been taxed with income tax on the basis of § 54^5.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(1^2) In the cases specified in clauses 3 and 4 of subsection 1^1, only the income tax subject to payment pursuant to law or an international agreement shall be taken into account.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(1^3) Clauses 1 and 3 of subsection $1^1$and subsection 2^1shall apply if a company from which the dividend has been received does not have the right to deduct it from its taxable profit.
[RT I, 04.05.2016, 2 – entry into force 01.11.2016]

(1^4) [Repealed – RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(1^5) Deriving the dividend by a trust fund where a resident company is a shareholder shall also be considered deriving the dividend for the purposes of clauses 1 and 3 of subsection 1^1. In such case, indirect holding in a company specified in these clauses corresponding to the amount of the share of the resident company in the trust fund shall be considered the holding provided for in clauses 1 and 3 of subsection 1^1.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) A resident company, except for a public limited fund, shall pay income tax on such portion of payments made from the equity upon reduction of the share capital or contributions, upon redemption or return of shares or contributions (hereinafter *holding*) or in other cases, which exceeds the monetary and non-monetary contributions made to the equity of the company. Contributions made by one merged company to the equity of another merged company or made by a merged company to the equity of a company established as a result of the merger shall not be taken into account as contributions made to the equity of an acquiring company or of a company established as a result of the merger. Upon a division, contributions to the equity of a recipient company shall include contributions made to the equity of the company prior to the division on account of which no payments have been made from the equity or which have not been transferred to another company, and the corresponding share of contributions transferred to a recipient company by a company being divided. If assets, except for assets taken to a permanent establishment and brought back to Estonia, residence for tax purposes or the economic activities of a permanent establishment are brought to Estonia, the value of the assets established in the state of the taxpayer or of its permanent establishment shall be regarded as a contribution made to the equity of a resident company. If the established value does not reflect the market value, the market value shall be used as a basis. If an enterprise belonging to a permanent establishment of a non-resident is transferred to a resident company, the assets brought to Estonia for the purpose of the permanent establishment

before the transfer of the enterprise are also deemed to be monetary and non-monetary contributions paid to the equity of the company.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020, amended [RT I, 23.12.2019, 1]]

(2^1) Taking account of the percentage of holding provided for in subsection $1^1$and the provisions of subsection 1^2, income tax is not charged on payments specified in subsection 2 and $2^2$the bases for which are the dividends specified in subsection 1^1or the portion of the payments specified in subsection 2 or 2^2which are received by the company if the dividends or portion of the payments are or the share of profit which is the basis of the dividends or portion of the payments has been taxed with income tax. In the case of several recipients of a payment specified in subsection 2 or 2^2, tax exemption is applied to the received portion of payment proportionally to the portion of the payment which has been taxed, when making the payment.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(2^2) A resident company which is deleted from the register shall pay income tax on the market value of the assets, including the liquidation distributions, which exceeds the monetary and non-monetary contributions made to the equity on account of which no payments have been made from the equity or which have not been transferred to another company. This subsection does not apply if the assets of the company deleted from the register without liquidation are continuously used in economic activities in Estonia in another company or if the assets of the company deleted from the register are continuously used in the permanent establishment of a non-resident company. If the economic activities are continued through another resident company, tax on the specified share of the equity shall be charged pursuant to §§ 48–52. If the company maintains a permanent establishment in Estonia, tax on the specified share of the equity shall be charged pursuant to § 53.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(2^3) [Repealed – RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(2^4) Income tax is not charged on payments specified in subsections 1 and 2 if the income constituting the basis thereof has been received upon the redemption of units of a common investment fund or shares of a public limited fund or liquidation of a fund or as interest from a fund, and income tax has been thereon pursuant to the provisions of Chapter 5^1or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(3) [Repealed – RT I 2000, 102, 667 – entry into force 01.01.2001]

(4) If the price of a transaction concluded between a resident legal person and a person associated with the resident legal person differs from the market value of the above transaction, income tax shall be imposed on the amount which the taxpayer would have received as income or the amount which the taxpayer would not have incurred as expenses if the transfer price had conformed to the market value of the transaction.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4^1) Subsections 4 and 4^2–8 also apply to transactions between business entities belonging to a legal person if tax is charged on the income of at least one of them on the basis of § 52^1.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(4^2) Upon transfer of assets from a business entity belonging to a legal person the profit of which is taxed on the basis of §§ 49–52 to a business entity the income of which is taxed on the basis of § 52^1, the assets are deemed as being taken out from the business of the first business entity and the undertaking will have the tax liability on the basis of the market value of the assets. The tax liability also arises to the full extent if § 52^1only applies in part to the income received from activities carried out with the assets.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(5) Subsection 4 shall not apply to difference between the transfer price and the market value of transaction if a legal person has paid income tax on the difference or income tax has been withheld from the difference pursuant to § 41.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) The methods for determining the market value of transactions specified in subsection 4 shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(7) For implementation of subsection 4, a resident company is required to submit additional information on the transactions with associated persons, activity of companies belonging to the same group and structure of the group at the demand of a tax authority. The tax authority shall grant the company a term of at least sixty days for submitting such information.

[RT I 2006, 28, 208 – entry into force 01.01.2007]

(8) The requirements set for the information specified in subsection 7 shall be established by a regulation of the minister in charge of the policy sector.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(9) If the taxpayer so demands, the payer specified in subsection 2 and § 50^1 is required to issue a certificate regarding payments specified in subsection 2 and § 50^1 which are made during a calendar month by the fifth day of the following calendar month. In the case of the payment specified in subsection 2, the certificate shall set out the total amount of the payment and the portion of the payment which or the share of profit constituting the basis for which has been taxed with income tax. In the case of the payment specified in § 50^1, the certificate shall set out the payment which or the share of profit constituting the basis for which is subject to taxation at the rate provided for in subsection 5 of § 4. The format of the certificate and the procedure for completion thereof shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

§ 50^1. Income tax on regularly payable dividends and other profit distributions

The profit distributed in a calendar year, which is smaller than or equal to the average distributed profit of the previous three calendar years on which a resident company has paid income tax pursuant to subsections 1 and 2 of § 50 or this section shall be subject to taxation at the rate provided for in subsection 5 of § 4. The dividend exempt from income tax pursuant to subsection 1^1 of § 50, the payment exempt from income tax pursuant to subsection 2^1 of § 50 and the profit distribution subject to taxation pursuant to § 50^2 shall not be taken into account in calculating the average distributed profit of three calendar years.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

§ 50^2. Income tax on hidden profit distributions

(1) A resident company shall pay income tax on a loan granted to a shareholder, partner or member of the company if the circumstances of the transaction refer that this may constitute a hidden profit distribution. In the case of a loan granted to a parent undertaking for the purposes of subsection 2 of this section and § 6 of the Commercial Code and to another subsidiary of the same parent undertaking, except to a subsidiary of the lender, the repayment term of which is longer than 48 months, the taxpayer shall have the obligation to prove, at the request of the tax authority, the loan repayment ability and intention. The tax authority shall grant the company a term of at least thirty days for submitting such proofs.

(2) A parent undertaking shall also include a company that is located, in the structure of a group (§ 6 of the Commercial Code), above the subsidiary that grants a loan as well as a non-profit association and foundation who has a majority voting interest in or dominant influence over the company that grants the loan.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

§ 51. Income tax on expenses not related to business and activities specified in articles of association

[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(1) A resident company shall pay income tax on expenses not related to business unless income tax has been paid on such expenses in accordance with §§ 48 –50 of this Act.

(2) For the purposes of subsection 1, expenses not related to business are:
1) expenses or payments specified in clauses 3–6, 11 and 13 of § 34;
[RT I, 07.07.2017, 2 – entry into force 01.01.2018]
2) enrolment and membership fees paid to non-profit associations, unless participation in such associations is directly related to the business of the taxpayer;
3) payments concerning which the taxpayer does not have a source document in compliance with the requirements prescribed in legislation regulating accounting;
4) expenses incurred or payments made in order to purchase services not related to the business of the taxpayer;
5) expenses incurred or payments made in order to fulfil obligations not related to the business of the taxpayer.

(3) A resident non-profit association, foundation or religious association which is a legal person shall pay income tax on expenses and payments specified in clauses 1 and 3 of subsection 2 and in § 52 and on expenses incurred in purchasing services or property not related to the activities specified in the person's articles of association (including business permitted by the articles of association).

(4) [Repealed – RT I 2008, 51, 286 – entry into force 01.01.2009]

(5) Expenses specified in subsection 3 of § 13 are not deemed to be expenses not related to business.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 52. Income tax on other payments not related to business

(1) Resident companies, except credit institutions, shall pay income tax on payments not related to business, unless income tax has been withheld on such payments on the basis of § 41 or paid pursuant to §§ 48–51.

(2) For the purposes of subsection 1, payments not related to business are the following:
1) acquisition of property not related to business;
2) acquisition of securities issued by a legal person located in a non-cooperative jurisdiction for tax purposes (§ 10^1) unless such securities meet the requirements provided for in subsection 1 of § 107 of the Investment Funds Act;
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]
3) acquisition of a holding in a legal person located in a non-cooperative jurisdiction for tax purposes;
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]
4) payment of a fine for delay or a contractual penalty, or compensation for damage outside court or arbitral proceedings, to a legal person located in a non-cooperative jurisdiction for tax purposes;
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]
5) grant of a loan or making of an advance payment to a legal person located in a non-cooperative jurisdiction for tax purposes or acquisition of a right of claim against a legal person located in a non-cooperative jurisdiction for tax purposes in any other manner.
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]

(3) Resident credit institutions shall pay income tax on the following payments and losses unless income tax has been withheld on such payments on the basis of § 41 or paid pursuant to §§ 48–51:
1) payments specified in clauses 1 and 2 of subsection 2;
2) payments specified in clause 4 of subsection 2, unless such payments are made to a credit or financial institution which according to the law of its home country meets the requirements for institutions equal to Estonian credit or financial institutions;
3) losses sustained by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a non-cooperative jurisdiction for tax purposes.
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]

§ 52^1. Income tax on income received from international carriage of goods and passengers by sea

(1) A resident company may pay income tax pursuant to this section on income received from activities of international carriage of goods or passengers by sea specified in subsections 6, 7 and 9–11 or in subsection 13 of this section by using a ship fulfilling the conditions of clause 1 of subsection 5 of § 13 or subsection 6 of § 13 by not applying the provisions of §§ 49–52 (hereinafter *tonnage scheme*).

(2) The application of the tonnage scheme is State aid within the meaning of Article 107(1) of the Treaty on the Functioning of the European Union, upon granting which the maritime aid guidelines, guidance concerning ship management companies and the respective decision of the European Commission authorising the grant of the State aid are followed.

(3) A resident company may apply the tonnage scheme if the following conditions have been met:
1) it has taken over the liability for managing the maritime safety and technical service of a ship meeting the conditions provided for in clause 1 of subsection 5 of § 13 or in subsection 6 of § 13 and has a corresponding certificate;
2) the strategic, business and technical management decisions related to the operation of the ship are made in Estonia;
3) the decisions related to the management of the crew are made in a Contracting State;
4) it is not an undertaking in difficulty within the meaning of Guidelines on State aid for rescuing and restructuring non-financial undertakings in difficulty established by the European Commission;
5) it has not failed to perform the obligation to repay the State aid declared illegal and incompatible with the internal market on the basis of the decision of the European Commission.

(4) In order to implement the tonnage scheme, the ships used by the resident company and the undertakings belonging to the same group as the company and included in the calculation of the tonnage scheme shall meet the following conditions:
1) at least 25% of the gross tonnage of the ships must be owned by the company and the undertakings belonging to the same group as the company or used by them on the basis of a bareboat charter party;
2) at least 60% of the gross tonnage of the ships, including all dredgers and tugboats, must be registered under the flag of a Contracting State.

(5) Carriage of goods and passengers by sea shall be deemed international within the meaning of this section if more than 50% of the voyages take place:
1) between an Estonian port and a foreign port;

2) between an Estonian port and a facility located outside the territorial sea of Estonia;
3) between the ports in a foreign country or in foreign countries;
4) between a foreign port and a facility located off the shore.

(6) Core activities of international carriage of goods or passengers by sea are:
1) carriage of goods or passengers for a fee;
2) granting cabins for use for a fee;
3) sale of food and drinks for immediate consumption on board;
4) granting a ship for use for a fee on the basis of a charter party (hereinafter *chartering out*), except chartering out on the basis of a bareboat charter party.

(7) Ancillary activities of international carriage of goods or passengers by sea are:
1) provision of services or sale of goods, usually on passenger ship, provided that these activities are directly related to the carriage of passengers by sea;
2) salvage;
3) loading, unloading and securing of cargo if these activities are carried out by crew members of a resident company;
4) granting containers or other tanks for use for a fee;
5) renting out a space on board to a seller of goods or a provider of services;
6) granting an advertising space on board for use for a fee;
7) mediation of sightseeing during a voyage to a passenger on a ship, provided that the passenger's cabin remains in his/her use.

(8) Income received from the ancillary activities provided for in subsection 7 is taxed pursuant to this section if it does not exceed 50% of the income received from the activities of international carriage of goods or passengers by sea of a ship complying with the conditions of clause 1 of subsection 5 of § 13 or subsection 6 of § 13.

(9) The following activities shall also be deemed to be international carriage of goods or passengers by sea:
1) crew or technical management of a ship;
2) chartering out a ship on the basis of a bareboat charter party to an undertaking in a Contracting State which belongs to the same group as the company.

(10) Chartering out a ship on the basis of a bareboat charter party shall also be deemed to be international carriage of goods or passengers by sea, provided that:
1) the reason for chartering out is the excess capacity of the tonnage of a ship temporarily not used in business by a resident company due to other reasons than purchasing or chartering a ship for the purpose of chartering it out;
2) the ship is chartered out for no longer than three years;
3) the chartering out does not exceed 50% of the gross tonnage of the ships used by the resident company and included in the calculation of the tonnage scheme.

(11) Activities carried out with a dredger or a tugboat outside the port and the territorial sea of Estonia shall also be deemed to be international carriage of goods or passengers by sea if more than 50% of the operational time of the dredger or tugboat is spent in maritime transport, and only in respect of such transport activities.

(12) Income tax is not charged on income received by the undertaking complying with the conditions provided for in subsections 3 and 4 within at least three years from transfer of a ship used for earning income subject to tax pursuant to the procedure provided for in this section if upon transfer the ship income tax has been paid pursuant to subsection 4^2 of § 50 or if the ship had been acquired out of the income taxed pursuant to the procedure provided for in this section.

(13) The tonnage scheme may also be applied by a resident company that earns income from the management of a crew of or provision of technical management service to a ship complying with the conditions provided for in clause 1 of subsection 5 of § 13 or in subsection 6 of § 13 and that meets the conditions provided for in clauses 4 and 5 of subsection 3 of this section if:
1) the provider of the crew management service makes management decisions in Estonia and fully adheres to and applies all the requirements of the Maritime Labour Convention of the International Labour Organization;
2) the provider of the technical management service makes management decisions in Estonia, has taken over the liability for managing the maritime safety and technical service of the ship and has a corresponding certificate;
3) all the ships and crews managed by the service provider specified in clauses 1 and 2 comply with international standards and requirements arising from the law of the European Union related to the maritime security and safety, training and certification of seafarers, environmental conservation and working conditions on a ship;
4) at least 60% of the gross tonnage of ships included in the calculation of the tonnage scheme used by the company and the undertakings belonging to the same group as the company, including all dredgers and tugboats, has been registered under the flag of a Contracting State;
5) the service provider has at least one crew manager and four other employees to manage crews of up to ten ships and at least two crew managers and eight other employees to manage crews of more than ten ships;

6) the service provider has at least one technical manager and four other employees for technical management of up to ten ships and at least two technical managers and eight other employees for technical management of more than ten ships;
7) at least 51% of the employees specified in clauses 5 and 6 are citizens of a Contracting State.

(14) By the tenth day of the calendar month following the implementation of the tonnage scheme, the undertaking complying with the conditions provided for in this section (hereinafter *the person implementing the tonnage scheme*) shall submit to the tax authority the data necessary for transfer to and application of the tonnage scheme. The list of data to be submitted shall be established by a regulation of the minister in charge of the policy sector.

(15) An undertaking who meets the conditions provided for in subsection 4 or clause 4 of subsection 13 is an undertaking who meets the conditions together with the undertakings that belong to the same group as the company and comply with the requirements for application of the tonnage scheme, provided that all the foregoing undertakings have joined the tonnage scheme.

(16) The proportion requirements provided for in subsections 5, 8 and 11 are met if an undertaking meets the conditions within a calendar year in proportion to the number of months during which the tonnage scheme was applied.

(17) The tonnage scheme shall apply until the conditions for application thereof are met, but no longer than the expiry of the respective decision of the European Commission authorising the grant of the State aid. Upon the expiry of the right to apply the tonnage scheme, the right to apply the tonnage scheme again arises after the expiry of the respective decision of the European Commission authorising the grant of the State aid, provided that the European Commission has granted a new authorisation for State aid and that the conditions for application of the tonnage scheme have been met.

(18) Upon implementation of the tonnage scheme, the amount of the income subject to tax is calculated for each ship complying with the conditions provided for in clause 1 of subsection 5 of § 13 or in subsection 6 of § 13 of the person implementing the tonnage scheme per 24-hour period that has started, irrespective of whether or not the ship is used.

(19) The amount of the income subject to tax specified in subsection 18 is calculated as the product of the net tonnage of the ship used by the person implementing the tonnage scheme and the corresponding ratio as follows:
1) the ratio applicable to the tonnage range of up to 1,000 is 0.0084 euros;
2) the ratio applicable to the tonnage range of 1,001 to 10,000 is 0.0062 euros;
3) the ratio applicable to the tonnage range of 10,001 to 25,000 is 0.0040 euros;
4) the ratio applicable to the tonnage range starting from 25,001 is 0.0020 euros.

(20) The ratios provided for in subsection 19 apply as follows depending on the age of the ship:
1) 50% for ships not older than five years;
2) 75% for ships older than five years but not older than ten years;
3) 100% for ships older than ten years.

(21) The Ministry of Economic Affairs and Communications or an authority authorised thereby shall calculate the amount of the State aid on the basis of information of the Tax and Customs Board and enter the information in the register of State aid and de minimis aid provided for in § 49^2 of the Competition Act, as well as exercise supervision over the compliance with the State aid rules specified in subsection 2 of this section.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

§ 53. Taxation of permanent establishment of non-resident in Estonia

(1) A non-resident legal person which has a permanent establishment in Estonia (§ 7) shall pay income tax pursuant to §§ 48–52 and 54^1–54^3 and 54^7, taking into account the specifications provided for in this section.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(2) All fringe benefits granted by a non-resident to its employees or members of the management or controlling body through or on account of its permanent establishment are subject to income tax pursuant to § 48, irrespective of whether the recipient of fringe benefits is a resident or non-resident.

(3) Gifts and donations made and costs of entertaining guests incurred by a non-resident through or on account of its permanent establishment are subject to income tax pursuant to § 49, irrespective of whether the recipient of the gifts or donations, or the guest or co-operation partner is a resident or non-resident. Representatives of the non-resident's head office or other structural unit located outside Estonia are also deemed to be guests or co-operation partners.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(4) On the basis of §§ 50, 50^1or 50^2, income tax is imposed on profit attributed to a permanent establishment which has been taken out of the permanent establishment during a period of taxation in monetary or non-monetary form.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(4^1) The income tax provided for in subsection 4 is not charged on profit taken out of the permanent establishment, the basis for which is the dividend derived through or on account of the permanent establishment, provided that at the time the dividend was derived, the recipient of the dividend owned at least 10 per cent of the shares or votes of the company paying the dividend, and if:
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]
1) the dividend was derived from a resident company of a Contracting State or the Swiss Confederation subject to income tax (except for a company located in a non-cooperative jurisdiction for tax purposes);
[RT I, 26.03.2021, 1 – entry into force 01.07.2021]
2) the dividend was derived from a company of a foreign state not specified in clause 1 (except for a company located in a non-cooperative jurisdiction for tax purposes) and income tax has been withheld from the dividend or income tax has been charged on the share of profit which is the basis thereof.
[RT I, 26.03.2021,1 – entry into force 01.07.2021]

(4^2) In the case specified in clause 2 of subsection 4^1, only the income tax subject to payment pursuant to law or an international agreement shall be taken into account. Subsection $1^3$of § 50 shall be followed upon application of subsection 4^1.
[RT I, 04.05.2016, 2 – entry into force 01.11.2016]

(4^3) If a resident company is deleted from the commercial register and the economic activities of the company are continued in Estonia through a permanent establishment, the profit attributed to the permanent establishment for the purposes of subsection 4 shall also include the share of the equity of the company deleted from the commercial register which exceeds the monetary and non-monetary contributions made to the equity.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(4^4) Subsection 4 does not apply in the case of transfer of an enterprise belonging to the permanent establishment to another company in the form of non-monetary contribution, or in the course of merger, division or transformation if economic activities are continued in Estonia through such enterprise. If the enterprise is acquired by a non-resident company, the profit of its permanent establishment shall also include the non-taxed profit attributed to the permanent establishment of the non-resident which transferred the enterprise.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4^5) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4^6) Subsections 4–8 of § 50 also apply to transactions concluded through or on account of the permanent establishment of a non-resident.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4^7) Taking account of the percentage of holding provided for in subsection $4^1$and subsection 4^2, the income tax provided for in subsection 4 is not charged on profit taken out of the permanent establishment, the basis for which is the portion of the payments specified in subsection $2^1$of § 50 which is received through or on account of the permanent establishment of a non-resident.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4^8) The income tax provided for in subsection 4 is not charged on profit taken out of the permanent establishment if the basis for the profit is the income derived through or on account of the permanent establishment upon the redemption of units of a common investment fund or shares of a public limited fund or liquidation of a fund or as interest from a fund, on which income tax has been charged pursuant to the provisions of Chapter 5^1or exempt from income tax pursuant to subsection 2 of § 31^2.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(4^9) Deriving the dividend by a trust fund where a non-resident legal person is a shareholder shall also be considered deriving the dividend for the purposes of subsection 4^1. In such case, indirect holding in a company specified in subsection 4^1corresponding to the amount of the non-resident's share in the trust fund shall be considered the holding provided for in subsection 4^1.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(4^{10}) The income tax provided for in subsection 4 is not charged on profit taken out of the permanent establishment if the profit is taken out:
1) on account of repaid loan taxed on the basis of § 50^2; or
2) on account of the amount determined and taxed on the basis of subsection 4^{13}.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4[11]) Profits from a permanent establishment which are based on a dividend received from a foreign controlled company or from the sale of such company shall not be subject to the income tax provided for in subsection 4 to the extent that it is taxed in accordance with subsection 8.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(4[12]) The determination of the value of assets transferred to Estonia for a permanent establishment is based on the value of the assets assigned in the country from which the assets were brought. If the fixed value does not reflect the market value, the market value is based on.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(4[13]) Profit attributed to a permanent establishment for the purposes of subsection 4 shall also include the difference between the market value and carrying amount of the assets to be taken out at the time of taking out the assets and the positive difference between the market value of the assets brought to Estonia for the purpose of the permanent establishment and specified in subsection 4[12]and the value established on the basis of the same subsection at the time the assets are taken out of the permanent establishment. Taking assets out of a permanent establishment shall be regarded as taking out profit in non-monetary form for the purposes of subsection 4.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4[14]) Introducing assets for the purpose of a permanent establishment and taking assets out of a permanent establishment is not deemed to be introducing or taking out assets or posting them as collateral in connection with financing securities if the assets are brought back or the collateral is released within a period of 12 months. The previous sentence also applies to assets that are introduced, taken out or posted as collateral in order to meet prudential capital requirements or for the purpose of liquidity management.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5) All expenses and other payments not related to business made through or on account of the income of a permanent establishment are subject to income tax pursuant to § 51 and § 52. Payments not related to business and made through a branch of a non-resident credit institution entered in the Estonian commercial register are subject to taxation on the basis of § 51 and subsection 3 of § 52.

(6) Pursuant to § 54[1]income tax shall be charged on the gains which would be attributed to a permanent establishment or expenses which would not have been made through a permanent establishment or on account thereof if the transaction or chain of transactions corresponding to the characteristics specified in § 5[1], would have been absent.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(7) Pursuant to § 54[2], residual borrowing costs incurred through a permanent establishment or on account thereof shall be subject to income tax.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(8) On the basis of § 54[3], income tax is imposed on the portion of the profit of the foreign controlled company, which shall be attributed to the permanent establishment located in Estonia of a non-resident company and taxed as the profit thereof, received as a result of the use of such assets and the assumption of risks associated with the key personnel of the permanent establishment of the controlling company and resulting from apparent transactions, the main objective of which was to get a tax advantage. The profits of a foreign controlled company attributed to a permanent establishment in Estonia of the non-resident company shall be calculated in accordance with the market value principle.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(9) On the basis of § 54[7], a non-resident shall pay, through or on account of a permanent establishment, income tax on the amount that has given rise to a mismatch in tax outcomes.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

§ 54. Declaration and payment of income tax

(1) A person or authority which grants fringe benefits taxable on the basis of § 48 is required to submit a tax return to the Tax and Customs Board by the tenth day of the calendar month following the period of taxation regarding the fringe benefits granted during the calendar month.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(2) A resident legal person and the non-resident specified in § 53 are required to submit a tax return regarding the expenses, revenue and payments specified in §§ 49–53 and circumstances affecting the tax liability provided for in §§ 50, 50[2], 52[1]and 53 in the previous calendar month to the Tax and Customs Board by the tenth day of the calendar month following the period of taxation.
[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

(2[1]) A resident credit institution and Estonian branch of a non-resident credit institution are required to submit a tax return regarding the profit of the previous quarter to the Tax and Customs Board by the tenth day of the third month of each quarter.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(3) The formats of the tax return specified in subsections 1–2[1] and §§ 54[4] and 54[9] and of the annexes thereto, and the procedure for completion thereof shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(4) A taxpayer is required to transfer the income tax payable on the basis of §§ 48-53 to the bank account of the Tax and Customs Board not later than by the tenth day of the calendar month following the period of taxation.

(4[1]) The resident credit institution and the Estonian branch of a non-resident credit institution may deduct from the income tax payable under subsection 1 or 2 of § 50, § 50[1] or subsection 4 of § 53 the advance payments made on the basis of § 47[1] in the previous calendar years. Advance payments made in the current calendar year may also be deducted from the income tax payable on the basis of subsection 2[2] of § 50 and demand repayment of overdue advance payments. Advance payments can be deducted to the extent that they have not been deducted in the past.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019, applied retroactively from 01.01.2018]

(5) If a resident company or a non-resident through or on account of a permanent establishment located in Estonia has received from a non-resident company the income specified in subsection 1 or 2 of § 50 to which subsection 1[1] or 2[1] of § 50 does not apply or has received other income abroad, it may deduct the income tax paid or withheld on that income abroad from the income tax payable on the basis of subsection 1 or 2 of § 50 or subsection 4 of § 53, taking into account the provisions of subsection 9 of § 54[7]. Only the portion of the income tax of a foreign state the payment of which was mandatory on the basis of law or an international agreement may be deducted. For transactions specified in §§ 54[1] and 54[3] it is considered that the payment of income tax in a foreign state was not mandatory. There is a separate recording for income tax paid in each state. Income tax paid in a foreign state on the income which is a basis for the non-taxable payment pursuant to subsection 1[1] or 1[2] of § 50 or subsection 4[1] or 4[7] of § 53 shall not be taken into account.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(5[1]) [Repealed – RT I 2005, 25, 193 – entry into force 01.07.2005 – applied retroactively as of 1 January 2005.]

(5[2]) [Repealed – RT I 2005, 25, 193 – entry into force 01.07.2005 – applied retroactively as of 1 January 2005.]

(5[3]) [Repealed – RT I, 2008, 51, 286 – entry into force 01.01.2009]

(5[4]) [Repealed – RT I, 2008, 51, 286 – entry into force 01.01.2009]

(5[5]) Subsection 5 shall apply also in case a resident company or a non-resident on account of its permanent establishment located in Estonia is the shareholder of a trust fund and the income specified in subsection 5 has been derived by the trust fund. In such case, the income tax paid or withheld abroad on the income of a trust fund may be deducted in proportion to the resident's or non-resident's holding in the trust fund.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(6) If a taxpayer applies the calculation in total specified in subsections 3 and 5 of § 49 or if circumstances which are the bases for taxation pursuant to clauses 3–5 of subsection 2 of § 51, subsection 3 of § 51 or subsections 2 and 3 of § 52 cease to exist, the taxpayer has the right to recalculate the income tax and demand a refund of overpaid amounts of income tax. Such recalculations are made in the tax return specified in subsection 2. Overpaid amounts of income tax are refunded pursuant to the procedure provided for in the Taxation Act.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

Chapter 10[1]
MEASURES TO COMBAT TAX EVASION

[RT I, 28.12.2018, 44 - entry into force 01.01.2019]

§ 54[1]. Income tax on transaction for tax advantage

Income tax is charged on the amount that a resident company would have received as income, or on the amount that a resident company would not have incurred as a cost if transaction or chain of transactions corresponding to the features specified in § 5[1] had been absent.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

§ 54[2]. Income tax on surplus borrowing costs

(1) Income tax is charged on the residual borrowing costs of a resident company, other than a financial undertaking, in excess of 3,000,000 euros and 30 per cent of the interest, tax and profit before depreciation of a resident company (hereinafter profit before depreciation), in the portion exceeding the losses of the resident company, unless:
1) a resident company is not part of a consolidated group for financial accounting purposes and has no affiliated company or permanent establishment, or
2) the loan is used to finance long-term infrastructure projects of public sector involving both the project promoter, borrowing costs, assets and income in the European Union, or
3) a resident company that is a member of a consolidated group for financial accounting purposes shall choose to apply subsection 8.

(2) The residual borrowing cost is the amount by which the deductible borrowing costs of a resident company exceed interest income and other taxable income which is economically equal. For the purposes of this Act, borrowing costs are deemed to be interest expenses of any debt obligation and other costs that are economically equivalent to interest and expenses incurred in raising funds, including:
1) payments on profit-sharing loans;
2) estimated interest accrued on convertible bonds and zero coupon bonds;
3) amounts received under alternative financing arrangements;
4) part of financing costs of finance lease payments;
5) capitalized interest that is included in the carrying amount of the related asset or capitalized interest depreciation expense;
6) amounts corresponding to the return on financing calculated on the basis of the market value principle;
7) the conditional interest arising on the borrowing-related derivatives or hedging arrangements of the entity concerned;
8) exchange rate gain or loss arising from borrowing and involvement of funds instruments;
9) guarantee fees for financing agreements, management fees and similar costs related to borrowing of funds.

(3) A financial undertaking is a credit institution, an investment firm, an alternative investment fund manager, a fund manager for collective investment undertaking for collective investment in freely transferable securities, an insurance undertaking, a reinsurance undertaking, an institution for occupational retirement provision, a pension insurance institution, an alternative investment fund, an undertaking for collective investment in freely transferable securities, a central counterparty or a Central Securities Depository.

(4) A consolidated group for financial accounting purposes is a group consisting of all entities that are fully included in the consolidated financial statements prepared in accordance with International Financial Reporting Standards or the financial reporting framework of a Member State of the European Union.

(5) An affiliated company is:
1) an entity in which a resident company has a direct or indirect holding of at least 25 per cent of the voting rights or capital, or of who is entitled to at least 25 per cent of the profits of that taxpayer;
2) a natural person or entity having a direct or indirect shareholding of at least 25 per cent of the voting rights or capital of a taxpayer or who is entitled to at least 25 per cent of the profits of that taxpayer;
3) all entities concerned if the natural person or entity has a direct or indirect shareholding of at least 25 per cent in the taxpayer and in one or more entities.

(6) A long-term infrastructure project of public sector is a project aimed at providing, updating, operating or maintaining large-scale assets that a Member State of the European Union considers to be of public interest.

(7) Profit before depreciation is calculated by adding the amounts adjusted for taxation purposes to the taxable amount of the excess borrowing costs of taxable income and the adjusted depreciation and amortization amounts for taxation purposes. If there are no amounts adjusted for tax purposes, the accounting amounts shall be based on. Pre-depreciation profit is excluding:
1) income exempt from income tax, including income on account of which the distributed profit is not taxed;
2) all the proceeds from the loan used to finance the entire long-term infrastructure project of public sector.

(8) A resident company that is a member of a consolidated group for financial accounting purposes may choose that its excess borrowing cost is not taxed if it demonstrates that its equity to total assets ratio is equal to or greater than that of the group, except the ratio of financial undertakings belonging to the group, owner's equity and total assets and if the following conditions are met:
1) the equity-to-total assets ratio of a resident company is considered to be equal to the equity and total assets ratio if the ratio of the equity of the resident company to the total assets is less than two percentage points below the group;
2) all assets and liabilities are valued with the same method as in the consolidated financial statements prepared in accordance with International Financial Reporting Standards or the financial reporting framework of a Member State of the European Union.

(9) A resident company that is a member of a consolidated group for financial accounting purposes may rely on a ceiling on excess borrowing costs higher than that provided for in subsection 1. The higher residual borrowing cost limit is calculated in two stages:
1) the ratio is calculated by dividing the borrowing costs of the group incurred relating to third parties, with the exception of the financial undertakings of the group and the borrowing costs specified in clause 2 of subsection 1, by the pre-depreciation profit of the group, excluding financial undertakings belonging to the group;
2) the ratio obtained is multiplied by the pre-depreciation profit of the resident company.

(10) If the residual borrowing costs of a resident company remain below the limit provided for in this section during the taxation period, the resident company shall be entitled to make the income tax recalculation on the income tax paid on the loan borrowing costs in excess in the preceding tax periods up to the limit provided for in this section and demand repayment of the overpaid income tax. The recalculations shall be made in the declaration specified in § 54[4]. The overpaid income tax shall be refunded pursuant to the procedure provided for in the Taxation Act.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

§ 54[3]. Income tax on profits of foreign controlled companies

(1) The portion of profits of a foreign controlled company resulting from the use of such assets and the assumption of risks associated with key employees of the controlling company and attributable to ostensible transactions the main purpose of which was to obtain a tax advantage shall be attributed to the resident company and taxed as profits. The profits of a foreign controlled company attributable to a resident company are calculated in accordance with the market value principle.

(2) Upon application of subsection 1 a transaction or a chain of transactions shall be deemed to be ostensible if the relevant entity or permanent establishment did not have the assets from which it receives all or part of its income, and it would not have assumed the corresponding risks if it was not controlled by the company where the function is executed related to the assets and key employees related to the risks, which is crucial upon earning the income of the controlled company.

(3) The following are considered as foreign controlled companies:
1) an entity in which a resident company, alone or together with its affiliated companies, has a direct or indirect shareholding of more than 50 per cent of voting rights within the meaning of subsection 5 of § 54[2]or holds more than 50 per cent of the capital directly or indirectly or is entitled to more than 50 per cent of the profits of the entity concerned;
2) permanent establishment.

(4) Subsection 1 shall not apply to a resident company the profits of the controlled company of which for the previous financial year do not exceed 750,000 euros and whose other operating income, profits from subsidiaries, related companies and financial investments, interest income and other financial income do not exceed 75,000 euros in the same period.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

§ 54[4]. Declaration and payment of income tax

(1) A non-resident referred to in § 53 and a company specified in § 54[1]are required to declare to the Tax and Customs Board the loss of income due to a transaction or chain of transactions specified in § 5[1]or incurred by the tenth day of the calendar month following the taxation period.

(2) A taxpayer is required to pay the income tax payable pursuant to subsection 6 of § 53 and § 54[1]to the bank account of the Tax and Customs Board not later than by the tenth day of the calendar month following the taxation period.

(3) The non-resident specified in § 53 and the company specified in § 54[2]are required to declare to the Tax and Customs Board the remaining taxable borrowing costs created during the financial year by the tenth day of the ninth calendar month of the next financial year at the latest.

(4) A taxpayer is required to transfer the income tax payable pursuant to subsections 7 of § 53 and § 54[2]to the bank account of the Tax and Customs Board no later than by the tenth day of the ninth calendar month of the next financial year.

(5) The non-resident referred to in § 53 and the company specified in § 54[3]are required to declare taxable profits in Estonia to the Tax and Customs Board no later than by the tenth day of the ninth calendar month of the next financial year of the foreign controlled company.

(6) A taxpayer is required to transfer the income tax payable pursuant to subsection 8 of § 53 and § 54[3]to the bank account of the Tax and Customs Board no later than by the tenth day of the ninth calendar month of the foreign controlled company.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(7) The company specified in § 54[5]is required to declare to the Tax and Customs Board the assets transferred to its permanent establishment during the taxation period by the tenth day of the calendar month following the taxation period.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

(8) A taxpayer is required to transfer the income tax payable pursuant to § 54[5]to the bank account of the Tax and Customs Board no later than by the tenth day of the calendar month following the taxation period, except in the case specified in subsection 3 of § 54[5].
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

§ 54[5]. Exit income tax

(1) Income tax shall be charged on the amount that is equal to the difference between the market value and carrying amount of the assets to be taken out at the time of exit of the assets from Estonia if a resident company takes assets to a permanent establishment in another Member State of the European Union or in a third country.

(2) Subsection 1 does not apply to taking out assets in connection with financing securities, assets posted as collateral or where the assets are taken out in order to meet prudential capital requirements or for the purpose of liquidity management if the assets are set to revert to Estonia within a period of 12 months.

(3) The income tax specified in subsection 1 and subsection 2[2]of § 50 may be paid in instalments over up to five years in any of the following circumstances:
1) a resident company takes out assets to a permanent establishment in a Contracting State;
2) a resident company becomes a resident of another Contracting State.

(4) Subsection 3 does not apply to third countries that are parties to the EEA Agreement if they have not concluded an agreement with Estonia or with the European Union on the mutual assistance for the recovery of tax claims, equivalent to the mutual assistance provided for in Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.3.2010, p. 1–12).

(5) If there is a reasonable doubt about non-recovery, taxpayers may also be required to provide a guarantee upon deferring payment of the income tax as provided for in subsection 3. The payment of the income tax shall be deferred, a guarantee shall be requested and interest shall be paid on a deferred income tax liability pursuant to the procedure provided for in the Taxation Act.

(6) The deferral of payment of the income tax as provided for in subsection 3 shall be cancelled and the tax arrears become recoverable in the following cases:
1) the assets taken out or the enterprise belonging to a permanent establishment are sold or otherwise disposed of;
2) the assets taken out are subsequently transferred to a third country;
3) the company's residence for tax purposes or the economic activities of its permanent establishment are transferred to a third country;
4) the company is declared bankrupt or is liquidated;
5) the company fails to perform its obligations in relation to the instalments and does not correct its situation within a period of 12 months.

(7) Clauses 2 and 3 of subsection 6 do not apply to third countries that are parties to the EEA Agreement if they have concluded an agreement with Estonia or with the European Union on the mutual assistance for the recovery of tax claims, equivalent to the mutual assistance provided for in Council Directive 2010/24/EU.
[RT I, 28.12.2018, 44 – entry into force 01.01.2020]

Chapter 10[2]
TAXATION UPON MISMATCH IN TAX OUTCOMES

[RT I, 23.12.2019, 2 - entry into force 01.01.2020]

§ 54[6]. Definitions used in this Chapter

[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(1) Mismatch outcome is a situation where:
1) it is allowed, upon calculation of the tax liability, to include the same payment, expenses or losses (hereinafter together *expenses*) in expenses in more than one jurisdiction;

2) it is allowed, upon calculation of the tax liability, to include the same payment or deemed payment (hereinafter together *payment*) in expenses in the jurisdiction where that payment is treated as made, but, upon calculation of taxable profit, it is not included in income in the jurisdiction where the payment is treated as received.

(2) Mismatch in tax outcomes is a mismatch outcome that has arisen:
1) between a resident company and its affiliated company;
2) between a legal person and its permanent establishment;
3) between two or more permanent establishments of a non-resident legal person, one of which is located in Estonia;
4) as a result of a payment made to or by a hybrid entity; or
5) as a result of a tax scheme.

(3) Mismatch in tax outcomes is also a situation that arises if a payment made under a financial instrument gives rise to the mismatch outcome described in clause 2 of subsection 1 due to the fact that the jurisdictions have classified the financial instrument or a payment made under it differently and, upon calculation of profit, this payment is not included in income by the payee jurisdiction within a reasonable period of time. No mismatch in tax outcomes arises if the payment is made by a trader under an on-market hybrid transfer and, pursuant to the legislation of the payer jurisdiction, the trader treats all the income received from trading in the financial instruments as part of its taxable profit.

(4) A payment made under a financial instrument is included within a reasonable period of time for the purposes of subsection 3 if:
1) upon calculation of profit, the payment is included in income by the payee jurisdiction in the taxation period that commences within a period of 12 months of the end of the payer's taxation period; or
2) it is reasonable to expect that, upon calculation of profit, the payment will be included in income by the payee jurisdiction the next taxation period, and the payment has been made under the arm's length principle.

(5) The person or entity specified in subsection 5 of § $54^{2}$is treated as an affiliated company, taking into account the following specifications:
1) upon application of clause 1 of subsection 1 and clauses 2–5 of subsection 2 of this section, subsection 7 of § $54^{7}$and § 54^{8}, the 25 per cent requirement provided for in subsection 5 of § $54^{2}$is replaced by the 50 per cent requirement;
2) upon application of §§ $54^{7}$and 54^{8}, a person who has a voting right in an entity or holds a participation in the capital of an entity together with another person shall be treated as also exercising the voting right held by the other person and holding a participation in the capital held by the other person;
3) upon application of §§ $54^{7}$and 54^{8}, an affiliated company also means an entity that is part of the same consolidated group for financial accounting purposes as the taxpayer, a company in which the taxpayer has a significant influence in the management as well as a company that has a significant influence in the management of the taxpayer.

(6) Payer jurisdiction is the jurisdiction in which the payment has its source or in which it is treated as made, in which the expenses are incurred or the losses are suffered. In the case of a payment made through or on account of a hybrid entity or permanent establishment, the payer jurisdiction is the jurisdiction where the hybrid entity or permanent establishment is established or situated.

(7) Head office or hybrid entity shareholder jurisdiction is the jurisdiction that allows, in addition to the payer jurisdiction, the inclusion of the expenses specified in clause 1 of subsection 1.

(8) Payee jurisdiction is the jurisdiction where the payment is received or where it is treated as being received under the legislation of another jurisdiction.

(9) Expenses deducted are the amount that is allowed to be included in expenses upon calculation of taxable profit in the payer or head office or hybrid entity shareholder jurisdiction.

(10) Income included is the amount that is taken into account as income upon calculation of taxable profit in the payee jurisdiction. A payment under a financial instrument shall not be treated as income included if the payment qualifies for any tax relief solely due to the way that payment is characterised in the payee jurisdiction.

(11) Tax relief means a tax exemption, reduction in the tax rate and right to reduction in tax liability or to tax refund. The right to include the income tax withheld in a foreign state shall not be treated as tax relief.

(12) Dual inclusion income is the income that is included upon taxation in more than one jurisdiction where the mismatch outcome has arisen.

(13) Hybrid entity is an entity that is regarded as a taxpayer in one jurisdiction, but whose income or expenditure is treated as income or expenditure of another person in another jurisdiction.

(14) Financial instrument is any security transferred in the course of a hybrid transfer the return or profit earned on which is taxed in the payer or payee jurisdiction as the income or profit derived from external capital, equity or derivatives.

(15) Trader is a person or entity engaged in business of regularly buying and selling financial instruments on its own account.

(16) Hybrid transfer is any transaction to transfer a financial instrument where the return derived from the financial instrument as a result of the transfer is treated for tax purposes as return derived simultaneously by more than one of the parties to that transaction.

(17) On-market hybrid transfer is any hybrid transfer that is entered into by a trader in the ordinary course of business, and not as part of a tax scheme.

(18) Disregarded permanent establishment is an economic entity that is treated as a permanent establishment by the head office jurisdiction and not by the jurisdiction of its location.

(19) Tax scheme is a chain of transactions a prerequisite for which is the occurrence of a mismatch in tax outcomes or which has been designed to produce a mismatch in tax outcomes. A chain of transactions, which is in compliance with the foregoing conditions, is not treated as a tax scheme if the parties to the transactions could not reasonably have been expected to be aware of the mismatch outcome and did not share in the tax benefit resulting from the mismatch in tax outcomes.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

§ 54^{7}. Income tax on amount giving rise to mismatch in tax outcomes

[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(1) If a mismatch in tax outcomes arises as a result of the situation described in clause 1 of subsection 1 of § 54^{6}and a resident company or a non-resident legal person is, through a permanent establishment located in Estonia, a shareholder of a hybrid entity or the head office of a permanent establishment located abroad, it shall pay income tax on the amount that is allowed to be deducted as expenses in the payer jurisdiction.

(2) If a mismatch in tax outcomes arises as a result of the situation described in clause 1 of subsection 1 of § 54^{6}and the payer is a resident company or a non-resident legal person through or on account of a permanent establishment located in Estonia, it shall pay income tax on the amount that is allowed to be deducted as expenses in the head office or hybrid entity shareholder jurisdiction.

(3) Subsections 1 and 2 do not apply if, in addition to expenses, income is also included upon taxation in both jurisdictions. If dual inclusion income arises in the taxation periods following the taxation period when the expenses are incurred, a resident company and a non-resident legal person through a permanent establishment located in Estonia shall have the right to make a recalculation of the income tax paid in previous taxation periods on the basis of subsections 1 and 2 and demand refund of overpaid income tax. The recalculation shall be made in the tax return specified in § 54^{9}. The overpaid income tax shall be refunded pursuant to the procedure provided for in the Taxation Act.

(4) If a mismatch in tax outcomes arises as a result of the situation described in clause 2 of subsection 1 of § 54^{6}and the payer is a resident company or a non-resident legal person through or on account of a permanent establishment located in Estonia, it shall pay income tax on the amount that is not included in income in the payee jurisdiction.

(5) If a mismatch in tax outcomes arises as a result of the situation described in clause 2 of subsection 1 of § 54^{6}and the payee is a resident company or a non-resident legal person through or on account of a permanent establishment located in Estonia and the payment has been included in expenses in the payer jurisdiction, the tax relief provided for in subsection 1^{1}of § 50 and subsection 4^{1}of § 53 does not apply to the amount that would give rise to the mismatch outcome.

(6) Subsection 5 does not apply if the mismatch in tax outcomes described in clause 2 of subsection 1 of § 54^{6}arises:
1) from difference in the rules for allocation of a payment made to a hybrid entity in the hybrid entity jurisdiction and in the jurisdiction of the person having a holding in the hybrid entity;
2) from difference in the rules for allocation of a payment made to an entity having a permanent establishment in the head office jurisdiction and the permanent establishment jurisdiction;
3) as a result of a payment made to a disregarded permanent establishment;
4) as a result of a deemed payment between the head office and permanent establishment due to the fact that the payment is disregarded in the payee jurisdiction.

(7) Income tax is charged on the payments made by a resident company or through or on account of a permanent establishment of a non-resident legal person located in Estonia which directly or indirectly fund deductible or non-taxable expenses that give rise to a mismatch in tax outcomes through a transaction or chain

of transactions between affiliated companies or as part of a tax scheme. If one of the jurisdictions involved in the transaction or chain of transactions has already charged income tax on the amount related to the mismatch in tax outcomes, the provisions of the previous sentence do not apply.

(8) If a resident company is a resident of two or more jurisdictions, income tax shall be charged on the expenses that it can deduct in the other jurisdiction from the income that is not dual inclusion income. The expenses specified in the previous clause shall not be subject to income tax in Estonia if the other country of residence is a Member State and, based on an international agreement concluded with the Member State, the taxpayer is deemed to be an Estonian resident. If dual inclusion income arises in the taxation periods following the taxation period when the expenses are incurred, a resident company or a non-resident legal person through a permanent establishment located in Estonia shall have the right to make a recalculation of the income tax paid in previous taxation periods on the basis of this subsection and demand refund of overpaid income tax. The recalculation shall be made in the tax return specified in § 54^{9}. The overpaid income tax shall be refunded pursuant to the procedure provided for in the Taxation Act.

(9) If a hybrid transfer gives rise to the right to deduct income tax withheld on a payment derived from a transferred financial instrument that is treated as income of more than one party to the transaction, a resident company and a non-resident who has a permanent establishment in Estonia shall have the right to include the income tax withheld in proportion to the net taxable income.

(10) Clause 2 of subsection $1^{1}$of § 50 does not apply to a disregarded permanent establishment.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

§ 54^{8}. Income tax liability of hybrid entity

[RT I, 23.12.2019, 2 – entry into force 01.01.2022]
A trust fund or its manager shall pay income tax on the income that would have been allocated to a shareholder of the trust fund in proportion to its share in the trust fund if the shareholder of the trust fund:
1) is a non-resident affiliated company holding in aggregate a direct or indirect interest in at least 50 per cent of the holding in the trust fund; and
2) is located in a jurisdiction that regards the trust fund as a person liable to income tax and this income is not taxed under subsection 11 or 12 of § 29 or the legislation of another jurisdiction.
[RT I, 23.12.2019, 2 – entry into force 01.01.2022]

§ 54^{9}. Declaration and payment of income tax

[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(1) The non-resident specified in § 53 and the taxpayer specified in §§ $54^{7}$and $54^{8}$are required to declare to the Tax and Customs Board the amount that gave rise to a mismatch in tax outcomes in the financial year no later than by the tenth day of the ninth calendar month of the next financial year.
[RT I, 23.12.2019, 2 – entry into force 01.01.2022]

(2) A taxpayer is required to transfer the income tax payable pursuant to subsection 9 of § 53 and §§ $54^{7}$and $54^{8}$to the bank account of the Tax and Customs Board no later than by the tenth day of the ninth calendar month of the next financial year.
[RT I, 23.12.2019, 2 – entry into force 01.01.2022]

Chapter 11
NOTIFICATION REQUIREMENT

§ 55. Submission of annual reports

(1) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) A non-resident legal person which has a permanent establishment in Estonia (§ 7) is required to submit a signed copy of the annual report of its permanent establishment to the Tax and Customs Board within six months following the end of the financial year.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 56. Notification of payments made to shareholders

[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(1) Upon reduction of dividends paid and other profit distributions, liquidation distributions, share capital or contributions and upon redemption or return of shares or contributions or in other cases, a resident company, except a public limited fund, is required to submit a tax return to the Tax and Customs Board concerning the amount and the recipients of payments made from the equity during the period of taxation.

[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(1^1) A public limited fund is required to submit a tax return to the Tax and Customs Board concerning the amount and the recipients of dividends and other profit distributions and liquidation distributions paid during the period of taxation.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

(2) [Repealed – RT I 2006, 28, 208 – entry into force 01.01.2007]

(2^1) [Repealed – RT I, 2008.51, 286 – entry into force 01.01.2009]

(3) A tax return specified in subsections 1 and 1^1shall be submitted by the tenth day of the calendar month following the making of the payment. The format of the tax return and the procedure for completing the form shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

§ 56^1. Notification of compensation for use of personal automobile

A resident legal person, state agency or local government agency, employer who is a sole proprietor, or a non-resident who has a permanent establishment in Estonia or who is acting as an employer in Estonia who has made, during a calendar year, the payments specified in clauses 2 or $2^1$of subsection 3 to a natural person is required to submit a tax return concerning such payments by 1 February of the year following the calendar year to the Tax and Customs Board. The format of the tax return and the procedure for completing the form shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 56^2. Notification of training expenses

(1) A resident legal person, state authority, local government authority, employer who is a sole proprietor, non-resident with a permanent establishment and non-resident operating as an employer in Estonia who has covered during a calendar year the expenses on formal education specified in clause 10 of subsection 4 of § 48, which are not deemed to be fringe benefits, is required to submit a tax return concerning such expenses by 1 February of the following year to the Tax and Customs Board.

(2) The format of the tax return and the procedure for completing the form shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 56^3. Notification of income of trust fund

A trust fund is required to submit a tax return to the Tax and Customs Board concerning the income received during a calendar year and the persons who had a holding in the fund at the time of deriving the income, the amount of income share attributable to them and their residence for tax purposes by 1 February of the year following the calendar year of deriving the income. The format of the tax return and the procedure for completing the form shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 31.12.2016, 3 – entry into force 10.01.2017]

§ 56^4. Notification of use of health improvement tax incentive

(1) A resident legal person, state authority, local government authority, employer who is a natural person, non-resident who has a permanent establishment in Estonia and non-resident who is operating as an employer in Estonia who has covered, during a calendar year, the expenses specified in subsection $5^5$of § 48 is required to submit a tax return concerning such expenses to the Tax and Customs Board by 1 February of the following year.

(2) The format of the tax return and the procedure for completion thereof shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 24.12.2016, 1 – entry into force 01.01.2018]

§ 56^5. Notification of loan granted to associated person

A resident company and permanent establishment of a non-resident company located in Estonia, except a public limited fund, resident credit institution and Estonian branch of a non-resident credit institution, are required to submit a tax return regarding the loans granted to the persons specified in § $50^2$and repayment thereof during the previous quarter to the Tax and Customs Board by the twentieth day of the month following the quarter.

The format of the tax return and the procedure for completion thereof shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

§ 57. Notification of register entries

[Repealed – RT I, 11.07.2014, 5 – entry into force 01.01.2015]

§ 57[1]. Notification requirement relating to tax incentive

(1) Resident credit and financial institutions and branches of non-resident credit institutions entered in the Estonian commercial register may submit declarations to the Tax and Customs Board concerning the interest paid by natural persons during a calendar year on loans one aim of which is acquisition of housing (including construction of housing).
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(2) State or local government educational institutions, universities in public law and private schools holding activity licences, registered in the Estonian Education Information System or having the right to provide vocational training or the right to provide instruction of higher education, are required to submit declarations concerning training expenses specified in § 26 and paid during a calendar year by natural persons to the Tax and Customs Board.
[RT I, 02.07.2013, 1 – entry into force 01.07.2014 (entry into force changed – RT I, 22.12.2013, 1)]

(3) Persons included in the list specified in subsection 1 of § 11 are required to submit tax returns to the Tax and Customs Board concerning the gifts and donations received during a calendar year and concerning the use of such gifts, donations and other income, including the recipients of scholarships and grants not subject to income tax pursuant to subsection 6 of § 19 and the amount of a scholarship or grant paid to each person. A religious association is not required to submit a tax return specified in the previous sentence concerning the receipt of gifts and donations.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(4) An insurer is required to submit a declaration to the Tax and Customs Board concerning the portion of insurance premiums the purpose of paying which was to pay an insured sum as a pension and which are received during a calendar year under insurance contracts for a supplementary funded pension which meet the conditions of § 63 of the Funded Pensions Act. The declaration shall not display the insurance premiums specified in subsection 5[2]of § 63 and subsection 3 of § 65 of the Funded Pensions Act.
[RT I, 18.02.2011, 1 – entry into force 01.01.2012]

(5) The registrar of the pension register is required to submit to the Tax and Customs Board a declaration concerning the amounts paid to acquire units of voluntary pension funds during a calendar year. The declaration shall display neither the amounts for which the units of the pension fund were acquired in the course of switching the units nor the contributions specified in subsection 5[2]of § 63 of the Funded Pensions Act.
[RT I, 26.06.2017, 1 – entry into force 01.09.2018]

(5[1]) The Social Insurance Board shall submit the names and personal identification codes of the persons receiving the child support specified in subsection 3 of § 23[1]as at 31 December and the names and personal identification codes of their children to the Tax and Customs Board.
[RT I 2008, 51, 283 – entry into force 01.01.2009]

(5[2]) The registrar of the central securities depository and the pension register shall submit the following information concerning resident natural persons who transferred securities during the period of taxation to the Tax and Customs Board:
[RT I, 26.06.2017, 1 – entry into force 06.07.2017]
1) given name, surname and personal identification code;
2) name of issuer of securities;
3) type and ISIN code of securities;
4) amount of securities;
5) selling price;
6) date of transfer.

(5[3]) Resident credit or financial institutions, branches of non-resident credit institutions entered in the Estonian commercial register and insurers are required to submit to the Tax and Customs Board a declaration concerning the interest and insurance indemnities specified in clause 4 of subsection 2 of § 40 and paid to natural persons, from which income tax has not been withheld.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) The declarations and information specified in subsections 1–5[3]shall be submitted by 1 February of the year following the given calendar year. The declarations concerning the use of gifts, donations and other income specified in subsection 3 shall be submitted by 1 July of the year following the given calendar year. The format

of the declarations and the procedure for submission of the declarations shall be established by a regulation of the minister in charge of the policy sector.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(7) The Agricultural Registers and Information Board is required to submit to the Tax and Customs Board by 1 February of the year following the calendar year a declaration concerning the Natura 2000 support for private forest land paid to natural persons in the calendar year.
[RT I, 10.07.2020, 5 – entry into force 20.07.2020]

§ 57[2]. Duty to give notice of the interest

[Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2017]

Chapter 12
IMPLEMENTING PROVISIONS

§ 58. [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 59. Calculation of income tax upon transfer of fixed assets

(1) A taxpayer who is a natural person and owns fixed assets on which he or she has calculated depreciation on the basis of § 17 of the Income Tax Act in force before the entry into force of this Act shall calculate the gain or loss (§ 37) from the transfer of such fixed assets on the basis of the adjusted cost of the fixed assets. The adjusted cost is deemed to be the value of fixed assets carried over to the next period of taxation, as stated in the tax depreciation table of the tax return prepared for the period of taxation which ended by the date of entry into force of this Act. In the case of fixed assets classified under Depreciation Group II, the adjusted cost of each fixed asset is calculated proportionally according to the ratio of the acquisition cost of the corresponding fixed asset to the total acquisition cost of all fixed assets classified under Depreciation Group II.

(2) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(3) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(4) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

§ 60. Specifications for taxation of dividends

[Repealed – RT I, 23.12.2013, 3 – entry into force 01.01.2015]

§ 61. Other implementing provisions

(1) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(2) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(3) The loss carried forward on the basis of § 22 of the Income Tax Act in force before the entry into force of this Act may be deducted pursuant to § 39 from the gains derived from the sale of the taxpayer’s property.

(4) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(5) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(6) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(7) Amounts paid on the basis of a unit linked life insurance contract entered into before 1 January 2001 are not subject to taxation.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(8) [Repealed – RT I 2005, 25, 193 – entry into force 01.07.2005, applied retroactively as of 1 January 2005.]

(9) The income tax rate provided for in the subsection 1 of § 4 of this Act is applicable to payments made by an insurer on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, taking into account the specifications provided for in subsections 10–12.

[RT I 2005, 25, 193 – entry into force 01.07.2005, reference to subsection 1 of § 4 of this Act provided for in subsection 9 applied retroactively as of 1 January 2005.]

(10) The income tax rate of 10 per cent is applicable to payments made by an insurer to a policyholder on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policyholder has attained 55 years of age or upon the liquidation of the insurer.
[RT I, 22.12.2021, 5 – entry into force 01.01.2022, applied retroactively as of 1 January 2021]

(11) Income tax is not charged on a pension paid to a policyholder under an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policyholder has attained 55 years of age until their death periodically at least once every three months, and on payments made to a policyholder who has been established to have no work ability or who had no work ability immediately before the pensionable age.
[RT I, 22.12.2021, 5 – entry into force 01.01.2022, applied retroactively as of 1 January 2021]

(12) The income tax rate provided for in the subsection 1 of § 4 of this Act is applicable to insurance indemnities paid in the event of death on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, regardless of the provisions of subsection 5 of § 20 and subsection 5 of § 21.
[RT I 2005, 25, 193 – entry into force 01.07.2005, reference to subsection 1 of § 4 of this Act provided for in subsection 12 applied retroactively as of 1 January 2005.]

(13) [Repealed – RT I, 29.03.2012, 1 – entry into force 01.01.2013]

(13^1) [Repealed – RT I, 29.03.2012, 1 – entry into force 01.01.2013]

(14) If an insurance contract for a supplementary funded pension is concluded before 1 May 2002, a resident natural person may, in addition to that provided for in clause 1 of subsection 1 of § 28, deduct from his or her income received during a period of taxation such part of the insurance premiums as are paid during the period of taxation on the basis of the contract in order to ensure payment of the insured sum as an indemnity in the event of death.

(15) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(16) Subsection $1^1$of § 28 does not apply to contracts for a supplementary funded pension entered into before 1 May 2002.

(17) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(18) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(19) The tax rate specified in subsection 1 of § 4 applies to income tax payable for the corresponding period of taxation.

(20) Pursuant to the procedure provided for in § 25, a resident natural person has the right to deduct from his or her income any interest paid on a housing loan or lease to a financial institution which is resident in Estonia and does not belong to the same group as a credit institution if the contract is entered into before the date of Estonia's accession to the European Union. A resident natural person may also deduct from his or her income any interest on a loan or lease taken in order to acquire housing for his or her spouse, parents or children if the contract is entered into before 1 January 2005.

(21) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(22) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(23) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(24) If the contractual relationship has started before 1 January 2004, the information concerning the recipient of interest specified in subsection 1 of § 57^2may be limited to the name, state of residence and address in the state of residence of the recipient of interest. The information is verified on the basis of data available to the interest payer.
[RT I 2005, 36, 277 – entry into force 01.01.2006, provisions of subsection 24 apply to interest paid as of the same date.]

(25) Pursuant to subsection 1 or 2 of § 50 or subsection 4 of § 53, the amount of income tax to be deducted pursuant to subsection 5 of § 54 shall not exceed the amount which forms 20/80 of the amount of the payment made by the non-resident correspondingly to the date on which the tax liability arises.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(26) Subsection $1^1$of § 50, subsection $4^1$of § 53 and subsection 5 of § 54 are applicable to the payments made on account of dividends received since 1 January 2005.
[RT I 2005, 25, 193 – entry into force 01.07.2005, subsection 26 applied retroactively as of 1 January 2005.]

(27) [Repealed – RT I, 23.12.2013, 3 – entry into force 01.01.2015]

(28) [Repealed – RT I, 23.12.2013, 3 – entry into force 01.01.2015]

(29) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(30) Notwithstanding the provisions of clause 12 of § 34, a sole proprietor has the right to deduct the social insurance contributions and payments paid for the period of taxation preceding the period of taxation of the year 2007 from the business income thereof. Contributions from business income made to a mandatory funded pension by a sole proprietor on the basis of subsection 2 of § 11 of the Funded Pensions Act are not subject to deduction from business income.
[RT I 2006, 28, 208 – entry into force 01.01.2007]

(31) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(32) Subsection 2^1 of § 50 and subsection 4^7 of § 53 apply to payments specified in these subsections which have been received as of 1 January 2009.
[RT I 2008, 51, 286 – entry into force 01.01.2009]

(33) Subsection 1^1 of § 50 or subsection 4^1 of § 53 and subsection 5 of § 54 of the Income Tax Act in force until 1 January 2009 apply to income received by a resident company or a non-resident through a permanent establishment registered in Estonia before the specified date.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(34) If a resident company has carried out a bonus issue before 2000:
1) tax is charged on the portion of the payments specified in subsection 2 of § 50 which exceed the amount of the monetary and non-monetary contributions paid into the equity of the company and of the profit used for the bonus issue before 2000;
2) tax is charged on the part of the equity of the company provided for in subsection 22 of § 50 which exceeds the amount of the monetary and non-monetary contributions paid into the equity and of the profit used for the bonus issue before 2000.
[RT I 2008, 51, 286 – entry into force 01.01.2009]

(35) The provisions of this Act concerning a sole proprietor entered in the commercial register shall apply also to sole proprietors registered in the regional structural unit of the Tax and Customs Board during the period of re-registration as of 1 January 2009 until their deletion from the register of taxable persons.
[RT I 2008, 60, 331 – entry into force 01.01.2009]

(36) Subsections 2 and 3 of § 57^1 which were in force until 31 December 2009 apply upon submission of returns concerning student loan interest and trade union enrolment and membership fees paid during the year 2009.
[RT I 2009, 54, 362 – entry into force 01.01.2010]

(37) Income tax is not charged on interest specified in clause 1 of subsection 3 of § 17 which is paid on deposits with a credit institution which is a resident of a Contracting State or through or on account of a permanent establishment of a credit institution located in a Contracting State until 31 December 2013 if the interest has been derived from amounts deposited before 1 January 2011 which were not declared as contributions to an investment account.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(38) The difference between contributions and payments made on the basis of a unit linked life insurance contract specified in clause 5 of subsection 2 of § 17^1 as at 31 December 2010 or the value of the accumulation reserve accumulated by this date may be declared as contribution to an investment account for 2011. Such financial assets are considered financial assets acquired for the money in the investment account.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(39) To defer the income tax liability created in case of gains or income derived from financial assets which have been acquired before 1 January 2011, the acquisition cost of securities or the deposited amount is declared as contribution to an investment account for 2011. Such financial assets are considered financial assets acquired for the money in the investment account.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(40) The loss suffered upon transfer of securities which is carried forward from the previous periods of taxation may be declared as contribution to an investment account for 2011. The amount declared as contribution is not deducted from the gains derived from transfer of securities.
[RT I 2010, 34, 181 – entry into force 01.01.2011]

(41) A legal person entered in the register of religious associations as at 31 December 2010 is entered in the list of non-profit associations, foundations and religious associations benefiting from income tax incentives as of 1 January 2011 without submitting any applications. The aforementioned person shall submit the declaration provided for in subsection 3 of § 57^{1} for the first time by 1 July 2012.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(42) Income tax is charged on the cost of assets taken out of the permanent establishment in the share which equals the non-taxed profit attributed to the permanent establishment, which has been taken out before 1 January 2011 on account of the assets imported for the permanent establishment.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

(43) [Repealed – RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(44) A resident legal person and a non-resident specified in § 53 is required to declare in a tax return specified in subsection 2 of § 54, which is to be submitted by 10 February 2015, all circumstances affecting the amount of tax liability provided for in §§ 50 and 53 as at 31 December 2014. An acquiring company or a company founded as a result of the merger shall not declare as a contribution made to the equity of the company any contributions made by a company participating in the merger to the equity of the company. A recipient company participating in a division may declare as contribution to the equity received upon the division only the share of the contributions to the equity transferred to a recipient company by a company being divided.
[RT I, 11.07.2014, 5 – entry into force 01.01.2015]

(44^{1}) Until 30 June 2016, the training expenses specified in subsection 2 of § 26 of this Act shall also include certified expenses paid for participation in in-service training at a state or local authority educational establishment, university in public law or private school which holds an activity licence for the provision of instruction on the basis of a relevant study programme, if the student participated in the in-service training of the person conducting the aforementioned in-service training which study programme objective consisted in the achievement of a professional, occupational or vocational competence included in a study programme of formal vocational education or described in a professional standard or language learning.
[RT I, 30.06.2015, 1 – entry into force 01.01.2016]

(45) The condition of partial or no work ability provided for in subsection 5^{4} of § 48 of this Act shall be considered met in the case of a person who has been established to have a loss of capacity for work of 40 per cent and more on the basis of the State Pension Insurance Act. The condition of no work ability provided for in clause 1 of subsection 3 of § 20^{1} and clause 1 of subsection 4 of § 21 and subsections 10 and 11 of § 61 of this Act shall be considered met in the case of a person who has been established to have total incapacity for work on the basis of the State Pension Insurance Act.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021, applied as of 01.01.2021]

(46) The working time rate specified in subsection 5 of § 40 shall be indicated for the first time in the tax return submitted for December 2015.
[RT I, 30.06.2015, 2 – entry into force 01.01.2016]

(47) Clause 1^{5} of subsection 3 of § 13 shall apply retroactively as of 1 January 2015.
[RT I, 17.12.2015, 2 – entry into force 01.01.2016]

(48) Subsection 1^{3} of § 50 shall apply with regard to payments where the dividend or payment from the owners' equity constituting the basis thereof has been received as of 1 November 2016.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(49) Subsection 4 of § 25 in force until 31 December 2016 shall apply to taxpayers who had the right provided for in the specified subsection as at this date until the end of deduction of the interest carried forward.
[RT I, 24.12.2016, 1 – entry into force 01.01.2017]

(50) Upon submission of an income tax return for 2016, subsection 2 of § 44 and subsections 1–6 of § 46 in force until 31 December 2016 shall apply.
[RT I, 24.12.2016, 1 – entry into force 01.01.2017]

(51) Section 23^{4} and subsection 2^{1} of § 44 shall apply retroactively as of 1 January 2017.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017]

(52) The wordings of clause 2^{3} of subsection 3 of § 13, clauses 3^{1} and 17 of subsection 3 of § 19, subsections 5^{1}, 5^{3}, 5^{4} and 5^{6} of § 48, and subsection 45 of § 61 that entered into force on 1 August 2017 shall apply retroactively as of 1 July 2017.
[RT I, 07.07.2017, 3 – entry into force 01.08.2017]

(53) In calculating the average distributed profit of the previous three calendar years subject to taxation pursuant to § 50^{1}, the first year to be taken into account shall be deemed to be 2018. The rate provided for in subsection 5 of § 4 shall apply:
1) in 2019 to one-third of the profit distributed in 2018 on which a resident company has paid income tax;

2) in 2020 to one-third of the profit distributed in 2018 and 2019 on which a resident company has paid income tax.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(54) The obligation of proof provided for in § 50^{2} and the obligation of declaration of loans provided for in § 56^{5} shall apply to loans granted as of 1 July 2017 and to loans in the case of which the loan amount has been increased, the loan repayment term has been extended or other significant conditions have been amended as of 1 July 2017.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(55) A resident company is required to declare the loans specified in subsection 54 in the tax return specified in § 56^{5}, which is to be submitted by 20 April 2018.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(56) A resident credit institution and Estonian branch of a non-resident credit institution are required to make the first advance payment specified in § 47^{1} on the profit earned in the second quarter of 2018 into the bank account of the Tax and Customs Board at the rate provided for in subsection 5 of § 4 by 10 September 2018. The profit of credit institutions shall not be reduced pursuant to subsection 2 of § 47^{1} by the loss arisen before the second quarter of 2018.
[RT I, 07.07.2017, 3 – entry into force 01.01.2018]

(57) If a person receiving state pension did not receive income subject to social tax in 2017, the application specified in subsection 1 of § 42 shall be deemed to be submitted to the Social Insurance Board on 1 January 2018 to the extent of one-twelfth of the amount provided for in subsection 1 of § 23, except if the person has expressed his or her wish not to submit an application to the Social Insurance Board.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(58) The amount by which expenses exceed business income of 2018 may be deducted from business income during up to eight subsequent periods of taxation pursuant to § 35.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(59) The amount by which expenses exceed business income of 2019 may be deducted from business income during up to nine subsequent periods of taxation pursuant to § 35.
[RT I, 28.12.2017, 74 – entry into force 01.01.2018]

(60) The non-resident specified in § 53 is required to declare to the Tax and Customs Board in the tax return specified in subsection 2 of § 54 to be submitted by 10 February 2019 the assets brought into Estonia for the permanent establishment in Estonia and not returned as at 31 December 2018.
[RT I, 28.12.2018, 44 – entry into force 01.01.2019]

(61) Upon transfer from the tax calculation provided for in §§ 49–52 to the tax calculation provided for in § 52^{1} or from the tax calculation provided for in § 52^{1} to the tax calculation provided for in §§ 49–52, a resident company is required to declare all the circumstances affecting the amount of the tax liability provided for in §§ 49–521.
[RT I, 04.03.2019, 1 – entry into force 01.07.2020, date of entry into force changed [RT I, 28.02.2020, 2]]

(62) Upon declaration of income received by non-residents, management companies of common investment funds and public limited funds in 2019, subsections 3^{1}–5^{1} of § 44 of this Act in force until 31 December 2019 apply.
[RT I, 23.12.2019, 2 – entry into force 01.01.2020]

(63) Income tax is not charged on gifts or donations made for charitable purposes by legal persons from 12 March to 1 July 2020 to Estonian state or local government authorities or social welfare institutions or to owners of hospitals located in Estonia.
[RT I, 21.04.2020, 1 – entry into force 22.04.2020]

(64) The provisions of clause 6 of § 41 concerning Natura 2000 support for private forest land are applied retroactively as of 1 January 2020.
[RT I, 28.12.2020, 1 – entry into force 02.01.2021, applied as of 01.01.2021]

(65) In the case of a policyholder who has entered into an insurance contract for a supplementary funded pension and in the case of a person who acquired units of a voluntary pension fund for the first time before 1 January 2021, the age specified in subsections 2, 3 and 4 of § 21 is 55 years, taking into account § 72^{7} of the Funded Pensions Act.
[RT I, 27.10.2020, 1 – entry into force 01.01.2021]

(66) A resident legal person shall not pay income tax on the donations and gifts made in order to preserve the territorial integrity and sovereignty of Ukraine and to provide and organise targeted humanitarian aid if the donations and gifts are made from 24 February to 31 December 2022 to the following legal persons:
1) Estonian Refugee Council;
2) NGO Mondo;
3) Ukrainian Cultural Centre;
4) National Defence Promotion Foundation;
5) Estonian Red Cross;
6) Rescue Association;
7) Rotary Club Tallinn Vanalinn.
[RT I, 05.04.2022, 1 – entry into force 06.04.2022]

§ 62. Entry into force of Act

This Act enters into force on 1 January 2000.

Chapter 13
AMENDMENT OF LEGISLATION CURRENTLY IN FORCE

§ 63.–§ 67.[Omitted from this text.]

[1]Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (OJ L 157, 26.6.2003, p. 38–48), as amended by Council Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129–136); Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157, 26.6.2003, p. 49–54), as amended by Council Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129–136); Council Directive 2009/133/EC on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34–46); Council Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 345, 29.12.2011, p. 8–16), as amended by Directive 2014/86/EU (OJ L 219, 25.7.2014, p. 40–41) and Directive 2015/121/EU (OJ L 21, 28.1.2015, p. 1–3); Council Directive (EU) 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1–14); Council Directive (EU) 2017/952, amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (OJ L 144, 7.6.2017, p. 1–11); Council conclusions on the revised EU list of non-cooperative jurisdictions for tax purposes (OJ C 66, 26.2.2021, p. 40–45 et seq.); The EU list of non-cooperative jurisdictions for tax purposes — Report by the Code of Conduct Group (business taxation) suggesting amendments to the Annexes to the Council conclusions of 18 February 2020 (OJ C 331, 7.10.2020, p. 3–5 et seq.). [RT I, 26.03.2021, 1 – entry into force 01.07.2021]