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Taxation Act¹

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RT I 2002, 26, 150
entry into force in accordance with § 170

Amended by the following acts

Passed	Published	Entry into force
12.06.2002	RT I 2002, 57, 358	01.09.2002
19.06.2002	RT I 2002, 63, 387	01.09.2002
19.11.2002	RT I 2002, 99, 581	10.12.2002
18.12.2002	RT I 2002, 110, 660	31.12.2002
11.12.2002	RT I 2002, 111, 662	01.01.2003
04.12.2002	RT I 2003, 2, 17	01.04.2003
11.06.2003	RT I 2003, 48, 341	07.07.2003
22.10.2003	RT I 2003, 71, 472	01.01.2004
10.12.2003	RT I 2003, 82, 554	01.05.2004
17.12.2003	RT I 2003, 88, 591	01.01.2004
17.12.2003	RT I 2004, 2, 7	05.02.2004
13.04.2004	RT I 2004, 28, 188	01.05.2004
14.04.2004	RT I 2004, 28, 189	01.05.2004
14.04.2004	RT I 2004, 30, 208	01.05.2004
20.05.2004	RT I 2004, 45, 319	27.05.2004
28.06.2004	RT I 2004, 56, 403	01.03.2005
18.11.2004	RT I 2004, 84, 568	01.01.2005
23.11.2004	RT I 2004, 84, 569	01.01.2005
17.02.2005	RT I 2005, 13, 66	09.03.2005
20.04.2005	RT I 2005, 25, 193	01.07.2005
28.09.2005	RT I 2005, 54, 430	01.01.2006
12.10.2005	RT I 2005, 57, 451	18.11.2005
07.12.2005	RT I 2005, 68, 528	01.01.2006
10.05.2006	RT I 2006, 25, 186	01.07.2006
27.09.2006	RT I 2006, 43, 325	01.12.2006
24.01.2007	RT I 2007, 12, 66	01.01.2008
24.01.2007	RT I 2007, 13, 69	15.03.2007
24.01.2007	RT I 2007, 15, 76	01.05.2007
25.01.2007	RT I 2007, 16, 77	01.01.2008
15.02.2007	RT I 2007, 23, 121	16.03.2007
15.02.2007	RT I 2007, 23, 121	01.07.2007
15.02.2007	RT I 2007, 23, 121	01.01.2008
14.06.2007	RT I 2007, 44, 316	14.07.2007
19.12.2007	RT I 2008, 3, 21	28.01.2008
04.06.2008	RT I 2008, 27, 177	10.07.2008
04.06.2008	RT I 2008, 27, 177	01.01.2009
04.06.2008	RT I 2008, 27, 177	01.01.2010
04.12.2008	RT I 2008, 58, 323	01.01.2009
11.12.2008	RT I 2008, 60, 331	01.01.2009

28.01.2009	RT I 2009, 11, 67	01.05.2009
11.03.2009	RT I 2009, 19, 114	06.04.2009
22.04.2009	RT I 2009, 24, 146	01.06.2009
11.11.2009	RT I 2009, 56, 376	01.01.2010
26.11.2009	RT I 2009, 62, 405	01.01.2010
21.04.2010	RT I 2010, 20, 102	01.07.2010
22.04.2010	RT I 2010, 22, 108	01.01.2011 entry into force on the date provided 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 grounds provided 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, 28.07.2010, p. 24–26).
17.06.2010	RT I 2010, 38, 231	01.07.2010
10.06.2010	RT I 2010, 41, 241	01.08.2010
23.09.2010	RT I 2010, 72, 544	01.01.2012
20.10.2010	RT I, 18.11.2010, 1	01.01.2011, in part 01.01.2012
17.11.2010	RT I, 06.12.2010, 1	05.04.2011
25.11.2010	RT I, 10.12.2010, 1	01.04.2011
25.11.2010	RT I, 10.12.2010, 4	01.01.2011
27.01.2011	RT I, 23.02.2011, 3	01.01.2012
16.02.2011	RT I, 14.03.2011, 1	01.01.2012
17.02.2011	RT I, 14.03.2011, 3	24.03.2011
22.02.2011	RT I, 14.03.2011, 4	01.04.2011
17.02.2011	RT I, 21.03.2011, 2	01.01.2012 Repealed [RT I, 29.06.2012, 2]
23.11.2011	RT I, 13.12.2011, 1	01.01.2012, in part 01.01.2013
08.12.2011	RT I, 22.12.2011, 3	23.12.2011 Repealed [RT I, 29.06.2012, 2]
06.06.2012	RT I, 29.06.2012, 1	01.04.2013, in part 01.01.2014
06.06.2012	RT I, 29.06.2012, 2	09.07.2012, in part 01.01.2013, 01.01.2014 and 01.01.2015
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
14.06.2012	RT I, 02.07.2012, 8	01.08.2012
10.10.2012	RT I, 25.10.2012, 1	01.12.2012
07.12.2012	RT I, 22.12.2012, 2	01.01.2013
13.12.2012	RT I, 22.12.2012, 13	01.01.2013
09.04.2013	RT I, 17.04.2013, 13	09.04.2013 - The Decision of the Supreme Court en banc declares subsection 4 of § 136 ¹ of the Taxation Act incompatible with subsection 5 of § 24 of the Constitution and void in so far as this provision does not enable a person, in respect of whose property the permission for the performance of the enforcement action specified in subsection 1 of § 130 of the Taxation Act has been granted by the Circuit Court for the first time based on § 136 ¹ of the Taxation Act, to file an appeal with the Supreme Court against the ruling on authorisation.
22.05.2013	RT I, 07.06.2013, 1	01.07.2013, in part 17.06.2013 and 01.01.2014
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, in part 01.01.2015 and 01.01.2020
21.01.2014	RT I, 31.01.2014, 6	01.02.2014, in part 01.04.2014 and 01.07.2014
19.02.2014	RT I, 13.03.2014, 4	01.07.2014

26.03.2014	RT I, 16.04.2014, 2	01.07.2014
05.06.2014	RT I, 29.06.2014, 1	01.07.2014
01.07.2014	RT I, 11.07.2014, 4	01.08.2014
19.06.2014	RT I, 12.07.2014, 1	01.01.2015, in part on the date following the publication in Riigi Teataja.
19.06.2014	RT I, 29.06.2014, 109	01.07.2014, the official titles of the ministers have been replaced based on subsection 4 of § 107 ³ of the Government of the Republic Act.
19.11.2014	RT I, 13.12.2014, 1	01.01.2016, date of entry into force amended 01.07.2016 [RT I, 17.12.2015, 1]
16.12.2014	RT I, 23.12.2014, 14	01.01.2015
18.12.2014	RT I, 23.12.2014, 15	01.01.2015
19.02.2015	RT I, 06.03.2015, 26	01.07.2015
19.02.2015	RT I, 17.03.2015, 3	18.03.2015
15.06.2015	RT I, 30.06.2015, 2	01.01.2016
25.11.2015	RT I, 17.12.2015, 1	20.12.2015
17.12.2015	RT I, 06.01.2016, 5	16.01.2016, in part 01.01.2017
27.01.2016	RT I, 09.02.2016, 1	10.02.2016
15.06.2016	RT I, 08.07.2016, 1	01.01.2017, in part 01.01.2018
12.10.2016	RT I, 25.10.2016, 1	26.10.2016
27.10.2016	RT I, 10.11.2016, 1	01.01.2017
07.12.2016	RT I, 21.12.2016, 1	01.03.2018
19.12.2016	RT I, 24.12.2016, 1	01.01.2017, in part 01.01.2018
08.03.2017	RT I, 23.03.2017, 1	01.04.2017
15.03.2017	RT I, 31.03.2017, 1	01.04.2017
31.05.2017	RT I, 16.06.2017, 1	01.07.2017
07.06.2017	RT I, 26.06.2017, 1	06.07.2017
14.06.2017	RT I, 01.07.2017, 1	01.09.2017
14.06.2017	RT I, 04.07.2017, 5	20.12.2017
14.06.2017	RT I, 04.07.2017, 3	01.01.2018
19.06.2017	RT I, 07.07.2017, 2	01.01.2018
15.11.2017	RT I, 28.11.2017, 2	01.01.2018
06.12.2017	RT I, 28.12.2017, 4	01.01.2018
06.12.2017	RT I, 28.12.2017, 7	01.07.2020
07.03.2018	RT I, 03.04.2018, 1	01.07.2018
14.03.2018	RT I, 03.04.2018, 2	01.02.2019
21.03.2018	RT I, 03.04.2018, 3	15.04.2018
09.05.2018	RT I, 31.05.2018, 2	10.06.2018, in part 01.10.2018
17.10.2018	RT I, 26.10.2018, 1	01.04.2022
21.11.2018	RT I, 07.12.2018, 1	17.12.2018, in part 01.01.2019 and 01.01.2020
13.02.2019	RT I, 04.03.2019, 1	01.07.2020 - entry into force in accordance with Article 4 (3) or Article 9 (3) of Council Regulation (EU) 2015/1589 laying down detailed procedure for the application of Article 108 of the Treaty on the Functioning of the European Union [OJ L 248, 24.09.2015, pp. 9–29] on 1 January of the year following the decision of the European Commission. Where the European Commission takes a decision after 1 October of the calendar year, it enters into force on 1 January of the year following the year of the decision of the European Commission; entry into force

		amended in part. [RT I, 28.02.2020, 2]
20.02.2019	RT I, 13.03.2019, 2	15.03.2019
23.10.2019	RT I, 06.11.2019, 1	15.11.2019
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
17.06.2020	RT I, 30.06.2020, 10	01.07.2020
17.06.2020	RT I, 10.07.2020, 1	01.01.2021; amended in part [RT I, 21.11.2020, 1]
17.06.2020	RT I, 10.07.2020, 2	01.01.2021
17.06.2020	RT I, 10.07.2020, 4	01.01.2021
12.11.2020	RT I, 21.11.2020, 1	01.01.2021
25.11.2020	RT I, 10.12.2020, 1	01.01.2021
16.12.2020	RT I, 23.12.2020, 5	01.01.2021
16.12.2020	RT I, 04.01.2021, 3	01.04.2021
16.12.2020	RT I, 04.01.2021, 4	01.01.2022
24.03.2021	RT I, 09.04.2021, 1	19.04.2021, in part 01.01.2023 and 01.01.2024
25.11.2021	RT I, 11.12.2021, 1	15.12.2021, in part 21.12.2021 and 01.01.2025
08.12.2021	RT I, 22.12.2021, 1	01.03.2022
08.12.2021	RT I, 22.12.2021, 4	01.07.2022
16.02.2022	RT I, 10.03.2022, 1	21.03.2022
23.02.2022	RT I, 11.03.2022, 1	21.03.2022
09.03.2022	RT I, 22.03.2022, 2	01.04.2022
23.03.2022	RT I, 05.04.2022, 1	01.10.2023
13.04.2022	RT I, 29.04.2022, 1	01.07.2024, date of entry into force changed - 01.11.2024 [RT I, 21.06.2024, 2]
11.05.2022	RT I, 27.05.2022, 2	01.07.2022
01.06.2022	RT I, 20.06.2022, 1	01.07.2022
19.07.2022	RT I, 09.08.2022, 1	01.07.2023
19.07.2022	RT I, 09.08.2022, 2	01.09.2022
09.11.2022	RT I, 23.11.2022, 2	01.01.2023
23.11.2022	RT I, 16.12.2022, 3	01.01.2023
07.12.2022	RT I, 23.12.2022, 1	01.02.2023
14.12.2022	RT I, 29.12.2022, 1	01.01.2023, in part 01.01.2024
11.01.2023	RT I, 27.01.2023, 1	01.04.2023
25.01.2023	RT I, 10.02.2023, 3	01.09.2023
15.02.2023	RT I, 07.03.2023, 5	01.01.2024
22.02.2023	RT I, 11.03.2023, 9	01.04.2023
20.06.2023	RT I, 30.06.2023, 1	01.07.2023; words "Ministry of the Environment" replaced with words "Ministry of Climate" throughout the Act on the basis of subsection 6 of § 105.16 of the Government of the Republic Act.
20.06.2023	RT I, 06.07.2023, 6	01.01.2024
07.11.2023	RT I, 21.11.2023, 1	01.01.2024
07.02.2024	RT I, 20.02.2024, 1	01.05.2024
10.04.2024	RT I, 02.05.2024, 1	12.05.2024
16.04.2024	RT I, 02.05.2024, 2	12.05.2024
15.05.2024	RT I, 07.06.2024, 1	17.06.2024
04.06.2024	RT I, 21.06.2024, 1	01.07.2024
04.06.2024	RT I, 21.06.2024, 2	01.07.2024
29.07.2024	RT I, 17.08.2024, 1	01.01.2025
10.09.2024	RT I, 29.09.2024, 1	01.01.2025
25.09.2024	RT I, 08.10.2024, 1	18.10.2024
13.11.2024	RT I, 03.12.2024, 2	01.01.2025
04.12.2024	RT I, 19.12.2024, 1	01.01.2025

Chapter 1 GENERAL PROVISIONS

Subchapter 1 Definitions Used in Act

§ 1. Scope of regulation and scope of application of Act

[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

(1) This Act determines the rights, obligations and liability of the tax authority and a taxable person, the procedure for tax proceedings and the procedure for the resolution of tax disputes.

(2) The provisions of this Act apply to all state taxes unless otherwise provided by an Act concerning a tax or the Tax Information Exchange Act.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(3) The provisions of this Act apply to the duties payable upon import or export of goods unless otherwise provided by the customs legislation for the purposes of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 269, 10.10.2013, pp. 1–101) (hereinafter Customs Code).

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(4) The provisions of this Act apply to local taxes insofar as the Local Taxes Act does not provide otherwise.

(5) Where the regulation of this Act or an Act concerning a tax is different from the provisions of a treaty, the provisions of the treaty apply.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(6) The procedure provided in Subchapter 1 of Chapter 9 of this Act is applied to the payment and set-off of the following financial obligations:

- 1) public financial obligations arising from judicial proceedings, including a security on cassation and state fee;
- 2) public financial obligations arising from the decisions of the prosecutor's office;
- 3) the fee paid by the state to the enforcement agent for a maintenance claim transferred to the state and for the recovery of the maintenance of a minor child;
- 4) public financial obligations arising from the decisions of the Defence Resources Agency.

[RT I, 20.02.2024, 1 – entry into force 01.05.2024]

(6¹) In the exercise of state supervision provided in clauses 5, 6, 8 and 9 of subsection 2 of § 10 of this Act the provisions regulating tax procedures are applied, taking account of the special rules applicable to the respective supervision.

[RT I, 21.11.2023, 1 - entry into force 01.01.2024]

(6²) The refund of the mount overpaid arising upon payment of financial obligations provided in subsection 6 of this section is subject to the procedure provided in §§ 33 and 34 of this Act in case where the financial obligation was paid into an account specified in subsection 1 of § 105 of this Act.

[RT I, 20.02.2024, 1 – entry into force 01.05.2024]

(7) The state supervision exercised on the basis of this Act is applied the Law Enforcement Act, with the specifications provided in this Act.

[RT I, 13.03.2014, 4 – entry into force 01.07.2014]

§ 2. Definition of tax

A tax is a single or periodic financial obligation, imposed on a taxpayer by a law or on the basis of a law by a rural municipality or city council regulation issued for the performance of the public tasks of the state or local

government, or to obtain revenue required therefor, which is to be paid in accordance with the procedure, in the amount and within the terms prescribed by a law or regulation and which does not have direct consideration for the taxpayer.

§ 3. Tax system

(1) The Estonian tax system consists of state taxes provided in and imposed by Acts concerning a tax and local taxes imposed by a rural municipality or city council in its administrative territory based on a law.

(2) The following are the state taxes:

- 1) income tax;
- 2) social tax;
- 3) land tax;
- 4) gambling tax;
- 5) value added tax;
- 6) customs duty;
- 7) excise duties;
- 8) heavy goods vehicle tax;
- 9) business income tax;
- [RT I, 07.07.2017, 2 – entry into force 01.01.2018]
- 10) motor vehicle tax.
- [RT I, 17.08.2024, 1 - entry into force 01.01.2025]

(3) Local taxes are imposed by a rural municipality or city council regulation in compliance with the conditions provided by the Local Taxes Act.

(4) The provisions concerning a tax in this Act also apply to:

- 1) contributions to funded pensions and unemployment insurance premiums unless otherwise provided by the Funded Pensions Act or the Unemployment Insurance Act;
- 2) pollution charges, water abstraction charge, charge for compensation for environmental nuisances and the mineral resources extraction charge unless otherwise provided in the Environmental Fees Act;
- [RT I, 09.08.2022, 1 – entry into force 01.07.2023]
- 3) road usage charges unless otherwise provided in the Traffic Act.
- [RT I, 04.07.2017, 5 – entry into force 20.12.2017]

§ 4. Act concerning tax

(1) An Act concerning a tax is an act by which a specific tax is provided.

(2) A taxpayer is required to pay only the state and local taxes prescribed by acts at the rates and in accordance with the procedure provided by acts concerning a tax and by rural municipality or city council regulations.

(3) The following is provided in an Act concerning a tax:

- 1) the name of the tax;
- 2) the object of taxation;
- 3) the tax rate;
- 4) the taxpayer;
- 5) the recipient of tax or receiving agency;
- 6) the due date or term for payment of the tax, and the period of taxation in the case of periodic taxes;
- 7) the procedure for calculation and payment of the tax and supplementary obligations accompanying the tax;
- 8) possible tax incentives.

§ 4¹. Enforcement of Act concerning tax and amendment thereof

A period of at least six months must, in general, remain between the adoption of an Act concerning a tax and the amendment thereof and the enforcement thereof. This provision is not applied in the case of an Act concerning a tax and the amendment thereof with a favourable impact on a taxable person.

[RT I, 06.03.2015, 6 – entry into force 01.07.2015]

§ 5. Tax authority

(1) The tax authority for state taxes is the Tax and Customs Board.

[RT I 2003, 88, 591 – entry into force 01.01.2004]

(2) The tax authorities for local taxes are rural municipality or city governments or other rural municipality or city administrative agencies provided in a tax regulation.

(3) [Repealed – RT I 2010, 72, 544 – entry into force 01.01.2012]

(4) Rural municipalities and cities may enter into an administrative contract among themselves by which the duties of the tax authority for local taxes of the same type established in the rural municipalities and cities which

are party to the contract are transferred to an administrative agency of one rural municipality or city which is party to the contract.

(5) A rural municipality and a city may enter into an administrative contract with the Tax and Customs Board in accordance with the provisions of the Local Taxes Act by which the tasks of the local tax authority are transferred to the Tax and Customs Board.

[RT I, 25.10.2012, 1 – entry into force. 01.12.2012]

§ 6. Taxable person

(1) The following are taxable persons:

- 1) a taxpayer;
- 2) a withholding agent;
- 3) another person responsible for the tax liability of a taxpayer or a withholding agent based on an act or a contract.

(2) A taxpayer is a natural or legal person, or a state, rural municipality or city agency, who is required to pay tax on the conditions and in accordance with the procedure provided by a law and to perform other financial and non-financial obligations imposed on the taxpayer in connection with the tax liability.

(3) A withholding agent is a natural or legal person, or a state, rural municipality or city agency, who is required to withhold the amount of tax which is due on behalf of another person and transfer such amount to the designated account on the conditions and in accordance with the procedure provided by a law and to perform other financial and non-financial obligations imposed on the withholding agent in connection with the obligation to withhold.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(4) The law may provide cases where:

- 1) an association of persons or pool of assets without the status of a legal person is treated as a taxpayer or withholding agent;
- 2) several legal persons are treated as one taxable person;
- 3) a structural unit of a legal person or an enterprise belonging to a legal person is treated as an independent taxable person.

(5) The state, rural municipalities and cities are not deemed to be taxpayers or withholding agents unless otherwise provided in an Act concerning a tax.

(6) Foreign state or local government agencies, other institutions in public law and representations of international organisations or co-operation programmes may also be taxpayers or withholding agents.

(7) The provisions of this Act concerning legal persons apply to a state, rural municipality or city agency and to a taxable person specified in subsections 4 and 6 of this section, unless otherwise provided in respect of such agencies or persons.

§ 7. Passive and active legal capacity of taxable person

(1) The corresponding provisions of the General Part of the Civil Code Act apply to the passive legal capacity, active legal capacity and legal representation of a taxable person upon taxation, unless otherwise provided by this Act or an Act concerning a tax.

(2) The obligations, arising from this Act or an Act concerning a tax, of a minor or another natural person with restricted active legal capacity are performed in the name thereof by the legal representatives of such persons. A minor of 15–18 years of age whose active legal capacity has been extended performs obligations provided by this Act or an Act concerning a tax independently where such obligations arise from transactions which the minor may enter into personally.

(3) The rights and obligations of a state, rural municipality and city agency or a taxable person specified in subsections 4 and 6 of § 6 of this Act as a taxpayer or a withholding agent are exercised by the head of such agency or another authorised person in accordance with the limits of the competence provided by the statute of the agency, the partnership agreement or other legislation regulating the activities of the taxable person.

§ 8. Obligations of legal representative and administrator of assets

(1) The legal representative of a legal or natural person is required to organise the performance of the financial and non-financial obligations of the principal arising from this Act, an Act concerning a tax and the acts specified in subsection 4 of § 3 of this Act within the term and in full. Financial obligations are performed out of the assets of the principal.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) The head of a civil law partnership or another association of persons without the status of a legal person or the administrator of a pool of assets without the status of a legal person is required to organise the performance of the financial and non-financial obligations, which are related to the assets of the association or managed pool of assets, arising from this Act, an Act concerning a tax and acts specified in subsection 4 of § 3 of this Act within the set term and in full. Financial obligations are performed at the expense of the administered assets.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(3) Where an association of persons without the status of a legal person does not have a chief executive officer, the obligations specified in subsection 2 of this section must be performed by the members of the association. A tax authority may address a claim for the performance of an obligation to any member of the association. Where the assets of an association of persons without the status of a legal person are administered by a person other than the members of the association or the chief executive officer, this person performs the tax liabilities related to the assets administered by the person.

(4) Where a pool of assets without the status of a legal person does not have a manager, the co-owners of the pool of assets must perform the obligations specified in subsection 2 of this section. A tax authority may address a claim for the performance of an obligation to any co-owner. Where the economic benefits (subsection 3 of § 94) related to a pool of assets without the status of a legal person are not in the possession of the administrator or the co-owners or where it is impossible to determine the co-owners, the person who has actual control over the items of and rights related to the pool of assets performs the obligations specified in subsection 2 of this section.

(5) The obligations provided in subsections 1 and 2 of this section extend to an executor of a will, administrator of the estate, an enforcement agent, a compulsory administrator of an immovable and other persons on whom the obligation to administer the assets of a taxable person has been imposed in accordance with a law.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

§ 8¹. Tax representative of non-resident

(1) The tax representative of a non-resident (hereinafter tax representative) is a person to whom a corresponding activity licence has been issued by the tax authority for state taxes, whom a non-resident may authorise to represent the non-resident for the performance of the obligations arising in Estonia from an Act concerning a tax or from this Act. A legal person founded in Estonia, or a branch of a foreign legal person entered in the Estonian commercial register may act as a tax representative.

(2) All the rights and obligations of a registered non-resident taxable person extend to the tax representative. The tax representative is required to ensure that the financial and non-financial obligations of the principal arising from this Act or an Act concerning a tax are performed within the set term and in full.

(3) A tax representative submits a request to the tax authority for state taxes to obtain an activity licence of a tax representative wherein the following details are indicated concerning the tax representative:

- 1) name and address;
- 2) registration number;
- 3) area of activity and place of business.

(4) A tax representative must be solvent and have an impeccable reputation. A tax representative may not have tax arrears. A tax representative must submit security at the request of the tax authority.

(5) The tax authority decides on the grant of an activity licence of a tax representative within twenty calendar days as of the receipt of the request. When deciding whether to grant an activity licence, the compliance of the person with the requirements specified in subsection 4 of this section is verified. The tax authority may take into consideration the person's performance of earlier obligations arising from Acts concerning taxes. The tax authority may request that the applicant furnish proof concerning the applicant's financial situation in order to verify the applicant's solvency.

(6) The tax authority may suspend or revoke an activity licence where a bankruptcy or liquidation procedure has been initiated against the tax representative, where the tax representative violates the obligations specified in subsection 2 of this section or where the tax representative does not meet the requirements specified in subsection 4 of this section.

(7) The tax authority publishes a list of tax representatives on its website.
[RT I 2003, 82, 554 – entry into force 01.05.2004]

§ 9. Residence, registered office, place of business and permanent establishment

(1) The terms “residence” and “registered office” are used in this Act for the purposes of the General Part of the Civil Code Act.

(2) A place of business is the place of the permanent and continuous economic or administrative activities of a person or an association of persons without the status of a legal person or a pool of assets without the status of a legal person.

(3) A permanent establishment is the place through which, in full or in part, the permanent economic activities of a non-resident are carried out in Estonia. A non-resident whose economic activities in Estonia are carried out through an authorised representative in accordance with the provisions of the Income Tax Act also has a permanent establishment.

Subchapter 2

Principal Obligations of Tax Authority

§ 10. Duties of tax authority

(1) A tax authority monitors compliance with this Act and acts concerning a tax within the limits of the competence granted to the tax authority by a law.

(2) The duties of a tax authority are:

- 1) to verify the correctness of the calculation and payment of taxes and monitor the payment of taxes and the application of tax incentives in the amount and in accordance with the procedure provided by an Act;
- 2) to calculate and make an assessment of the amount of tax and interest due in the cases provided by a law and to refund overpaid or reimbursable amounts;
- 3) to collect tax arrears;
- 4) to impose coercive measures and punishments permitted by law with regard to violators of Acts concerning a tax;
- 5) to exercise supervision over the obligation to register employment;
[RT I, 16.04.2014, 2 – entry into force 01.07.2014]
- 6) to exercise supervision over compliance with the obligations of the information provider and information source provided in the Tax Information Exchange Act;
[RT I, 23.12.2014, 15 – entry into force 01.01.2015]
- 7) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]
- 8) to exercise state supervision over the compliance with the obligation to submit data on construction works.
[RT I, 05.04.2022, 1 - entry into force 01.10.2023]
- 9) to exercise state supervision over the keeping of records and reporting obligation of the payment service provider provided in the Value Added Tax Act;
[RT I, 21.11.2023, 1 - entry into force 01.01.2024]
- 10) to exercise state supervision over the compliance with the keeping of records and reporting obligation by the implementer of the special arrangement for small enterprises provided in the Value-Added Tax Act.
[RT I, 03.12.2024, 2 - entry into force 01.01.2025]

(3) A tax authority conducts the procedure in a manner as simple, fast, and efficient as possible without an undue delay, avoiding superfluous costs and inconveniences, in compliance with the general principles of administrative procedure and ensuring that the rights of parties to the proceedings are protected.

§ 10¹. Processing of personal data

The tax authority for state taxes may process personal data collected in accordance with this Act, an Act concerning a tax or legislation issued on the basis thereof, including, in justified cases, health data and biometric data, in the performance of the duties specified in § 10 of this Act.
[RT I, 13.03.2019, 2 – entry into force, 15.03.2019]

§ 11. Principle of investigation

(1) Upon verifying of the correctness of the payment of taxes and assessing the amount of tax, a tax authority is required to take into consideration all the facts relevant in the case, including facts that increase but also the facts which decrease tax liability.

(2) A tax authority decides on the need to conduct actions to verify the correctness of the payment of a tax, on the type and extent of the actions and collects evidence which is necessary to decide in the case. When establishing the facts relevant for the purposes of taxation, a tax authority is not bound only to the requests and evidence submitted by parties to the proceedings.

§ 12. Right of discretion

Where a tax authority is authorised by a law to consider taking a measure or to choose between different measures, the tax authority exercises the right of discretion within the limits of authorisation and in accordance with the general principles of law, taking into account relevant facts and considering legitimate interests.

§ 13. Hearing of taxable person

(1) A taxable person has the right to submit the opinion and objections of the taxable person to a tax authority before the issuance of an administrative decision concerning the rights of the taxable person.

(2) It is not required to ensure the right specified in subsection 1 of this section for a taxable person where:

- 1) prompt action is required to prevent damage arising from delay or to protect the public interests, or
- 2) the tax authority does not deviate from the information provided by the taxable person in an application, request or explanation and there is no need for additional information, or
- 3) the resolution is not made to the detriment of the taxable person, or
- 4) notification which is necessary to allow submission of opinions or objections, does not enable achievement of the purpose of the administrative decision or
- 5) in other cases provided by a law.

§ 14. Provision of information to taxable person

(1) At the request of a taxable person, a tax authority provides information and explanations about their rights and obligations arising from this Act and acts concerning a tax.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) Where necessary, a tax authority explains the rights and obligations of a taxable person in a tax proceeding to the taxable person.

(3) A taxable person has the right to access information concerning them which is collected by a tax authority and to make copies or extracts of such information. A tax authority has the right to refuse to submit information for protection of the rights and freedoms of the data subject and other persons.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(4) At the request of a taxable person, a tax authority is required to issue a written certificate to the taxable person or make information electronically available to the taxable person concerning the size of tax arrears of the taxable person, as well as the amounts of tax and interest paid by the taxable person or returned or set-off to the taxable person, for which the limitation period for compulsory enforcement (§ 132) has not expired.

(5) A taxable person and also another interested person or agency has the right to request a certificate concerning the absence of tax arrears from a tax authority. The tax authority is required to issue a certificate concerning the absence of tax arrears also where the tax arrears of the taxable person in terms of all taxes administered by the same tax authority are less than 100 euros, not including interest not determined by an administrative decision, or where the taxes are being paid in instalments. A certificate concerning the absence of tax arrears is not issued where the taxable person has failed to comply with the obligation to submit a tax return within the term provided by law during the year in which the request and the tax authority has not determined the amount of tax.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(6) A tax authority may make a notation on the certificate specified in subsection 5 of this section stating the person to whom or for submission to whom the certificate is issued and that the taxable person has failed to comply with the obligation to submit a tax return within the term provided by law during the year in which the request is submitted or during the preceding year.

[RT I 2008, 60, 331 – entry into force 01.01.2009]

(7) A certificate specified in subsection 5 of this section is issued or the issue thereof is refused within five working days as of the receipt of a request. The issue of a certificate does not constitute forgiveness of tax arrears or deprive a tax authority of the right to collect tax arrears.

§ 14¹. Notification of taxable person

The tax authority has the right to send to a taxable person reminders and other information concerning the taxable person for informative purposes through a means of communication that the taxable person has made known to the tax authority.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 15. Provision of explanations and instructions for Acts concerning taxes

(1) The Ministry of Finance and the tax authority for state taxes have the right to provide explanations and guidance in order to explain and introduce this Act, the Tax Information Exchange Act and acts concerning a tax for the purpose of ensuring the uniform application of the Acts.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(2) The explanations and instructions specified in subsection 1 of this section are not binding on taxable persons.

(3) The explanations and instructions specified in subsection 1 of this section are published on the website of the provider of the explanations and instructions or are published as a periodic printed publication. Publication thereof is ensured by the provider of explanations and instructions.
[RT I 2005, 25, 193 – entry into force 01.07.2005]

§ 15¹. Processing of personal identification code

[Repealed – RT I, 23.03.2017, 1 – entry into force 01.04.2017]

§ 16. Compensation for damage

Damage unlawfully caused to a taxable person or third party by a tax authority is compensated for in accordance with the provisions of the State Liability Act.

Subchapter 3 Register of Taxable Persons

§ 17. Register of taxable persons

(1) The register of taxable persons (hereinafter register) is founded, and its statute is established by a regulation of the Government of the Republic.
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(1¹) The objectives of maintaining the register are:

- 1) collection of data for the performance of duties arising from acts concerning a tax and other Acts;
- 2) keeping records for tax assessment, verification of the correctness of payment of taxes and collection of taxes;
- 3) keeping records of public financial obligations specified in subsection 6 of § 1 of this Act.
[RT I, 13.03.2019, 2 – entry into force, 15.03.2019]

(2) Information is entered in the register concerning the following persons:

- 1) a taxable person;
- 2) a person who is insurable based on the Social Tax Act;
- 3) an insured person under the Unemployment Insurance Act, a payer and a withholder of unemployment insurance contributions;
- 4) an obligated person, a person making contributions and a withholding agent for contributions for the purposes of the Funded Pensions Act;
- 5) a tax representative;
- 6) a non-resident in connection with the submission of a claim for refund;
[RT I 2009, 56, 376 – entry into force 01.01.2010]
- 7) on the basis of the Environmental Fees Act the persons who pay pollution charges, water abstraction charge, charge for compensation for environmental nuisances and mineral resources extraction charge;
[RT I, 09.08.2022, 1 – entry into force 01.07.2023]
- 8) a person obligated to perform financial obligations specified in subsection 6 of § 1 of this Act;
[RT I, 31.01.2014, 6 – entry into force 01.04.2014]
- 9) [Repealed – RT I, 24.12.2016, 1 – entry into force 01.01.2018]
- 10) a foreign association of persons or pool of assets without the status of a legal person;
[RT I, 09.02.2016, 1 – entry into force 10.02.2016]
- 11) a person whose data is processed based on the Tax Information Exchange Act;
[RT I, 09.02.2016, 1 – entry into force 10.02.2016]
- 12) a non-resident due to the obligation to pay road toll;
[RT I, 04.07.2017, 5 – entry into force 20.12.2017]
- 13) a person whose data are processed on the basis of the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act for the performance of the functions of a state tax authority;
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]
- 14) a person whose data is entered on the list of persons with gambling restrictions based on the Gambling Act and the person whose data is processed based on § 58 of the same Act;
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]
- 15) a person whose data is processed on the basis provided in subsection 1 of § 13 of the Customs Act and in order to perform the functions provided in § 4 of the same Act and Article 3 of the Customs Code;
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]
- 16) a person whose data is collected based on the Liquid Fuel Act.
[RT I, 13.03.2019, 2 – entry into force 15.03.2019]
- 17) a payment service provider for the purposes of § 36¹ of the Value Added Tax Act and a payee whose data are processed based on § 36¹ of the Value Added Tax Act;

[RT I, 21.11.2023, 1 - entry into force 01.01.2024]

18) a person specified in subsection 1¹ of § 19 of the Value-Added Tax Act and the implementer of the special arrangement for small enterprises for the purposes of § 191 of the Value-Added Tax Act.

[RT I, 03.12.2024, 2 - entry into force 01.01.2025]

(2¹) A separate record is kept in the register for each person entered in the register concerning the rights and obligations arising from this Act, an Act concerning a tax, the Gambling Act, Liquid Fuel Act and the customs legislation, as well as concerning the financial obligations specified in subsection 6 of § 1 of this Act and the performance thereof.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(3) The chief processor of the register is the Tax and Customs Board.

[RT I 2003, 88, 591 – entry into force 01.01.2004]

(3¹) The State Shared Service Centre, the court and the prosecutor's office are the authorised processors of the register for the purposes of keeping records of the financial obligations specified in subsection 6 of § 1 of this Act and arranging the enforcement thereof. The State Shared Service Centre that is the authorised processor of the register has the rights specified in subsection 2 of § 63 of this Act.

[RT I, 07.12.2018, 1 – entry into 17.12.2018]

(3²) The authorised processors of the register are assigned in the statute of the register.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(4) Data are entered in the register and obtained from the register in accordance with the procedure provided in the statute of the register and in accordance with the provisions of Subchapters 3–4 of this Chapter and the Acts specified in subsection 2¹ of this section.

[RT I, 05.04.2022, 1 – entry into force 01.10.2023]

(5) The statute of the register of taxable persons provides exceptions to the composition of data and their entry in the register for the purpose of ensuring the protection of state secrets, as well as in the case of the reporting obligation related to construction works of a national defence building and a security authority building.

[RT I, 05.04.2022, 1 – entry into force 01.10.2023]

§ 18. Registration obligation

(1) The following persons are required to register themselves in the Tax and Customs Board prior to the commencement of activities in Estonia:

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

1) a legal person who is not to be entered in the commercial register, the non-profit associations and foundations register or the register of religious associations;

2) a state, rural municipality or city agency that is not entered in the state register of state and local government agencies;

3) [Repealed – RT I 2008, 27, 177 – entry into force 01.01.2009]

4) a non-resident legal person, self-employed person, association of persons or pool of assets without the status of a legal person which establishes a permanent establishment in Estonia, which is not entered in the commercial register as a branch;

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

5) [Repealed – RT I, 31.05.2018, 2 – entry into force 01.10.2018]

6) a partnership, community and other association of persons without the status of a legal person, which has become liable for tax in Estonia;

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

7) a non-resident employer, including an intermediary of temporary agency work, a self-employed person, a foreign mission, other agency of a foreign state, an international organisation and their representation, whose employees work in Estonia.

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

(1¹) [Repealed – RT I, 10.07.2020, 4 – entry into force 01.01.2021]

(2) At the request of those registered the Tax and Customs Board issues a document certifying registration.

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

§ 19. Registration of legal person or agency

(1) In order to be registered, a legal person or agency specified in clause 1 or 2 of subsection 1 of § 18 of this Act submits an application to the Tax and Customs Board in which the following is set out:

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

1) the name and address of the person or agency;

2) the given name, surname, personal identification code (or, in the absence of thereof a personal identification code, the date, month and year of birth) and residence of each member of the management body of the person or agency.

(2) A copy of the articles of association or partnership agreement of the legal person or another legal act regulating the activities of the legal person is appended to the application. A public legal person includes in the application a reference to the place of publication of the Act which is the basis for their activities. A state, rural municipality or city agency adds a copy of their statute or other legal act regulating their activities.

§ 20. Self-employed person

[RT I 2008, 60, 331 – entry into force 01.01.2009]

(1) [Repealed – RT I 2008, 27, 177 – entry into force 01.01.2009]

(2) [Repealed – RT I 2008, 27, 177 – entry into force 01.01.2009]

(3) The obligations provided in an Act concerning a tax also apply to a self-employed person who has not been entered in the commercial register. Unless otherwise provided by an Act concerning a tax, the rights provided therein extend to the specified persons as of their entry in the commercial register.

[RT I 2008, 27, 177 – entry into force 01.01.2010]

(4) A self-employed person who does not engage in enterprise for the purposes of § 14 of the Income Tax Act may be deleted from the commercial register on the proposal of a tax authority. Before making a proposal to the registrar of the commercial register, the tax authority sets a term to the self-employed person for the proving of engagement in enterprise.

[RT I 2008, 27, 177 – entry into force 01.01.2010]

(5) [Repealed – RT I 2008, 27, 177 – entry into force 01.01.2009]

§ 20¹. Registration, amendment of register data and deletion from register of notary and enforcement agent

[Repealed – RT I, 31.05.2018, 2 – entry into force 01.10.2018]

§ 20². Registration of spouse and registered partner engaged in activity of undertaking of self-employed person and deletion from register

[RT I, 06.07.2023, 6 - entry into force 01.01.2024]

(1) A self-employed person has the right to register their spouse, who participates in the economic activity of their business, in the employment register in accordance with the procedure provided in Subchapter 3¹ of this Chapter.

[RT I, 07.12.2018, 1 – entry into 17.12.2018]

(2) The spouse who is engaged in the activity of the business of the self-employed person (hereinafter in this section spouse) is the spouse of the self-employed person, entered into the commercial register, who participates in the activities of the business of the self-employed person and who has not entered into any employment contract with the self-employed person or a contract under the law of obligations for provision of services, an authorisation agreement or for provision of other service.

[RT I, 02.07.2012, 8 – entry into force 01.08.2012]

(2¹) The provisions relating to the spouse of a self-employed person participating in the activities of the business of the self-employed person also apply to the registered partner participating in the activities of the business of the self-employed person.

[RT I, 06.07.2023, 6 - entry into force 01.01.2024]

(3) [Repealed – RT I, 07.12.2018, 1 – entry into 17.12.2018]

(4) [Repealed – RT I, 07.12.2018, 1 – entry into 17.12.2018]

§ 21. Registration of permanent establishment

(1) In order to register the permanent establishment of a non-resident legal person and a self-employed person specified in clause 4 of subsection 1 of § 18 of this Act, an application is submitted to the Tax and Customs Board in which the following is set out:

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

1) the name and address of the non-resident legal person;

2) the place of registration and the registration number or another code enabling identification, where such information exists;

3) the area of activity, place of business and postal address in Estonia of the permanent establishment;

4) the number of the bank account opened for servicing the permanent establishment and the name of the credit institution in which the bank account is opened;

5) the given name and surname of a person responsible for the permanent establishment of the legal person, and their personal identification code (in the absence thereof the date, month and year of birth) and residence.
[RT I, 18.11.2010, 1 – entry into force 01.01.2011]

6) the name and registry code or personal identification code of each shareholder or partner of a legal person, in the absence of the personal identification code, the date, month and year of birth.
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(1¹) [Repealed – RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(2) The following is appended to an application for registration of the permanent establishment of a non-resident legal person:

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

1) a copy of the certificate of registration, an extract from the register or another document certifying the existence of the legal person;

2) a document certifying the authorisation of the person responsible for the permanent establishment;

3) a copy of the articles of association or partnership agreement of the legal person, certified according to the laws of the country of location, or another document regulating the activities of the legal person where submission of the documents is required upon registration of the legal person in their country of location;

4) a specimen signature of the person responsible for the permanent establishment which is notarised or officially certified by the tax authority;

5) in the case of a tax representative, the written agreement between the tax representative and the non-resident.

(3) In order to register the permanent establishment of an association of persons or a pool of assets without the status of a legal person specified in clause 4 of subsection 1 of § 18 of this Act, an application is submitted to the Tax and Customs Board in which the following is set out:

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

1) the name and address of the association of persons or pool of assets, where such information exists;

2) a number or registry code enabling identification of the association of persons or pool of assets, where such information exists;

3) the names and addresses of the members of the association of persons or the co-owners of the pool of assets, except in the case specified in clause 4 of this subsection;

4) the names and addresses of members with management rights, the chief executive officer or the administrator of assets where not all the persons specified in clause 3 of this subsection are involved in the management of the association or administration of the pool of assets;

5) the area of activity, place of business and postal address in Estonia of the permanent establishment;

6) the number of the bank account opened for servicing the permanent establishment and the name of the credit institution in which the bank account is opened;

7) the given name and surname of the person responsible for the permanent establishment, and their personal identification code (in the absence thereof the date, month and year of birth) and residence.

(4) The following is appended to an application specified in subsection 3 of this section:

1) a copy of the document which is the basis for the activities of the association of persons or pool of assets without the status of a legal person;

2) a specimen signature of the person responsible for the permanent establishment which is notarised or officially certified by a tax authority;

3) a document certifying the authorisation of the person responsible;

4) in the case of a tax representative, the written agreement between the tax representative and the non-resident.

§ 21¹. Registration of partnership, community and other association of persons not having the status of legal person

(1) In order to register a partnership, community or other association of persons not having the status of a legal person specified in clause 6 of subsection 1 of § 18 of this Act, an application is submitted to the Tax and Customs Board, which sets out the following information concerning the partnership, community or other association of persons not having the status of a legal person:

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

1) the name or the name and address, where they exist;

2) a number or registry code enabling identification, where they exist;

3) the names and addresses of the members or co-owners, except in the case provided in clause 4 of this subsection;

4) the name and address of members with management rights, the chief executive officer or the administrator of assets where not all the persons specified in clause 3 of this subsection are involved in the management of the association;

5) the area or areas of activity, place of business and the address;

6) the given name and surname of the responsible person, personal identification code (in the absence thereof the date, month and year of birth) and residence.

(2) The following is appended to an application specified in subsection 1 of this section concerning the partnership, community or other association of persons not having the status of a legal person:

- 1) a copy of the document which is the basis for the activity;
- 2) a document certifying the authorisation of the responsible person.

§ 22. Registration of non-resident employer

(1) In order to register a non-resident employer specified in clause 7 of subsection 1 of § 18 of this Act, an application is submitted to the Tax and Customs Board which sets out the following information:

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

- 1) the name of the non-resident employer;
- 2) the postal address of the employer in the country of location, where it exists;
- 3) the postal address of the employer in Estonia, where it exists;
- 4) the name and postal address of the person representing the employer;
- 5) the signature of the employer or a person authorised by the employer.

(2) A copy of the articles of association or another document regulating the activities of the non-resident employer are appended to an application where such document is required. A document certifying the authorisation of the person representing the employer, a specimen signature of the person, which is notarised or officially certified by the tax authority, and, in the case of a tax representative, the written agreement between the tax representative and the non-resident is also submitted.

(3) A non-resident employer has the right to be registered in the register of taxable persons also before the tax liability arises, submitting the information and documents listed in subsections 1 and 2 of this section for that purpose.

§ 23. Giving notification of changes in information

(1) Persons specified in §§ 18, 21¹ and 22 of this Act are required to notify the Tax and Customs Board within five working days of the termination of their activities, liquidation of their permanent establishment or changes in the information listed in §§ 19–21, 21¹ and 22.

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(2) [Repealed – RT I 2008, 27, 177 – entry into force 01.01.2009]

(3) A self-employed person notifies the registrar of the commercial register of the suspension of the activities of their enterprise, the seasonal activities and temporary activities of their enterprise in accordance with subsection 3 of § 3 of the Commercial Code. In the specified cases, a person is deemed to be a self-employed person for taxation purposes only during the period of being engaged in the activities.

[RT I 2008, 27, 177 – entry into force 01.01.2010]

§ 24. Making of register entry

(1) The persons specified in §§ 18 and 22 of this Act are entered in the register as at the date of submission of an application or the date indicated in the application.

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

(2) Register entries concerning the termination of activities, liquidation of the permanent establishment and changes in other register information regarding the persons specified in §§ 18 and 22 of this Act are made as at the date specified by the person in the application.

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

§ 25. Refusal to make register entry

(1) Where the information submitted by an applicant is incomplete or inaccurate, the Tax and Customs Board has the right to refuse to make the register entry and:

- 1) to draw the attention of the applicant to the deficiencies in the application or documents and to set a term for the elimination of deficiencies, or
- 2) to draw the attention of the applicant to the deficiencies in the application or documents and to return the documents submitted for registration.

(2) Where deficiencies are not eliminated within the term set by the Tax and Customs Board, the application for registration is not deemed to have been submitted.

[RT I 2003, 88, 591 – entry into force 01.01.2004]

Subchapter 3¹

Employment Register

[RT I, 16.04.2014, 2 - entry into force 01.07.2014]

§ 25¹. Employment register

(1) The employment register is a sub-register of the register provided for in subsection 1 of § 17 of this Act, which is maintained to ensure the performance of functions imposed by law on the Tax and Customs Board, the Labour Inspectorate, the Estonian Unemployment Insurance Fund, the Health Insurance Fund, the Social Security Board, the Financial Intelligence Unit and the Police and Border Guard Board.
[RT I, 11.03.2023, 9 – entry into force 01.04.2023]

(2) The authorised processors of the employment register are the Labour Inspectorate and the Estonian Unemployment Insurance Fund. The chairman or secretary of the labour dispute committee has the right to make entries specified in § 63 of the Individual Labour Dispute Resolution Act based on the decision specified in clause 4 of § 25⁵ of this Act. The Estonian Unemployment Insurance Fund has the right to make entries based on a document specified in clause 3 of § 25⁵ of this Act where the right for benefit determined based on the Unemployment Insurance Act or for unemployment allowance determined based on the Labour Market Measures Act is established on the basis thereof.
[RT I, 07.03.2023, 5 - entry into force 01.01.2024]

(3) In this Subchapter the definitions related to the employment register are used in the following meaning:

1) 'employment' is working under an employment contract or a contract under the law of obligations, civil service for the purposes of § 5 of the Civil Service Act and working in the business interests of a company or a self-employed person without receiving any remuneration;
[RT I, 19.12.2024, 1 - entry into force 01.01.2025]

2) 'a person performing work' is a natural person who is working for the purposes specified in clause 1 of this subsection;

3) 'a person providing work' is a resident or non-resident legal person in Estonia, an Estonian state authority or local government authority, a natural person or a self-employed person who enters into an agreement which forms a basis for working or who appoints a person specified in clause 2 of this section to a post;

4) 'commencement of employment' is the commencement of work of a person performing work under an employment contract or on a voluntary basis without any remuneration in the economic interest of a company or self-employed person with the accuracy of date, the commencement of work under the law of obligations with the accuracy of the date of entry into force of the contract and the assumption of a post in civil service with the accuracy of date;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

5) 'suspension of employment' is a period spent by a person performing work on a maternity leave, paternity leave or parental leave, in conscript service or alternative service or on holidays without pay granted by agreement of the parties;

[RT I, 26.10.2018, 1 – entry into force 01.04.2022]

6) 'termination of employment' is the termination of work of a person performing work under an employment contract and the termination of employment on a voluntary basis without any remuneration in the economic interests of a company or self-employed person with the accuracy of date, the termination of an employment contract under the law of obligations with the accuracy of date of the termination of the contract and the release from civil service of an official with the accuracy of date and the transfer of the tax liability of a person performing work to another state with the accuracy of date.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(4) Data regarding the following types of employment and natural persons through whose employment a tax liability is created in Estonia are entered in the employment register:

1) a person employed under the employment contract;

2) a person providing service on the basis of a contract under the law of obligations, except for a self-employed person and a payer of business income tax;

[RT I, 19.12.2024, 1 - entry into force 01.01.2025]

3) a member of a management or controlling body of a legal person;

4) an official and employee for the purposes of § 7 of the Civil Service Act;

5) a member of the Riigikogu;

6) the President of the Republic;

7) a member of the Government of the Republic;

8) a judge;

9) the Chancellor of Justice;

10) the Auditor General;

11) the Public Conciliator;

12) a member of the local government council;

13) a member of the rural municipality or city government;

14) a rural municipality or city district elder;

15) [Repealed – RT I, 23.03.2017, 1 – entry into force 01.04.2017]

16) the spouse or registered partner accompanying a member of staff working in a diplomatic mission of the Republic of Estonia or an official sent on a long-term assignment abroad, who is paid allowance for a spouse and registered partner based on § 67 of the Foreign Service Act.

[RT I, 27.09.2024, 1 - entry into force 01.01.2025]

17) [Repealed - RT I, 19.12.2024, 1 - entry into force 01.01.2025]

(5) Data regarding persons working on a voluntary basis without any remuneration in the economic interest of a company or self-employed person are recorded in the employment register.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(5¹) Data regarding the spouse or registered partner who participates in the economic activities of a self-employed person their specified in subsection 2 of § 20² of this Act may be entered in the employment register.
[RT I, 06.07.2023, 6 - entry into force 01.01.2024]

(6) The maker of the entry is responsible for the correctness of the entry in the employment register.

(7) When an error has become evident, the maker of the entry is required to correct the incorrect entry immediately. Where it is impossible for the maker of the entry to correct the entry themselves, they submit a request to the chief processor in accordance with the procedure provided in subsection 2 of § 25⁶ of this Act.
[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 25². Obligation to register

(1) A person providing work is an obligated person upon registration of employment.

(2) A person providing work is required to register in the employment register the commencement, suspension, termination and type of employment and other data related to employment of persons specified in subsections 4, 5 and 5¹ of § 25¹ of this Act.
[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

(3) The commencement of employment is registered at the latest by the moment of the commencement of employment by a person performing work.

(4) The suspension and termination of employment is registered within 10 days as of the date of the suspension or termination of employment.
[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 25³. Competence of tax authority upon establishment of employment

(1) The tax authority has the right to establish the commencement and termination of employment and, where necessary, decide with regard thereto in compliance with the conditions provided in § 46 of this Act.

(2) [Repealed - RT I, 05.04.2022, 1 – entry into force 01.10.2023]

§ 25⁴. Data recorded in employment register

(1) A list of data entered in the employment register is provided in the statute of the register of taxable persons.
[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

(2) [Repealed - RT I, 05.04.2022, 1 – entry into force 01.10.2023]

(3) A person providing work has the right to register the commencement of employment in a simplified procedure. For that purpose, the person providing work submits the personal identification code and the date of commencement of employment of a person performing work and their registry code or personal identification code by phone or by a short message onto the phone number published on the web page of the tax authority. Other data specified in the statute of the register of taxable persons are entered into the employment register by a person providing work within seven calendar days as of the registration in the simplified procedure.
[RT I, 07.12.2018, 1 – entry into 17.12.2018]

§ 25⁵. Basis for entry in employment register

Entries in the employment register are made according to the data of the commercial register, non-profit associations and foundations register and the population register and the basis for the entry is:

- 1) agreement concerning employment between a person providing work and a person performing work or an administrative decision in civil service;
- 2) an application of a person providing work for making an entry;
- 3) a court judgment that has entered into force;
- 4) a decision of the labour dispute committee that has entered into force;
- 5) a notice of assessment.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 25⁶. Correction of entry in employment register

(1) A person providing work may correct the faulty entry in the employment register electronically within three months as of the date of the commencement, suspension or termination of employment.

(2) After three months as of the making of an entry it may be corrected only by the decision of the chief processor based on an application of a person interested in correcting the entry. The application is submitted to the chief processor within 14 days as of getting to know of the need to make an amendment. The name and contact data of the person who submitted the data are set out in the application. Evidence on the need to make amendments is added to the application.

(3) The chief processor makes the decision on the amendment of the entry within 30 days as of the submission of the application.

(4) Where the chief processor has doubts concerning the accuracy of the entry or the application for the correction thereof, the chief processor has the right to make inquiries to the person who has made the entry or demand additional data.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 25⁷. Refusal to correct entry in employment register

(1) The chief processor may refuse to correct the entry where the correction of the entry is unfounded.

(2) The chief processor makes the decision of refusal to correct the entry within 30 days as of the submission of the application.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 25⁸. Non-compliance levy for failure to comply with obligation to register employment

(1) Where the person providing work has not registered the commencement of employment of a person by the term specified in subsection 3 of § 25² of this Act or has failed to register the termination of employment by the term specified in subsection 4 of § 25² of this Act, the tax authority may set an additional term for registration and issue a warning in accordance with § 136 of this Act to the effect that non-compliance levy may be applied upon a failure to register the obligation.

(2) Where a person providing work has not complied with the obligation imposed by an administrative decision thereon by the term noted in the warning, the non-compliance levy set out in the warning must be paid by the person. The tax authority submits a claim for payment of non-compliance levy to the obligated person by an order, setting the term of payment therein and issues a warning that upon a failure to pay the non-compliance levy by the term the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(3) A non-compliance levy to enforce the performance of the obligation to register commencement and termination of employment must not exceed 3,300 euros, thereby 1,300 euros in the first case and 2,000 euros in the second case.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

Subchapter 3² Stock Records and Reporting Database

[RT I, 03.04.2018, 2 - entry into force 01.02.2019]

§ 25⁹. Stock records and reporting database

(1) The stock records and reporting database (hereinafter in this Subchapter database) is an electronic database with the objective of keeping record of the goods in the warehouses subject to state supervision for ensuring of state supervision. The data contained in the database are used with the objective of executing state supervision

(1¹) The database is a sub-register of the register of taxable persons established based on subsection 1 of § 17 of the Taxation Act. The procedure for maintaining the database is provided in the statute of the register of taxable persons.

[RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(2) [Repealed – RT I, 13.03.2019, 2 – entry into force 15.03.2019]

(3) In the case provided by law or the legislation established based on thereof the warehousekeeper or the holder of the procedure is required to keep records of the goods in the database and enter the reports on the stock in the warehouse into the database.

(4) The data contained in the database are not public. The chief processor and the authorised processor have access to the database and the person submitting data to the data relating to them.

(5) The data entered in the database have legal effect.

(6) [Repealed – RT I, 13.03.2019, 2 – entry into force 15.03.2019]

Subchapter 3³

Notification of Employment Chain and Duration of Employment

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹⁰. Employment chain and employment duration database

(1) The employment chain and duration of employment database (hereinafter in this Subchapter the database) is a sub-register of the register of taxable persons. The database is kept to ensure the fulfilment of the tasks assigned to the Tax and Customs Board and the Labour Inspectorate by law and to ensure that the Police and Border Guard Board exercises state supervision over the temporary stay, residence and employment of aliens in Estonia.

(2) Data on the building to be constructed, construction works, their customer and the subcontractors performing the construction work, as well as the persons present at the construction site are submitted to the database.

(3) The obligation provided in subsection 2 of this section includes construction works the expected duration of which exceeds 30 working days and at least 20 persons are simultaneously employed on the construction site, or the expected volume of which exceeds 500 man-days (full working days).

(4) The list of data to be entered in the database is provided in the statute of the register of taxable persons.
[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹¹. Obligations of main contractor

(1) The main contractor is obliged to:

- 1) submit to the tax authority data on the construction work with the obligation to provide information and the name and personal or registry code of the person commissioning the works, or confirm the data displayed in the database at least three working days before the commencement of construction work;
- 2) ensure the installation of a compliant electronic registration system on the construction site, the proper use thereof and its working condition;
- 3) submit to the tax authorities once a day the summed up time of the staying of each person at the construction site on the previous day, and up to three times a week, in a non-personalised form, the times of entry into and exit from the construction site of each person with the accuracy of a second;
- 4) retain the information specified clause 3 of this section during the construction work and for four months after the completion of the construction works.

(2) The information specified in clause 3 of subsection 1 of this section concerning the persons who have been staying at the construction site in connection with their duties and the visitors to the construction site who do not carry out construction work are submitted in a non-personalised form.

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹². Obligations of building undertaking

Each building undertaking, including the main contractor, is obliged to:

- 1) submit data to the tax authority about the construction works that are performed by the undertaking and the name and personal identification or registry code of the subcontractor from whom they purchase or have purchased services related to the construction of the building, or confirm the data displayed in the database before the commencement of construction work;
- 2) indicate in the database, where necessary, the persons who they have allowed to the construction site;
- 3) ensure that the persons who they have allowed to the construction site record in the electronic registration system all entries to and exits from the construction site;

4) ensure that the persons who they have allowed to the construction site have the necessary means of identification for entry to and exit from the construction site.
[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹³. Recording of staying at construction site

(1) The technical requirements for the electronic registration system necessary for the collection and submission of data are established by a regulation of the minister in charge of the policy sector.

(2) The requirements for a means of identification enabling the entry to and exit from the construction site to be recorded, as well as the conditions and procedure for applying for and use thereof are established by a regulation of the minister in charge of the policy sector, taking into account that the amount of the fee charged for the card which serves as a means of identification would not exceed the direct costs related to the making of the card.

(3) The Tax and Customs Board ensures the organization of the issuance of the card that allows to record the entry to and exit from the construction site.

(4) The special cases of collecting data on the presence of persons at the construction site and submitting the data to the tax authority, including for linear construction works, are established by a regulation of the minister in charge of the policy sector.

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹⁴. Correction of data

(1) In case an error occurs, the person making an entry or the person to whom the entry relates is obliged to correct the incorrect entry immediately. In case the person making the entry or the person to whom the entry relates is unable to correct the entry themselves, they submit an application to the tax authority to that effect.

(2) In case more than three months have passed since the submission of the data, incorrect or inaccurate data can be corrected, only based on a reasoned application, by a decision of the tax authority. The application is submitted immediately after becoming aware of the need to correct the data. The name and contact details of the person submitting the data are indicated in the application. The application is accompanied by the evidence of the need for the correction.

(3) The tax authority decides on the correction of data within 30 days as of the date of submission of the application.

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 25¹⁵. Non-compliance levy for failure to comply with obligations provided in §§ 25¹¹ and 25¹² of this Act

(1) In case the building undertaking, including the main contractor, has failed to comply with the obligation provided in §§ 25¹¹ and 25¹² of this Act within the time limit, the tax authority may set an additional deadline for that purpose and issue a warning in accordance with § 136 that in case of a failure to comply with the obligation a non-compliance levy may be imposed.

(2) In case the building undertaking, including the main contractor, has not complied with the obligation by the deadline specified in the warning, the building undertaking must pay the non-compliance levy specified in the warning. The tax authority issues the claim for payment of non-compliance levy by an order, in which a time limit is set for payment and a warning is issued that, in case of a failure to pay the non-compliance levy by the due term, the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(3) The total amount of the non-compliance levy used to enforce the obligation may not exceed 3,300 euros, while it may not exceed 1,300 euros the first time and 2,000 euros the second time.

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

Subchapter 4 Tax Secrecy

§ 26. Protection of tax secrecy

(1) The tax authorities and officials and other staff thereof are required to maintain the confidentiality of information concerning the taxable person, including all data media (decisions, legal instruments, notices and other documents) concerning the taxable person, information on the existence of data media, business secrets and information subject to banking secrecy, which is obtained by the authorities, officials or other staff in the course of verifying the correctness of payment of taxes, making an assessment of taxes, collecting tax arrears, conducting proceedings concerning violations of tax legislation or performing official or employment duties (hereinafter tax secrecy). The obligation to maintain tax secrecy does not end with the termination of the service or employment relationship.

[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

(2) Information subject to tax secrecy may only be disclosed with the written permission of the taxable person or in the cases specified in §§ 27–30 of this Act.

(2¹) The employees of a state authority who are engaged in the maintenance and development of the information and communication systems have access to the tax secrecy to the extent which necessary for maintenance and development of the information and communication systems of the state authority.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2²) A person that is auditing the activities of the tax authority has the access to tax secrecy.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(2³) The State Shared Service Centre, the court and the prosecutors' office have the right of access to tax secrecy for the purposes of keeping records of the financial obligations specified in subsection 6 of § 1 of this Act and arrange the enforcement thereof to the necessary extent.
[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

(3) Unless otherwise provided by a law, the officials and employees who receive information concerning tax secrecy based on §§ 28–30 of this Act or upon the performance of their official or employment duties and persons performing public law functions are required to maintain the confidentiality of any information about taxable persons which has become known to them. The obligation to maintain tax secrecy continues after the termination of the service or employment relationship.
[RT I, 06.07.2012, 1 – entry into force 01.04.2013]

§ 27. Public information

(1) A tax authority may disclose the following information to anyone without the consent of or without having informed a taxable person:

1) the date on which a taxable person who is registered with the Tax and Customs Board in accordance with the provisions of §§ 18–22 of this Act is entered in or deleted from the register, the area of activity and place of business, in the case of the persons specified in subsection 1 of § 18 information concerning the responsible person and information concerning the commencement, suspension and termination of the administrative activities of a notary and an enforcement agent;
[RT I, 10.07.2020, 4 – entry into force 01.01.2021]

2) the name, registry code and registration number of a person liable to value added tax and the date of entry into and deletion from the register;
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

2¹) data noted in a written notice submitted to the tax authority by a taxable person upon adding value added tax to the taxable value of tax-free goods or service based on subsection 3 of § 16 of the Value Added Tax Act;
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

2²) the name and registry code of a tax warehousekeeper, registration number of a permit for operating a tax warehouse, address of the tax warehouse and the date of suspension and invalidation of the permit;
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

2³) the name, registry code, number of permit, legal address and address of the place of business of the temporary storage facility, customs warehouse and customs agency and of the holder of the permit for operating in a free zone;
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

2⁴) the name, registry code, legal address and address of the place of business of the principal;
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

2⁵) the name and registry code of the excise warehousekeeper, registered consignee, registered consignor and tax representative, the number of the payer of excise duty, the date of suspension and invalidation of the permit, the location of the excise warehouse and the address of the place of business;
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

3) information concerning the residency of a taxpayer;
4) the amount and time of occurrence of tax arrears and obligations specified in clause 4 of subsection 1 of § 31 and subsection 4 of § 128 of this Act, where the total amount of all the liabilities exceeds 100 euros, excluding interest not determined by an administrative decision;
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

5) the amount of tax arrears to be paid in instalments and obligations specified in clause 4 of subsection 1 of § 31 and subsection 4 of § 128 of this Act, data on the securities submitted for payment in instalments and the duration of the schedule for the performance of the obligations;
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

6) the judgment in a tax dispute or the decision adopted in the adjudication of a challenge against which an appeal is not filed during the term for filing an appeal with a court;

7) information concerning the income of a non-profit association and foundation entered in the list of non-profit associations, foundations and religious associations with income tax incentives, including the gifts and

donations received and information concerning the use thereof, as well as concerning the use of the income of religious associations;

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

8) information concerning the submission of a tax return by a taxable person or a failure of a taxable person to do so;

9) [Repealed – RT I, 18.11.2010, 1 – entry into force 01.01.2012]

10) information on offences where public interest in making such information public outweighs the interest in keeping the information undisclosed, and making the information public does not affect the ascertainment of the truth in criminal or misdemeanour procedure;

11) information about the use of environment by the persons who pay environmental charges;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011]

12) the name, personal identification code of the payer of business income tax and the number of the business account belonging thereto.

[RT I, 19.12.2024, 1 - entry into force 01.01.2025]

(2) In the case of an obligation arising from an administrative decision of the tax authority and court decision which has entered into force the amount of and time of occurrence of obligations specified in clause 4 of subsection 1 of § 31 and subsection 4 of § 128 of this Act are permitted to be disclosed after the due date for performance of the obligation has arrived where the performance thereof has not been suspended. Where the taxable person has contested the administrative decision on which the performance of the obligation is based, a corresponding notice is made to the data to be published at the request of the taxable person. Without the request of the taxable person the corresponding notice is made to the data to be disclosed where the tax authority has become aware of the contestation in another manner.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(3) The tax authority discloses on its web page the amounts of tax paid by the taxable person in total on a quarterly basis by the tenth date of the month following the quarter as follows:

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

1) the total of all the state taxes on a cash basis;
2) the total of social tax, income tax deducted on income of a resident natural person, contributions to a mandatory funded pension and unemployment insurance premiums on a cash basis.

[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

(4) [Repealed – RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(5) The tax authority discloses on its web page the total amount of the supply of actions and transactions declared by the person liable to value added tax at a rate provided in subsections 1–4 of § 15 of the Value Added Tax Act by the tenth date of the month following the quarter.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(6) The tax authority discloses on its web page the number of persons performing work for a person providing work entered in the employment register, from which the number of persons whose employment has been suspended for the purposes of clause 5 of subsection 3 of § 25¹ of this Act has been deducted as at the last date of the quarter by the tenth date of the month following the quarter.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(7) Subsections 3, 5 and 6 of this section are not applied to a natural person who is not registered as a self-employed person or to a security authority specified in § 5 of the Security Authorities Act.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(8) The tax authority publishes on their web page the data submitted according to §§ 20⁵ and 20⁶ of the Tax Information Exchange Act at the latest on the 10th day of the month following the submission of data.

[RT I, 02.05.2024, 1 - entry into force 12.05.2024]

§ 28. Disclosure of information to other tax authorities or recipient of tax

(1) [Repealed – RT I 2003, 88, 591 – entry into force 01.01.2004]

(2) The tax authority for a state tax may disclose information which is necessary for verification of the correctness of the calculation and payment of a local tax, assessment of the tax and collection of the tax to the tax authority for the local tax.

(3) The Tax and Customs Board may disclose to a rural municipality or city government information necessary for the performance of the functions of a local government concerning a taxable person and a withholding agent whose state tax or fee paid or withheld, or part thereof, is transferred to the relevant rural municipality or city.

[RT I, 23.12.2020, 5 – entry into force 01.01.2021]

(4) The tax authority for a local tax may disclose information which is necessary for verification of the correctness of the calculation and payment of a state tax, assessment of the tax and collection of the tax to the tax authority for the state tax.

§ 29. Disclosure of information containing tax secret

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

A tax authority may disclose information subject to tax secrecy:

1) to preliminary investigators and prosecutors for the purposes of preventing and detecting criminal offences, apprehending criminal offenders, investigating and hearing cases subject to criminal procedure, preparing the court hearing of cases subject to criminal procedure, as well as for conducting security checks and performing other duties for security authorities provided in the Security Authorities Act;

[RT I 2003, 71, 472 – entry into force 01.01.2004]

2) to persons authorised to conduct proceedings in cases of misdemeanours for the purposes of apprehending offenders, investigating or hearing cases and preparing the hearing of cases;

3) to courts for the purposes of preparing the hearing of and hearing criminal, civil and administrative cases or misdemeanours, and making decisions;

4) to an enforcement agent where the information is necessary for the performance of enforcement actions and making an inventory provided in the Law of Succession Act;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

4¹) to the Riigikogu committee to the extent which is necessary for the performance of the functions imposed on the committee by law or by a resolution of the Riigikogu;

5) to the Chancellor of Justice for the performance of functions provided in the Chancellor of Justice Act;

6) to the minister in charge of the policy sector in order to exercise supervisory control over the legality and purposefulness of the activities of the tax authority;

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

6¹) to the Ministry of Finance in a depersonalised form to estimate tax receipts and devise measures to ensure collection of taxes;

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

7) to the Ministry of Finance for the performance of functions provided in Chapter 6 of the Competition Act;

[RT I 2008, 60, 331 – entry into force 01.01.2009]

8) to the Financial Intelligence Unit for the prevention, detection and investigation of money laundering or terrorist financing or criminal offences related to money laundering or terrorist financing;

[RT I, 21.11.2020, 1 – entry into force 01.01.2021]

9) to the State Audit Office for the performance of functions provided in the National Audit Office Act;

10) to the Ministry of Finance for the verification of the absence of grounds for removal of a person in accordance with the Public Procurement Act;

[RT I, 01.07.2017, 1 – entry into force 01.09.2017]

11) to the performer of official statistics for the performance of functions provided in the Official Statistics Act for conducting official statistical surveys;

[RT I 2010, 20, 102 – entry into force 01.07.2010]

12) to the Social Insurance Board for the performance of the functions provided in the Social Welfare Act, the State Pension Insurance Act, the Family Benefits Act and the Victim Support Act, including the award of pensions, benefits, services and allowances, and the exercise of supervision, as well as for calculation of state budget allocation provided in the Health Services Organisation Act and for the implementation of the European Union legislation co-ordinating social insurance;

[RT I, 28.12. 2017, 4 – entry into force 01.01.2018]

13) to the chief processor of the Social Services and Benefits Registry and the rural municipality or city government for the performance of functions provided in § 15¹ of the Social Welfare Act and for the grant of a benefit or provision of other material assistance to a person;

[RT I, 03.04.2018, 3 – entry into force 15.04.2018]

14) to the Health Insurance Fund concerning a payer of social tax, an insured person and a person applying for insurance cover or for the verification of the validity of the insurance cover;

[RT I, 11.03.2023, 9 – entry into force 01.04.2023]

15) [Repealed – RT I 2009, 11, 67 – entry into force 01.05.2009]

15¹) to the Estonian Unemployment Insurance Fund for the performance of the functions provided in the Labour Market Measures Act, the Unemployment Insurance Act and the Work Ability Allowance Act, including for the grant and payment of unemployment benefits, insurance benefits and the work ability allowance, provision of labour market measures and the verification of their justification;

[RT I, 07.03.2023, 5 - entry into force 01.01.2024]

16) to a market surveillance authority for the organisation of supervision over the safety of products and services;

[RT I 2003, 71, 472 – entry into force 01.01.2004]

17) to the registrar of the commercial register as regards information relating to the card register;

18) to the Labour Inspectorate for the performance of state supervision over compliance with labour law legislation;

[RT I 2003, 71, 472 – entry into force 01.01.2004]

18¹) [Repealed - RT I, 11.12.2021, 1 - entry into force 01.01.2025]

19) [Repealed – RT I 2009, 11, 67 – entry into force 01.05.2009]

20) to the Ministry of Economic Affairs and Communications, dumping council and the Government of the Republic for the conduct of anti-dumping investigations and making of decisions on the implementation of anti-dumping measures;

[RT I 2003, 71, 472 – entry into force 01.01.2004]

21) to a person authorised to verify the declarations of economic interests based on the Anti-corruption Act for the verification of the correctness of data submitted in the declaration;

[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

22) to the Financial Supervision Authority for the conduct of financial supervision and inspection of persons according to the functions assigned to the Financial Supervision Authority by law;

[RT I 2003, 71, 472 – entry into force 01.01.2004]

23) to a private legal person for the performance of work related to the service of land tax notices and motor vehicle tax notices;

[RT I, 17.08.2024, 1 - entry into force 01.01.2025]

24) to the Ministry of Finance for the performance of the duty of organising state accounting and financial reporting according to the Accounting Act;

[RT I 2003, 88, 591 – entry into force 01.01.2004]

25) to the Strategic Goods Commission for the performance of the functions provided in the Strategic Goods Act;

25¹) to the ministry and the competent authority for the purposes of § 11 of the International Sanctions Act and to the Strategic Goods Commission for the performance of the tasks provided in the International Sanctions Act;

[RT I, 07.06.2024, 1 – entry into force 17.06.2024]

26) to the Police and Border Guard Board for the deciding on the permission of entry of an alien into Estonia and of their temporary stay, residence and employment in Estonia based on the Aliens Act, as well as for elimination of violations of the conditions of entry into Estonia and the temporary stay, residence and employment in Estonia and for the prevention, identification and exclusion of the threat of such violations;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

26¹) to the Police and Border Guard Board for deciding on the permission of entry of aliens into Estonia and their temporary stay, residence and employment in Estonia based on the Citizen of the European Union Act, as well as for elimination of violations of the conditions of entry into Estonia and temporary stay, residence and employment in Estonia and for the prevention, identification and exclusion of the threat of such violations;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

26²) to the Police and Border Guard Board for the elimination of illegal employment of a person, who, based on the Obligation to Leave and Prohibition on Entry Act, is staying in Estonia without a legal basis and for the prevention, identification and exclusion of the threat of such violations;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

26³) to the Police and Border Guard Board for the performance of the tasks provided in the Act on Granting International Protection to Aliens, including deciding on permission of an applicant for international protection, a refugee, a person eligible for subsidiary protection, a person eligible for temporary protection and their family members to stay, reside, live and be employed in Estonia, as well as for the prevention, identification and exclusion of the threat of such violations;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

26⁴) to the Police and Border Guard Board for the performance of the the tasks provided in the Identity Documents Act, including issue, refusal of issue, suspension or revocation of the e-Residency digital identity card, as well as for prevention, identification and exclusion of the threat and elimination of the violation;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

26⁵) to the Police and Border Guard Board for verification of employment in a post or place of employment with national defence work obligations of a person specified in subsection 1 of § 42¹ and subsection 3 of § 42³ of the Assistant Police Officer Act;

[RT I, 27.05.2022, 2 – entry into force 01.07.2022]

27) to a court and to the Ministry of Finance or an authority within the area of government of the Ministry of Finance which is specified by the minister in charge of the policy sector for the performance of functions provided in the State Legal Aid Act;

28) to an artistic association and the Ministry of Culture for the verification of income received by creative persons in connection with the grant of support for creative activity for creative persons engaged in a liberal profession in accordance with the Creative Persons and Artistic Associations Act;

[RT I, 21.04.2020, 1 – entry into force 01.05.2020]

29) to the state company founded for the purpose of constituting and managing liquid fuel stocks for the determination of the market share of sellers of fuel, guaranteeing preparedness for commencement of use of stocks and verification of payment of the stockpiling fee based on the Liquid Fuel Stocks Act;

29¹) to the strategic gas reserve manager for verification of payment of the stockpiling fee based on the Liquid Fuel Stocks Act;

[RT I, 02.05.2024, 2 - entry into force 12.05.2024]

30) to the Agricultural Registers and Information Board for the performance of duties provided in the European Union Common Agricultural Policy Implementation Act, Fisheries Market Organisation Act, Rural Development and Agricultural Market Regulation Act and the Fiscal Marking of Liquid Fuel Act;

[RT I, 23.11.2022, 2 – entry into force 01.01.2023]

31) to the Estonian Competition Authority for exercise of supervision over competition relating to determination of dominant position of an undertaking, agreements between undertakings, concerted practices, decisions by associations of undertakings and proceedings concerning a concentration;

32) to the Funding of Political Parties Monitoring Committee to the extent that is necessary for performance of functions imposed on the committee by the Political Parties Act;

[RT I, 10.12.2010, 1 – entry into force 01.04.2011]

32¹) to the Ministry of Climate for ensuring the purpose of implementation of environmental charges, determining the rates and evaluating their effect;

[RT I, 30.06.2023, 1 – entry into force 01.07.2023]

33) to the Environmental Board and in the case of the charge for production of electricity from wind energy to the person or agency specified in § 21⁶ of the Environmental Charges Act for the performance of functions provided in the Environmental Charges Act;

[RT I, 09.08.2022, 1 – entry into force 01.07.2023]

34) to the chief processor of the Estonian Population Register for the performance of functions provided in the Population Register Act;

[RT I, 14.03.2011, 1 – entry into force 01.01.2012]

35) to a notary where this is necessary to fulfil the functions provided in the Law of Succession Act;

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

36) to an interim trustee in bankruptcy, a trustee in bankruptcy and the insolvency division of the Competition Authority to the extent necessary for the performance of the functions provided in the Bankruptcy Act;

[RT I, 04.01.2021, 4 – entry into force 01.01.2022]

36¹) to a trustee specified in the Natural Person Insolvency Act to the extent necessary for the performance of the functions provided in the Natural Person Insolvency Act or the Bankruptcy Act;

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

37) to the minister in charge of the policy sector with regard to a notary and an enforcement agent for the organisation and supervision of the administrative activities of notaries and enforcement agents;

[RT I, 29.06.2012, 1 – entry into force 01.04.2013]

38) to the Ministry of Education and Research or a public authority in the area of government thereof or to a foundation established under the authorisation thereof by the state for organisation of the allocation of study allowances based on the Study Allowances and Study Loans Act;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

39) to the Environmental Board for performance of tasks provided in § 5 of the Act on Acceding to Protocols of 1992 amending the International Convention on Civil Liability for Oil Pollution Damage of 1969 and the Establishment of an International Fund for Compensation for Oil Pollution Damage of 1971;

[RT I, 10.07.2020, 2 – entry into force 01.01.2021]

40) to the Environmental Board with regard to the contributing cargo received in accordance with the International Convention of 1996 on the Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances and the 2010 protocol thereto;

[RT I, 10.07.2020, 2 – entry into force 01.01.2021]

41) to the insurance undertaking for the calculation of compensation based on the Motor Insurance Act.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

42) to the Ministry of Economic Affairs and Communications as the chief processor of the register of economic activities and to the chief processor of another similar register specified in subsection 1 of § 8 of the General Part of the Economic Activities Code Act to verify compliance with the obligation provided in subsection 7 of § 30 of the General Part of the Economic Activities Code Act.

[RT I, 29.06.2014, 1 – entry into force 01.07.2014]

43) to a successor, executor of a will and administrator of estate for the performance of rights and obligations arising from this Act and an Act concerning a tax;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

44) to the Transport Administration for the performance of obligations in relation to the recognition of the common security requirements of a regulated agent and known consignor system and authorised economic operator system and for issue of data connected to payment of road user charges;

[RT I, 10.12.2020, 1 – entry into force 01.01.2021]

45) to the Ministry of Culture or a private legal person authorised by the minister in charge of the policy sector for the checking of compliance with the requirements of determining the size of labour costs of a coach based on subsection 7 of § 9¹ of the Sport Act, for the checking of compliance of employment data of persons specified in clause 2 of subsection 6 of § 6¹ of the Sport Act and verification of the prerequisites for payment of the sports scholarship provided in § 10¹ of the Sport Act and sports support provided in § 10⁵ of the Sport Act regarding the contract entered into with the sportsman;

[RT I, 28.02.2020, 1 – entry into force 01.03.2020]

46) to the persons involved in the implementation of national support programs established based on § 53¹ of the State Budget Act and of support measures established based on subsection 4 of § 8 of the Foreign Relations Act and to the management authority of funds specified in § 1 of the 2014–2020 Structural Assistance Act and § 1 of the 2021–2027 European Union Cohesion and Internal Security Policy Funds Implementation Act and to the persons engaged in the provision of support to the extent necessary to verify the eligibility, targeted use and eligibility of expenditures necessary for receiving the support;

[RT I, 11.03.2022, 1 – entry into force 21.03.2022]

46¹) to the Ministry of Justice and Digital Affairs for issuing the criminal record of a person to critical service providers for the purpose of a background check specified in subsection 1 of § 41¹ of the Emergency Act;

[RT I, 30.12.2024, 1 – entry into force 01.01.2025, the words "Ministry of Justice" replaced with words "Ministry of Justice and Digital Affairs" on the basis of subsection 12 of § 105.19 of the Government of the Republic Act.]

47) to a prison service officer for the performance of tasks provided in the Penal Code and for assessment of criminality risks of an imprisoned person and a probationer;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

48) to the Ministry of Finance for the analysis of the development and management of civil service;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

49) to the Ministry of Finance for the analysis of the pay policy of the members of the management board, supervisory board and audit committee of a company and foundation with state participation;

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

50) [Repealed – RT I, 10.12.2020, 1 – entry into force 01.01.2021]

51) to the Ministry of Climate, the Environmental Board and the Estonian Environment Agency for the purposes of evaluating compliance with the obligation provided in § 2¹ of the Liquid Fuel Act and § 123¹ of the Atmospheric Air Protection Act;

[RT I, 30.06.2023, 1 – entry into force 01.07.2023]

52) to the National Archives for the purposes of performing the tasks provided in the Archives Act;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

53) to the Defence Resources Agency to ensure the performance of the mandatory duty to serve in the Defence Forces of a call-up selectee and a person in alternative service provided in the Military Service Act and for the performance of state supervision, and for verification of the requirements of national defence work obligation provided in the National Defence Act;

[RT I, 09.08.2022, 2 – entry into force 01.09.2022]

53¹) to the Estonian Centre for Defence Investment, based on the National Defence Act, for the assignment and notification of a one-time national defence task, for the performance of the duty to grant use of and expropriate an item of property and notification thereof as well as for ensuring the performance thereof and the performance of supervision.

[RT I, 09.08.2022, 2 – entry into force 01.09.2022]

54) to the Defence Forces for the purposes of ensuring the performance of the mandatory duty to serve in the Defence Forces of a person in reserve specified in the Military Service Act and for the performance of the state supervision, based on the National Defence Act for assignment of a one-time work obligation, ensuring the performance thereof, and for the performance of supervision, and for the performance of the military intelligence provided in the Defence Forces Organisation Act;

[RT I, 27.01.2023, 1 – entry into force 01.04.2023]

55) for the purposes of deciding on the imposition of the one-time work obligation or emergency work obligation on a person or agency specified in subsection 1 of § 51¹ of the National Defence Act and subsection 1 of § 26 of the Emergency Act;

[RT I, 10.03.2022, 1 – entry into force 21.03.2022]

55¹) To the Rescue Board for checking the employment of the person specified in subsection 1 of § 42¹ and subsection 3 of § 42³ of the Rescue Act in a post or employment with a national defence work obligation;

[RT I, 16.12.2022, 3 – entry into force 01.01.2023]

56) to the Ministry of Economic Affairs and Communications or an authority authorised thereby for the performance of the functions provided in subsection 3 of § 6² of the Social Tax Act and subsection 8 of § 13 and subsection 21 of § 52¹ of the Income Tax Act;

[RT I, 28.02.2020, 2 – entry into force 01.07.2020]

57) to the Ministry of Economic Affairs for the performance of functions related to the grant of state aid provided in the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act and the Fiscal Marking of Liquid Fuel Act;

[RT I, 30.06.2020, 10 – entry into force 01.07.2020]

58) to the collector of the fee specified in subsection 12 of § 27 of the Copyright Act for the import and export data of persons specified in subsection 1 of § 27 of the same Act for exercise of supervision over payment of the fee specified in § 26 of the same Act.

[RT I, 04.01.2021, 3 – entry into force 01.04.2021]

59) to the Health Board concerning the general data of a person, the data on the employer and the post for entry of the data of a health care administrative and a person participating in the provision of health care services in the registers of the Health Board based on the Medicinal Products Act and the Health Services Organization Act, for verification of the requirements for activity license based on which health care services are provided and for the grant of the activity licence and, concerning the same data, for the prevention, surveillance and control of a spread of a disease in the case of an epidemic spread of a communicable disease based on the Communicable Diseases Prevention and Control Act;

[RT I, 11.12.2021, 1 – entry into force 21.12.2021]

60) concerning the general data of the person, the data of the employer and of the post to the chief processor and the authorised processor of the health information system for the performance of the tasks provided in the Health Services Organization Act and for the performance of the tasks provided by law for the users of the health information system, taking into account the scope and purpose given for the processing of health information system data based on special laws;

[RT I, 11.12.2021, 1 – entry into force 21.12.2021]

61) concerning the persons employed at the carrier to the Ministry of Economic Affairs and Communications or an authority authorized thereby for the performance of the task provided in subsection 1¹ of § 48 of the Road Transport Act and subsection 3 of § 77 of the Public Transport Act.

[RT I, 22.03.2022, 2 – entry into force 01.04.2022]

62) to the insurance undertaking for assessment and payment of compensation on the basis of the Compulsory Liability Insurance of Health Care Providers Act;

[RT I, 29.04.2022, 1 - entry into 01.11.2024 (date of entry into force changed - RT I, 21.06.2024, 2)]

63) to the Health Board to verify the data of the representative of the insurance undertaking in case the data of the liability insurance contract has been submitted by the insurance undertaking on the basis of the Compulsory Liability Insurance of Health Care Providers Act;

[RT I, 29.04.2022, 1 - entry into 01.11.2024 (date of entry into force changed - RT I, 21.06.2024, 2)]

64) to the Consumer Protection and Technical Supervision Agency and the Foreign Investment Committee for the performance of the functions provided in the Foreign Investment Reliability Assessment Act;

[RT I, 10.02.2023, 3 – entry into force 01.09.2023]

65) to the Consumer Protection and Technical Supervision Agency for the imposition of non-compliance levy provided in subsection 4 of Article 52 of Regulation (EU) 2022/2065 of the European Parliament and of the Council on a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (OJ L 277, 27.10.2022, pp 1–102);

[RT I, 21.06.2024, 1 – entry into force 01.07.2024]

66) to the Ministry of Foreign Affairs and the sending ministry for the application of the reduction of the allowance for a spouse and registered partner specified in subsection 2 of § 67 of the Foreign Service Act.

[RT I, 27.09.2024, 1 - entry into force 01.01.2025]

§ 30. Disclosure of information by way of international administrative assistance

The Tax and Customs Board may disclose information subject to tax secrecy without the consent or without having informed a taxable person or a third person:

- 1) to a competent authority of a foreign state in accordance with the procedure prescribed by a treaty.
- 2) to the authorities of the European Union and the Member States thereof that are competent to exchange information relating to taxable persons in accordance with the procedure prescribed by the legislation of the European Union;

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

- 3) to the members of the Advisory Commission or the Alternative Dispute Resolution Commission to the extent necessary to hear the complaint specified in Chapter 14¹ of this Act.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

Chapter 2 TAX CLAIMS AND LIABILITIES

Subchapter 1 General Provisions

§ 31. Financial claims and obligations arising from Act concerning tax

(1) The following financial claims and obligations may arise from an Act concerning a tax or from this Act:

- 1) the obligation of a taxpayer to pay tax (tax liability);
- 2) the obligation of a withholding agent to withhold tax and to pay the withheld amount of tax (obligation to withhold);
- 3) the right of a person to be refunded the amount of tax paid which exceeds the amount of tax prescribed by a law or other excess payments in accordance with § 33 of this Act (claim for refund);
- 4) the obligation of a third party to pay the tax arrears of a taxpayer or withholding agent (tax liability of third party);
- 5) the obligation of a taxable person to pay interest, a non-compliance levy or the costs of substitutional performance (accessory obligation).

(2) The claims and obligations specified in subsection 1 of this section arise upon the fulfilment of conditions provided by law, unless it is provided by law that an administrative decision of a tax authority is required for an obligation to arise.

(3) The claims and obligations specified in subsection 1 of this section terminate:

- 1) upon payment or set-off (§ 105);
- [RT I 2008, 58, 323 – entry into force 01.01.2009]
- 2) upon fulfilment of a claim for refund (§ 106);
- 3) [Repealed – RT I 2008, 58, 323 – entry into force 01.01.2009]
- 4) upon expiry (subsection 4 of § 33, § 132);
- [RT I, 13.12.2011, 1 – entry into force 01.01.2012]
- 5) upon forgiveness of tax arrears (§ 114);

6) in other cases provided by law.

§ 32. Tax arrears

For the purposes of this Act, tax arrears are:

- 1) the amount of tax outstanding by the due date;
- 2) the amount of tax outstanding by the due date arising from the customs debt;
- 3) the amount refunded or set off without reason based on an application of the taxable person;
- 4) unpaid interest calculated on the amount specified in clauses 1–3 of this section.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 33. Claim for refund

(1) A taxable person has the right to the refund of the payment made to the tax authority which exceeds the amount prescribed by a law or administrative decision or an amount overpaid upon payment or set-off of a financial obligation (subsection 1 of § 105), including a payment made before the due date for performance of an obligation (subsection 2 of § 105).

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(1¹) Where the creation of a claim for refund is verified without the application for fulfilment of the claim for refund (subsection 1 of § 106), the provisions of subsections 2, 2¹, 3 and 7 of § 106 and § 107 apply.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(2) The right specified in subsection 1 of this section also extends to:

- 1) a taxable person who, based on a liability decision, has paid a larger amount of tax than prescribed by a law;
- 2) a taxable person who has paid more interests, non-compliance levies, costs of substitutional performance or other case costs to a tax authority than prescribed by a law;
- 3) a person who has the right, arising from a law, to be compensated for an amount of tax or costs or to have them refunded to them by a tax authority.

(3) A claim for refund is satisfied in accordance with § 106 and § 107 of this Act.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(4) Where a tax liability or an obligation specified in subsection 2 of this section is reduced as a result of an administrative decision being amended or repealed or where the legal basis for the payment of tax ceases to exist for other reasons, a taxable person has the right to submit a claim for refund arising therefrom within three years.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(5) A tax authority is notified of a claim for refund in a tax return or in any other written document or a document, submitted in a form reproducible in writing.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 34. Pledging and seizure of claim for refund

(1) A claim for refund may be subject to seizure and it may be subject to a claim for payment during enforcement proceedings in the same way as a financial claim.

(2) A pledge may be established on a claim for refund in accordance with the procedure provided by a law. A taxable person submits a written notice to the tax authority concerning the pledging of a claim for refund, stating the name and address of the pledgor and the pledgee and the category and amount of the claim for refund which is pledged. The notice is signed by the pledgor and the pledgee. Provisions concerning the pledging of proprietary rights apply to the pledging of claims for refund.

(3) Claims for refund which arise in the future may also be pledged. The pledging of a claim for refund is valid as of the moment the notice is submitted to the tax authority.

(4) The pledging or seizure of a claim for refund or the making of a claim for payment against a claim for refund does not prevent the setting off the claim for refund against the financial obligations payable or the extension or suspension of the refund of overpaid amounts in accordance with § 107 of this Act.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(5) The provisions of subsection 4 of this section are not applied where the enforcement agent has seized a claim for refund for the fulfilment of a claim for support of a child. The provisions of subsection 4 of § 65 of the Code of Enforcement Procedure are applied to the right of security upon seizure created based on the claim for support of a child.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

Subchapter 2

Transfer of Claims and Obligations

§ 35. Legal succession

Where the transfer of rights and obligations from one person to another in accordance with legal succession is prescribed by a law, financial and non-financial rights and obligations, arising from this Act, an Act concerning a tax and acts specified in subsection 4 of § 3 of this Act, which, by their nature, are not inseparably bound to the person, transfer to the legal successor. The obligation to pay a non-compliance levy does not transfer from one person to another in accordance with legal succession.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

§ 36. Transfer of tax liabilities by way of succession

(1) The financial and non-financial rights and obligations arising from this Act, an Act concerning a tax and acts specified in subsection 4 of § 3 of this Act, except the obligation to pay a non-compliance levy, transfer from a bequeather to the successor in accordance with the procedure provided in the Law of Succession Act.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) The obligations arising from this Act, an Act concerning a tax and acts specified in subsection 4 of § 3 of this Act, forming part of the estate must be performed out of assets of the estate also by the executor of the will, the administrator of the estate or another person who has the obligation to administer the estate arising from the law.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(3) The tax authority submits an application to the notary, where necessary, concerning the initiation of the succession procedure. Where, within six months as of the opening of the succession, a successor has not become known and there is no other person who is entitled to administer the estate, the tax authority submits to the court an application concerning the implementation of the estate management measures. The tax authority may also submit the application before six months have passed where there is good reason therefor.

[RT I 2010, 38, 231 – entry into force 01.07.2010]

§ 37. Transfer of tax liabilities upon transfer of enterprise or part thereof

In the case of transfer of ownership or possession of an enterprise or a part thereof, the claims and obligations specified in subsection 1 of § 31 of this Act, which are related to the enterprise or to the organisationally independent part thereof, except the obligation to pay a non-compliance levy, transfer to the acquirer or recipient of possession in accordance with the provisions of the Law of Obligations Act.

[RT I 2003, 71, 472 – entry into force 01.01.2004]

Subchapter 3 Liability of Third Party for Tax Liability of Other Person

§ 38. Liability of person who has transferred enterprise or part thereof

A person who has transferred an enterprise or a part thereof and the acquirer are solidarily liable for the payment of tax arrears in accordance with the provisions of the Law of Obligations Act.

[RT I 2003, 71, 472 – entry into force 01.01.2004]

§ 39. Liability of partner of general partnership or limited partnership and member of association

(1) A partner of a general partnership or a general partner of a limited partnership is liable for payment of the tax arrears of the general partnership or limited partnership in accordance with §§ 101 and 102 of the Commercial Code.

(2) A limited partner of a limited partnership is liable for payment of the tax arrears of the partnership in accordance with § 132 of the Commercial Code.

(3) A member of an association with full or additional liability is liable for payment of the tax arrears of the association in accordance with the provisions of the Commercial Associations Act.

§ 40. Liability of legal representative, asset manager, actual manager and tax representative

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(1) Where a legal representative, chief executive officer or asset manager violates the obligations specified in § 8 of this Act intentionally or due to gross negligence, the legal representative, chief executive officer or asset manager and the taxable person are solidarily liable for the tax arrears incurred as a result thereof.

(1¹) Where a natural person that is not a legal representative, chief executive officer or asset manager of a taxable person has the actual power over the compliance with the obligations specified in § 8 of this Act but whose intentional activity causes tax arrears, the natural person is liable for the tax arrears incurred solidarily with the taxable person.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) A tax representative is liable for tax arrears incurred as a result of a failure to perform the obligations provided in § 8¹ of this Act solidarily with the taxable person.

(3) Where several persons are liable based on subsection 1 and 1¹ of this section, they are solidarily liable for the performance of the obligations.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) The ascertaining of intention, gross negligence or negligence is guided by the provisions of subsections 3–5 of the Law of Obligations Act.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 41. Liability for tax arrears incurred resulting from violations of tax law

(1) A person who is convicted of a tax offence provided in the Penal Code is solidarily liable with the taxable person for tax arrears incurred as a result of the offence committed by the person.

(2) Where several persons are liable on the basis subsection 1 of this section, they are solidarily liable for the performance of the obligations.

(3) Liability specified in subsection 1 of this section does not expire upon termination of the tax liability but, after termination of the tax liability, the tax arrears are collected by way of lodging of a civil court claim or notice of a public-law claim.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 42. Contractual liability

(1) A third party may, by a contract, assume liability for performance of the financial obligations of a taxable person.

(2) A person specified in subsection 1 of this section and a taxable person are solidarily liable for performance of the financial obligations of the taxable person. Contractual liability does not deprive a tax authority of the right to file a claim against a taxable person whose tax liability arises based on a law. Contractual liability does not grant a tax authority the right to waive the collection of tax arrears from a legally taxable person.

(3) Where a person specified in subsection 1 of this section has not complied with the obligation assumed by the contract by the due date, the provisions of Chapter 13 of this Act concerning compulsory enforcement of the tax debt apply to the collection of such obligation.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) Liability specified in subsection 1 of this section does not terminate with the write-off, forgiveness, transformation of the tax debt or exemption therefrom provided in §§ 114 or 114¹ of this Act.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019].

Chapter 3 GENERAL PROVISIONS OF TAX PROCEEDINGS

§ 43. Parties to proceedings

The following are parties to tax proceedings:

- 1) a taxable person applying for an administrative decision to be issued or an action to be performed (applicant);
- 2) the person at whom an administrative decision or action is directed (addressee);
- 3) another person whose rights are affected by an administrative decision or action (third party);
- 4) the administrative authority which, in accordance with a law or regulation, is required to submit their opinion or approval of legislation to be issued or of action to be performed to the administrative authority which hears the case.

§ 44. Jurisdiction of tax case

[Repealed – RT I 2003, 88, 591 – entry into force 01.01.2004]

§ 45. Application of Administrative Procedure Act

The provisions of the Administrative Procedure Act apply to tax proceedings unless otherwise prescribed by this Act, an Act concerning a tax or the customs legislation.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

§ 45¹. Electronic records management

The terms and procedures of electronic records management in the e-service environment of the Tax and Customs Board are established by a regulation of the minister in charge of the policy sector.

[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

§ 46. Administrative decisions of tax authority

(1) A tax authority issues orders, decisions and other administrative decisions for the performance of functions imposed on the tax authority by law. The administrative decisions of a tax authority are issued, amended and repealed in accordance with the provisions of the Administrative Procedure Act unless otherwise prescribed by this Act or an Act concerning a tax.

(2) Administrative decisions which restrict the rights of the addressee of the administrative decision or impose obligations on the addressee must be in writing and reasoned. Written administrative decisions are served in accordance with the provisions of Chapter 4 of this Act.

(3) An administrative decision specified in subsection 2 of this section must set out:

- 1) the name and address of the tax authority;
- 2) the given name, surname and post of the official who prepared the administrative decision;
- 3) the date of issue of an administrative decision;
- 4) the name and address of the addressee of the administrative decision;
- 5) the factual and legal basis for the issue of the administrative decision;
- 6) the compliance notice issued by an administrative decision or the decision of the issuer of the administrative decision;
- 7) the term for compliance with the administrative decision;
- 8) other information provided by law.

(4) An administrative decision specified in subsection 2 of this section must contain a reference to the opportunities, term, procedure and place for contestation of the administrative decision and to the sanctions imposed for a failure to comply with the administrative decision and other consequences, including the possible obligation to pay a non-compliance levy or to reimburse the costs of substitutional performance.

(5) An administrative decision of the tax authority is signed by the head, deputy head of the tax authority or an official authorised by the head of the tax authority. An electronic administrative decision is signed in a manner established by a regulation of the minister in charge of the policy sector based on § 45¹ of this Act.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(6) In the case of a signature by an authorised person, the number and date of the document granting the right of signature and the place where the document can be reviewed are indicated next to the signature. The documents granting the right of signature are published on the web page of the tax authority.

(7) A request to issue an administrative decision or to perform an action is granted or a decision to deny the request is communicated within 30 days as of the date of receipt of the request unless a different term is provided by a law.

§ 46¹. Order forwarded through register of enforcement proceedings

[RT I, 09.04.2021, 1 - entry into force 01.01.2024]

(1) The tax authority forwards through the register of enforcement proceedings specified in § 63 of the Code of Enforcement Procedure (hereinafter register of enforcement proceedings) an electronic order, which is required to set out:

[RT I, 09.04.2021, 1 - entry into force 01.01.2024]

- 1) name and registry code of the tax authority;
- 2) registry code of the addressee of the order;
- 3) date of issue of the order;

- 4) name or business name of the taxable person together with the personal identification code or date of birth or registry code or other data enabling identification of the person;
- 5) legal basis for issue of the order;
- 6) the compliance notice made by the order;
- 7) other data provided by a law.

(2) The written form requirement provided in subsection 2 of § 46 of this Act or the provisions of subsections 4 and 5 of the same section are not applied to the order specified in subsection 1 of this section.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

§ 46². Automated administrative decisions and documents

(1) The tax authority for state taxes may issue an administrative decision and a document in an automated manner without the direct intervention of an official of the tax authority (hereinafter an automated administrative decision and a document).

(2) An automated administrative decision and a document are authenticated, instead of a hand-written signature or electronic signature, with electronic seal under the conditions and in accordance with the procedure provided in the Electronic Identification and Trust Services for Electronic Transactions Act. The provisions of clause 2 of subsection 3 of § 46 and subsection 5 of § 46 of this Act do not apply to an automated administrative decision and a document.

(3) An automated administrative decision and a document are served in accordance with the procedure provided in § 54 of this Act.

(4) The list of automated administrative decisions and documents is established by a regulation of the minister in charge of the policy sector.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 47. Language of proceedings and interpreter or translator

(1) Tax authorities and taxable persons communicate in Estonian unless they have agreed otherwise. A foreign language is used in tax proceedings in accordance with the procedure provided in the Language Act.

(2) The following may involve an interpreter or translator in tax proceedings:

- 1) a party to the proceedings;
- 2) the tax authority at the request of a party to the proceedings;
- 3) the tax authority without a request from a party to the procedure where the tax authority deems it necessary.

(3) The person who requests the involvement of an interpreter or translator by a tax authority bears the costs of the involvement of the interpreter or translator unless otherwise provided by an Act or regulation or unless the tax authority decides otherwise. The tax authority submits a claim for the reimbursement of costs in a corresponding order, sets a term for reimbursement and issues a warning, stating that, in the case of a failure to reimburse the costs by the due date, the claim will be subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

§ 48. Representative

(1) A party to the tax proceedings has the right to representation. Representation in tax proceedings is based on the corresponding provisions of the General Part of the Civil Code Act unless otherwise provided by this Act or an Act concerning a tax.

(1¹) A taxable person may not use, as a representative in tax proceedings, the person who has represented the tax authority in the same tax proceeding before the release from service or in the tax proceeding related thereto.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) A representative may participate in all procedural actions in the name of the principal unless the personal participation of the principal is required in accordance with a law or due to the nature of the action.

(3) A representative must present a document certifying their authorisation at the request of a tax authority, as well as in the cases provided by a law. An attorney is presumed to have the right of representation. In the justified cases the tax authority may require the presentation of the power of attorney.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(4) A party to the proceedings has the right to appear for procedural actions together with a representative. In such a case, it is not necessary to present a document certifying authorisation. The testimony and requests of the representative are deemed to have been given or submitted by the party to the proceedings unless the party to the proceedings objects immediately to such a testimony and requests.

§ 49. Removal

(1) An official of a tax authority cannot conduct proceedings in the case where:

1) they are a party to the proceedings or is acting as a representative of a party to the proceedings;
2) they are a relative (parent, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild), a relative by marriage (parent of a spouse or registered partner, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild) or a family member of a party to the proceedings or of a representative of a party to the proceedings;
[RT I, 06.07.2023, 6 - entry into force 01.01.2024]
3) they have a personal interest in the resolution of the case or where other circumstances give reason to doubt their impartiality.

(2) Where circumstances specified in subsection 1 of this section become evident or where a party to the proceedings submits an application for removal on the grounds listed in the same subsection, an official of a tax authority is required to give notification thereof to the official with the appointing authority or to the head of the relevant structural unit of the Tax and Customs Board who must decide on the necessity of the removal within three working days as of the submission of the application for removal.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(3) An administrative authority which is required to submit an opinion or approval regarding an administrative decision to be issued or an action to be performed to a tax authority is not deemed to be a party to the proceedings specified in subsection 1 of this section.

(4) A person is not removed where the person cannot be substituted.

§ 49¹. Performance of procedural actions in office of tax authority

(1) The procedural action is performed in the office rooms of the tax authority, which are located closest to the place of residence or registered office of the taxable person or third person unless otherwise agreed upon.

(2) Upon calling a person to an authority for giving oral explanations the procedural action may be performed in the office rooms of the tax authority or over the phone or by means of such technical solution that the person conducting the proceedings and the person giving explanations, who are located in different administrative units at the same time, can see and hear each other directly by live transmission. The corresponding reference is made in the record of oral explanations.

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

§ 50. Calculation, restoration and extension of term for proceedings

(1) The respective provisions of the General Part of the Civil Code Act apply to the calculation of terms.

(2) Where a term for proceedings, except a term for the submission of a tax return, is allowed to expire with good reason, a tax authority may restore the term on their own initiative or at the request of a party to the proceedings.

(3) A reasoned request for the restoration of a term for proceedings must be submitted within two weeks after the circumstances impeding performance of the procedural action cease to exist.

(4) A term for proceedings is not restored where more than one year has passed from the original due date prescribed for performance of the procedural action.

(5) A tax authority may, at the reasoned request of a party to the proceedings or on its own initiative, extend the term for proceedings designated by the tax authority where the due date thereof has not yet arrived.

(6) A tax authority may make the restoration or extension of a term for proceedings contingent on the provision of security. Security is provided and accepted in accordance with §§ 120–127 of this Act.

(7) A decision concerning the restoration or extension of a term for proceedings is made by the head or deputy head of the tax authority performing the procedural action or by a person authorised by the head of the tax authority.

§ 51. International administrative assistance

[Repealed – RT I, 13.12.2011, 1 – entry into force 01.01.2012]

Chapter 3¹

INTERNATIONAL ADMINISTRATIVE ASSISTANCE

§ 51¹. International administrative assistance

(1) International administrative assistance to the competent authorities of such states that belong to the European Union or with whom Estonia has concluded a respective treaty (hereinafter a competent authority of a foreign state) is provided by the Tax and Customs Board.

(2) The Tax and Customs Board is entitled to apply for international administrative assistance from a competent authority of a foreign state.

(3) International administrative assistance is applied for and provided based on a treaty and in accordance with the procedure and to the extent provided in the legislation of Estonia and the European Union.

(4) The competence of an authority providing administrative assistance and the rights and obligations of the parties to proceedings are determined by the domestic legislation.

(4¹) The provisions of this Act apply to procedural actions performed in Estonia in the course of joint tax control. An official of the competent authority of a foreign state has the powers arising from the legal provisions of their state of establishment in the course of a joint tax control, provided that these are also provided in this Act. In performing the actions and in the proceedings following the joint tax control, the officials of the competent authorities are guided by the legislation of their country of establishment.

[RT I, 29.12.2022, 1 - entry into force 01.01.2024]

(5) The Tax and Customs Board may refuse to provide international administrative assistance, where:

- 1) the requested information is impossible to acquire;
- 2) forwarding the requested information would damage the business, production or administrative secrecy of a taxable person;
- 3) forwarding the requested information would pose a threat to the security of the state of Estonia or damage public order;

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

- 4) the total amount of the claims noted in the request for recovery of the claim related to the taxes, payments and other measures remains below 1,500 euros.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(6) The Estonian taxable person, who the data or documents concern, is notified of the collection of necessary data and documents for the provision of international administrative assistance.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(7) Where a competent authority of a foreign state has doubts that notification of a person of the request for international administrative assistance may hinder the collection of necessary information or documents, may bring about malicious delay with tax proceedings in a foreign state or may make the conduct of tax proceedings considerably more difficult or impossible, the Tax and Customs Board may postpone the notification of the person as long as it is unavoidably necessary.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(8) Upon requesting information from a third party at the request of a competent authority of a foreign state the tax authority may omit the following in the order:

- 1) the data concerning the foreign state and competent authority that filed the request;
- 2) the contents of the tax proceedings carried out in a foreign state;
- 3) the data enabling identification of the taxable person in connection with whose tax cases information is collected.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

§ 51². Exchange of information by way of international administrative assistance

(1) The Tax and Customs Board exchanges information, collected by a state, local government, or other administrative authority, with a competent authority of a foreign state concerning the taxes and duties and the related accessory liabilities, financial penalties and allowances payable provided in Article 2 of Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.03.2010, pp 1–12), and taxes specified in Article 2 of Council Directive 2011/16/EU on administrative cooperation in taxation and repealing Directive 77/799/EEC (OJ L 64, 11.03.2011, pp 1–12), (hereinafter collectable duties).

[RT I, 29.12.2022, 1 – entry into force 01.01.2023]

(2) [Repealed – RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(3) In order to ensure the determination of the correct tax liability in a foreign state the Tax and Customs Board may forward the information collected in tax proceedings to a competent authority concerned of a foreign state on its own initiative or based on a request of a competent authority of a foreign state.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(4) The provisions of the Tax Information Exchange Act are applied to automatic exchange of information by way of international administrative assistance.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(5) The Tax and Customs Board may forward, based on a treaty, to the competent authority of the relevant foreign state or jurisdiction the following data concerning the preliminary tax ruling specified in § 91¹ of this Act:

- 1) data enabling identification of the taxable person and, where necessary, the data concerning the group of persons into which the person belongs;
- 2) summary of the contents guided by the obligation of maintaining business secrecy;
- 3) date of issue of the preliminary tax ruling;
- 4) date of beginning and end of the potential duration of validity of the preliminary tax ruling;
- 5) type of the preliminary tax ruling;
- 6) financial value of the relevant arrangement or set of actions where it is referred to in the preliminary tax ruling;
- 7) explanation of how the preliminary tax ruling may affect the foreign state;
- 8) reference to a person, located or operating in a foreign state, who is affected by the preliminary tax ruling.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(6) A relevant foreign state or jurisdiction for the purposes of subsection 5 of this section is the state or jurisdiction, where is located or operating the person that is affected by the arrangement described in the preliminary tax ruling, or that is the parent company of the person receiving the preliminary tax ruling or the parent company of the group, where the person who is receiving the preliminary tax ruling belongs.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(7) At the justified request of a competent authority of a foreign state or jurisdiction the Tax and Customs Board may forward the full text of the preliminary tax ruling thereto.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

§ 51³. Recovery by way of international administrative assistance

(1) The Tax and Customs Board provides international administrative assistance for recovery of taxes, collected by a foreign state, its local government or other administrative unit that has lodged a request, regarding recovery, notification of or inquiry for information or precautionary measures, from a taxable person who is resident or established in Estonia or holding property in Estonia.

(2) The Tax and Customs Board may lodge a request regarding recovery, notification or information or precautionary measures to a competent authority of a foreign state for recovery of taxes collectable in Estonia from a taxable person who is residing or staying or holding property in a foreign state.

(3) Based on a request of a competent authority of a foreign state regarding precautionary measures, the Tax and Customs Board is entitled to carry out enforcement actions in accordance with the procedure provided in § 136¹ of this Act.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

§ 51⁴. Compulsory enforcement by way of international administrative assistance

(1) The Tax and Customs Board provides international assistance for compulsory enforcement of the taxes collectable by a foreign state, its local government or other administrative unit that has lodged a request for recovery of taxes from a taxable person who is residing or staying in Estonia or is holding property in Estonia.

(2) The Tax and Customs Board may, in the request for recovery lodged to a competent authority of a foreign state, request the compulsory enforcement of the taxes collectable in Estonia from a taxable person who is residing or staying or holding property in a foreign state.

(3) The Tax and Customs Board may use the powers provided by Chapter 13 of this Act in order to provide international administrative assistance.

(4) Compulsory enforcement is executed based on the request for recovery and a uniform instrument lodged by a competent authority of a foreign state.

(5) A uniform instrument must include at least the following details:

- 1) relevant information for identification of the initial uniform instrument permitting enforcement, description of a claim, including the nature of the claim, the period of time covered by the claim, all the dates essential

to the enforcement and the amount of the claim and its various components (the principal amount to be paid, interests);

2) the information enabling identification of a person (given name, surname or business name; personal identification code or registry code; in the absence of the personal identification code, the date, month and year of birth);

3) the name, address and other contact details of a competent authority of a foreign state in order that it would be possible to get further information with regard to the possibilities for contestation of the claim or tax liability.

(6) The Tax and Customs Board is required to serve a warning of compulsory enforcement and the uniform instrument to the debtor.

(7) The Tax and Customs Board notifies in the warning of compulsory enforcement that for contestation of the uniform instrument a challenge or appeal must be lodged to a competent authority of a foreign state.

(8) The Tax and Customs Board transfers the amounts recovered relating to the claim of a foreign state and the interest to a competent authority of a foreign state that lodged a request for recovery.

(9) Upon provision of international administrative assistance the compulsory enforcement is suspended where the enforceable title which is a basis for the uniform instrument lodged by a competent authority of a foreign state has been contested in a foreign state and the Tax and Customs Board receives the respective information from an interested person or a competent authority that has lodged the application.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

§ 51⁵. Involvement of official of foreign state in procedural actions and tax proceeding

[RT I, 29.12.2022, 1 - entry into force 01.01.2024]

(1) At the request of a competent authority of a foreign state the officials of that authority may be involved in procedural actions or tax proceedings, where, relating to the tax proceedings, it is necessary to verify the tax liability that has arisen or is arising in a foreign state and the foreign state ensures the protection of tax secrecy. With the consent of a competent authority of a foreign state an official of the Tax and Customs Board may participate in the tax proceedings carried out in a foreign state. It is possible to participate in the procedural actions by electronic means.

(2) An official of a competent authority of a foreign state who is engaged in the procedural action or tax proceedings is entitled to participate in all the relevant procedural actions of tax proceedings provided in this Act, interview the taxable person or third party, examine the documents collected and make copies and extracts thereof in the tax proceedings being conducted.

(3) In a joint tax control carried out within the framework of international professional assistance, the person is guaranteed all the rights and obligations arising from this Act, including in the exercise of the right of appeal.

[RT I, 29.12.2022, 1 - entry into force 01.01.2024]

§ 51⁶. Reimbursement of costs of international administrative assistance

(1) The costs of the provision of administrative assistance are, in general, borne by the provider of international administrative assistance.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(2) The Tax and Customs Board may agree with the competent authority of a foreign state that filed the request for recovery related to taxes, payments and other measures with regard to the reimbursement of costs incurred for giving administrative assistance where recovery is related to very large costs or organised crime.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

(3) The costs of the expert analysis accompanying provision of administrative assistance are borne, in general, by the competent authority of a foreign state that filed the request for administrative assistance.

[RT I, 31.03.2017, 1 – entry into force 01.04.2017]

§ 51⁷. Use of information

(1) The Tax and Customs Board may ask permission from a competent authority of a foreign state to use the received information, in addition to the purposes provided in a treaty or relevant legislation of the European Union, also for the purposes provided in §§ 26–30 of this Act where they are equivalent to the purposes permitted by the legislation of the foreign country that provided the information.

[RT I, 29.12.2022, 1 – entry into force 01.01.2023]

(2) The Tax and Customs Board may grant permission to a competent authority of a foreign state to use the forwarded information, in addition to the purposes provided in a treaty or relevant legislation of the European Union, also for other purposes where these purposes have the same meaning as the provisions of §§ 26–30 of this Act.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

(3) In order to use information or documents for the purposes specified in the list of permitted purposes forwarded by the competent authority of a Member State of the European Union, it is not necessary to ask permission from this authority. It is not necessary to grant permission to the competent authority of a Member State of the European Union for the use of information or documents for the purposes specified in the list of permitted purposes forwarded by the Tax and Customs Board.
[RT I, 29.12.2022, 1 – entry into force 01.01.2023]

Chapter 4

SERVICE OF DOCUMENTS

§ 52. Service of documents

(1) Documents, including administrative decisions, summonses and notices, are served against a signature, by mail or electronically or published in a periodical publication. A tax authority may choose the manner of service unless a mandatory manner of service is provided by law.

(2) Where a document is addressed to several persons, the document is served to all addressees unless the addressees have requested that the tax authority serve the document to only one of the addressees or they have granted their consent thereto. A document addressed to spouses or registered partners may be served to one of the spouses or registered partners unless service of the document to both spouses or registered partners has been requested from the tax authority.

[RT I, 06.07.2023, 6 – entry into force 01.01.2024]

(3) Documents addressed to an association of persons without the status of a legal person or a pool of assets without the status of a legal person are served to the head of the association of persons or the administrator of the assets or, in the absence of these persons, to members of the association of persons or co-owners known to the tax authority.

(4) Documents addressed to persons with restricted active legal capacity are served to their legal representatives.

§ 53. Service against signature

(1) Upon service by a tax authority, a document is served to a party to the proceedings against their signature on a notice on which the time of service of the document, where necessary, the specific time, is also indicated.

(2) Documents are served to the residence, registered office or place of business of a party to the proceedings against a signature between 8 a.m. and 8 p.m. on working days. A document may be served between 8 p.m. and 8 a.m. and on days off with the written permission of the head of a tax authority. Where permission is needed for the service, the permission is presented to the recipient of the document. Where the abovementioned requirements are not observed upon service but the recipient of a document does not refuse to accept the document, the document is deemed to have been served.

(3) Upon service of a document to a representative of a party to the proceedings, the document is deemed to have been served also to their principal. A document is also deemed to have been served where it is served against a signature to a family member of at least 10 years of age who lives together with the party to the proceedings.

(4) Where a party to the proceedings or a person specified in subsection 3 of this section refuses to accept a document, the person who serves the document makes a notation on the document and certifies it with their signature. A document bearing a notation is returned to the tax authority and deemed to have been served to the party to the proceedings.

§ 53¹. Service by mail

(1) A document is served to a natural person residing in Estonia at their residential address entered in the population register or at the address of which they have informed the tax authority. Where a natural person fails to give notice of a change of their address, the tax authority has the right to send the document to the last address known to the tax authority.

(2) A document is sent to a legal person or agency at the address entered in the register or at the request of a party to the proceedings at the address of which they have informed the tax authority. A document is sent to a legal person or agency that is not entered in the register at the address of which they have informed the tax authority.

(3) A document is served to a taxable person residing or located in a foreign state by registered mail at the address of which the taxable person has informed the tax authority or through a competent administrative authority of a foreign state. Where a party to the proceedings who is residing or staying in a foreign state has a permanent establishment or representative in Estonia, the document is served at the address of the permanent establishment or representative.

(4) A document sent to a legal person or agency by ordinary mail at the address entered in the register or announced to the tax authority is deemed to have been served when five days have passed since the document was sent within Estonia, and after 30 days have passed since the document was sent abroad. A document sent to a legal person or agency by registered mail at the address, entered in the register or announced to the tax authority, is deemed to have been served when the postal service provider has served it at the abovementioned address or has left a notice concerning the arrival of the registered mail.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 54. Service by electronic means

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(1) Service of a document by electronic means is deemed to be:

- 1) the uploading of the document into the e-service environment “e-Tax Board/e-Customs” of the Tax and Customs Board (hereinafter e-Tax Board) on condition that the addressee of the document is the user of the e-Tax Board and they have informed the tax authority of their e-mail address or mobile telephone number;
- 2) the sending of the document with the consent of the addressee at their e-mail address of which the addressee of the document has notified the tax authority.

(2) A notice with regard to making the document available at e-Tax Board is sent to the addressee of the document at their e-mail address or by a short message on the mobile telephone number.

(2¹) The time of service of an automated administrative decision or a document issued at the request of the taxable person is deemed to be the moment of issuance of the document. The tax authority makes the automated administrative decision or document, prepared based on the taxable person’s application, immediately available via the e-Tax Board. With the consent of the taxable person the notice of service is not sent.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(3) The document sent at the e-mail address is deemed to have been served when the addressee sends a confirmation of the receipt of the document. The document uploaded in the e-Tax Board is deemed to have been served upon opening thereof, the service of the document is registered by the information system automatically.

(4) The document which is made available by electronic means is served also by mail, where:

- 1) the addressee of the document requests that;
- 2) the document is not opened in the e-Tax Board during five working days as of making it available;
- 3) the tax authority has not received confirmation of the receipt of the document from the addressee within five working days as of the sending of the document at the e-mail address.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 55. Service through periodical publication

Where there is no information concerning the address of a party to the proceedings, or where the party to the proceedings does not reside or is not located at the address entered in the register or known to a tax authority and their actual whereabouts are unknown, and where it is not possible to serve a document in any other manner, the tax authority may publish the resolution contained in the document in the official publication *Ametlikud Teadaanded*. The resolution of the document is deemed to be served after 10 days have passed as of the publication thereof.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

Chapter 4¹ **Tax control**

[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 55¹. The purpose of tax control

(1) The purpose of tax control is to verify compliance with this Act and acts concerning a tax in order to ascertain all circumstances relating to tax liability which may increase or decrease the tax liability.

(2) Tax control may:

- 1) include one or more taxes;
- 2) include one or more taxation periods;
- 3) be limited to identifying or controlling a particular circumstance.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 55². Notification of tax control

(1) Tax control commences by notifying the taxable person of the commencement and scope of tax control, unless otherwise provided by this Act.

(2) Upon the commencement of tax control, a taxable person is informed of their rights, obligations, circumstances to be controlled and period under review.

(3) Upon changing the scope of tax control, the taxable person must be informed thereof in accordance with the same procedure as upon commencement of tax control.

(4) Where there is a significant legal reason for leaving the taxable person without notice of the commencement of tax control, it must be notified of as soon as possible after the first procedural action.

(5) Not giving notification of/ Leaving a taxable person without notice of the commencement of tax control is justified, in particular, where there is a doubt that the taxable person may, in the case of the prior notification of the tax control, make it more difficult or hinder the implementation of tax control, access to premises, data, documents or items related to their economic or administrative activities or to falsify, damage or destroy them.
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 55³. Actions of tax authority upon carrying out tax control

(1) The tax authority has the right to:

- 1) examine all the circumstances relevant to taxation;
- 2) verify documents related to payment and calculation of taxes;
- 3) to make inventories and perform re-measurements of goods, materials and other property and work performed and services rendered in accordance with the procedure provided in § 72 of this Act;
- 4) upon carrying out tax control receive information and explanations from a taxable person or a person designated by the taxable person, other persons and agencies;
- 5) perform other actions provided in Chapter 6 of this Act.

(2) Actions may be performed based on an oral order unless otherwise arises from this Act.

(3) For the purpose of determining the amount of tax, verifying the correctness of the payment of taxes or preventing an offense, the tax authority exercises all the rights granted by law for the implementation of the customs rules. In the case of trade between Member States of the European Union (hereinafter a Member State), international postal items and persons moving from one Member State to another, the tax authority uses the specified rights where there is reason to believe that an Act concerning a tax is not complied with.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 55⁴. Rights and obligations of taxable person in case of tax control

(1) A taxable person has the right to:

- 1) provide explanations on the circumstances relating to tax liability;
- 2) apply for removal of an official of the tax authority on the bases provided in § 49 of this Act;
- 3) obtain explanations on how the circumstances found during tax control affect their tax liability;
- 4) exercise other rights prescribed by this Act.

(2) A taxable person is required to:

- 1) ensure the tax authority with access to data related to tax control;
- 2) submit relevant documents and items of property to the tax authority;
- 3) provide explanations at the request of the tax authority;
- 4) introduce their accounting system and other accounting and information systems to the tax authority.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 55⁵. Obligation of tax authority to provide explanation

(1) During tax control, the tax authority ensures the right of the taxable person to be heard. The taxable person is informed of the possibility of providing explanations on the facts ascertained throughout the proceedings and of providing further evidence.

(2) The tax authority informs the taxable person of the outcome of the proceedings before the end of the tax control. Before that, the tax authority may carry out a final interview in the course of which the tax authority is able to ask additional and clarifying questions and the taxable person gives explanations on the circumstances of the proceedings.

(3) Unless otherwise provided by this Act, the tax authority prepares a control report to determine the results of tax control. The control report sets out all the significant and legal circumstances from the point of view of taxation. Where an expert or specialist has been involved in tax control, their participation is noted in the control report. The taxable person is informed of the possibility to submit objections to the facts, set out in the control report.

(3¹) In addition to the provisions of subsection 3 of this section, the control report sets out the officials of the competent authority of the foreign state together with whom the joint tax control was carried out within the framework of international professional assistance and brings out the factual and legal circumstances on which the competent authorities reached agreement. The results of the joint tax control and the control report are communicated to the taxable person within 60 days of the date of preparation of the control report.

[RT I, 29.12.2022, 1 - entry into force 01.01.2024]

(4) Where no circumstances, changing the tax liability, were detected during the tax control, or where the taxable person agrees with the conclusions and explanations provided by the tax authority during the proceedings, the tax authority does not have to prepare a control report. In such a case, the tax authority notifies the taxable person of the termination of the tax control by a written notice. An application for preparing a control report must be submitted in writing within 10 calendar days as of the receipt of the notice of termination of the tax control.

(5) A notice of termination of tax control is deemed to be equivalent to a notice of assessment in accordance with § 95 of this Act and the provisions of §§ 101–103 of this Act apply to the amendment or revocation thereof.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

Chapter 5

OBLIGATION OF TAXABLE PERSON TO CO-OPERATE IN TAX PROCEEDINGS

§ 56. Obligation of taxable person to co-operate

(1) A taxable person is required to notify a tax authority of all facts known to the taxable person which are or may be relevant for taxation purposes.

(2) A taxable person keeps records of facts relevant for taxation purposes, provides explanations, submits returns and other evidence and preserves such returns and evidence for the term prescribed by law. Where a mandatory type of evidence is provided by law, a taxable person may only use such type of evidence as proof.

(3) A taxable person may not prevent a tax authority from performing procedural actions.

§ 57. Obligation to keep accounts and to keep records

(1) A taxable person keeps accounts in the cases and in accordance with the procedure provided by the Accounting Act.

(2) An Act concerning a tax may prescribe cases where:

1) in addition to keeping accounts, a taxable person must keep records of facts relevant for taxation purposes (hereinafter accounting for taxation purposes);

2) a taxable person who is not required to keep accounts according to the Accounting Act must keep accounts.

(3) The keeping of accounts and accounting for taxation purposes must be organised in a manner which enables an overview to be obtained within a reasonable period of time of the performance of transactions and of facts relevant for taxation purposes, including revenue, costs, assets and liabilities.

(4) Where accounting records and accounting records for taxation purposes are not in Estonian, a tax authority may demand that the relevant documents be translated into Estonian. Where little-known abbreviations, symbols or keywords are used in the accounting records or accounting records for taxation purposes or where other circumstances render it difficult to understand the documents, the taxable person is required to submit a list of the abbreviations, symbols and keywords and provide additional explanations, where necessary.

(5) Accounting records for taxation purposes may not be amended in a manner which renders it impossible to determine the original content of the document or the time of amendment thereof.

(6) Records may be kept electronically where it is ensured that documents, including accounting records, created as a result of accounting are preserved during the term provided in § 58 of this Act. In the case of conversion or amendment of electronic documents, the legibility of the initial information must be ensured. A taxable person who keeps electronic accounts is required to, at the request of a tax authority, submit documents created as a result of accounting in an electronic form within a reasonable period of time. The documents must be legible. The conversion of documents preserved in an electronic form into electronic databases allowing access to legible information must be made possible during the entire term provided in § 58 of this Act.

(6¹) The requirements for the conversion of the documents preserved in an electronic form into electronic databases allowing access to legible information are established by the regulation of the minister in charge of the policy sector.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(7) Where a taxable person is required to keep accounts or accounting for taxation purposes in accordance with the procedure provided by the legislation of a foreign state due to carrying out economic activities in the foreign state and where, as a result of the economic activities carried out in the foreign state, a tax liability arises in Estonia and accounts or other records have been kept in accordance with the requirements established by the legislation of the respective state, the results thereof are taken into consideration upon taxation.

(8) The requirements provided in this section also apply to taxable persons who are not required by a law to keep accounts or accounting for taxation purposes but who voluntarily keep accounts or accounting for taxation purposes.

[RT I 2005, 25, 193 – entry into force 01.07.2005]

§ 58. Obligation to preserve documents

Unless another term is provided by law, a taxable person is required to preserve documents related to transactions and payments and other documents relevant for taxation purposes for at least seven years as of 1 January of the year following the preparation or receipt of the document or, in the case of files or dossiers, as of the making of the last entry therein.

Chapter 6 EVIDENCE

§ 59. Collection of evidence

(1) Evidence in tax proceedings is any information collected regarding the case, including information, documents and items of property obtained from a taxable person, a third party and a state, local government and city agency, facts established by observation and expert opinions. A tax authority decides, according to the functions imposed on the tax authority by a law and the right of discretion, which evidence needs to be collected in a particular case.

(1¹) For assessment and analysis of risk of violation of acts concerning a tax and this Act and identification of the related persons for the purposes of § 8 of the Income Tax Act, the tax authority for state taxes has the right to receive, based on a justified request, free data from the state database concerning the persons related to the assets in the ownership or possession of the persons, concerning the business activities of the persons and the nature and logistics of the goods and services related thereto. The administrator of the database notifies the tax authority for state taxes of the circumstances which make it impossible to execute the request or due to which it is necessary to extend the term for execution of the request.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(1²) All the evidence gathered in the course of a joint tax control within the framework of international professional assistance are assessed on the same legal basis as the evidence specified in subsection 1 of this section.

[RT I, 29.12.2022, 1 - entry into force 01.01.2024]

(2) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(3) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 60. Requesting information from taxable persons

(1) A tax authority is entitled to obtain oral and written information from a taxable person or a representative thereof to ascertain facts relevant to tax proceedings. Where necessary, a tax authority may require a taxable person or a representative thereof to appear at the offices of the tax authority at the time designated by the tax authority to provide information.

(2) In order to summon a person to an administrative agency, the tax authority issues a written order which complies with the requirements provided in § 46 of this Act and which sets out the place where and time at which the taxable person is required to appear, together with an explanation as to why the person has been summoned. Where necessary, a written order is also issued in other cases where information is requested.

(3) Where the authorised representative of a taxable person fails to provide information or provides information, which is contradictory or insufficient, the tax authority has the right to contact the taxable person to obtain the information.

(4) Oral explanations are recorded in the minutes and signed by the person who gives the explanations. Where the person refuses to sign, a notation is made in the minutes to this effect. Where necessary, the tax authority explains the rights and obligations of the taxable person to the taxable person and a notation concerning the explanation is made in the minutes.

(5) Any documents submitted to the tax authority for state taxes in an electronic form must comply with the requirements established by a regulation of the minister in charge of the policy sector issued based on § 45¹ of this Act. Where the document is submitted in an electronic form, the tax authority has the right, where necessary, to request that the document be submitted on paper later.
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(6) A person specified in subsection 1 of this section may, in accordance with § 50, apply for extension of the term granted for the performance of an obligation stated in an order.

§ 61. Requesting information from third parties

(1) A tax authority has the right to request information from third parties, including credit institutions, to ascertain facts relevant to tax proceedings. The abovementioned persons are required to submit information unless they have the right to refuse to disclose evidence or information based on a law. Where necessary, a tax authority may require that a third party appear at the offices of the tax authority at the time set by the tax authority to provide information.

(2) Prior to requesting information from a third party, the taxable person must be approached for information except in the case the tax authority has no information concerning the residence or registered office of the taxable person or where the taxable person cannot be reached at the address known to the tax authority or the taxable person hinders the establishment of facts relevant for the purposes of tax proceedings from being ascertained, and in the case provided in clause 6 of subsection 5 of § 72 of this Act.
[RT I 2007, 23, 121 – entry into force 01.07.2007]

(3) In order to request information from a third party, the tax authority issues an order in compliance with the requirements provided in § 46 of this Act, which also sets out the name or other details enabling identification of the taxable person in connection with whose tax cases information is being collected, and the reason for contacting the third party. Where the person is required to appear at the offices of the tax authority to give testimony, the time and place of appearance are also indicated in the order. A person may, in accordance with § 50 of this Act, apply for extension of the term granted for the performance of an obligation stated in an order.
[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(3¹) In order to request information through the enforcement register the tax authority submits an order corresponding to the requirements provided in § 46¹ of this Act.
[RT I, 09.04.2021, 1 – entry into force 01.01.2024]

(4) Oral explanations are recorded in the minutes in accordance with the provisions of subsection 4 of § 60 of this Act.

§ 62. Submission of items of property and documents

(1) In order to ascertain facts relevant to tax proceedings, a tax authority has the right to request that a taxable person or third party present items of property and bearer securities or submit documents in the possession of the person. In the case items of property and documents are requested from third parties, the restriction provided in subsection 2 of § 61 of this Act applies.

(2) A tax authority has the right to request that the taxable person present cash where it is necessary to ascertain facts relevant to tax proceedings. Cash is presented at the location thereof.

(3) Documents and items of property specified in subsection 1 of this section are submitted or presented in the offices of the tax authority, unless:

- 1) the addressee of the administrative decision has granted consent to the examination and inspection of the items of property and documents at their location, or
- 2) the tax authority requires the addressee of the administrative decision to submit the documents by mail where this does not cause excessive expense to the addressee of the administrative decision, or
- 3) it is impossible to deliver the documents or items of property to the offices of the tax authority, or doing so would cause excessive inconvenience or expense to the addressee of the administrative decision;
- 4) the tax authority requires the addressee of the administrative decision to submit documents preserved in an electronic form electronically.

(4) A written order is issued concerning the obligation specified in subsection 1 or 2 of this section:

- 1) where the request is addressed to a third party, or

- 2) where the addressee or a representative of the addressee is summoned to the offices of the tax authority to perform the obligation, or
- 3) where the taxable person has failed to comply with an earlier request, or
- 4) in other cases where deemed necessary by the tax authority.

(5) A person may, in accordance with § 50 of this Act, apply for extension of the term granted for the performance of an obligation stated in an order.

(6) The provisions of subsection 3 of § 61 of this Act apply to the issue of an order specified in clause 1 of subsection 4 of this section. The provisions of subsection 5 of § 60 of this Act extend to the electronic submission of documents to a tax authority based on this section.

[RT I 2005, 25, 193 – entry into force 01.07.2005]

§ 63. Requesting information from state, local government and city agencies and from chief processor and authorised processor of state databases

(1) A tax authority has the right to request information relevant to tax proceedings, including the submission of documents and presentation of items of property, from a state, rural municipality or city agency. The abovementioned agencies are required to comply with the request of a tax authority unless they have the right to refuse to disclose evidence or information based on a law.

(2) The tax authority for state taxes has the right to obtain, free of charge, information from the chief processor or authorised processor of a state database which identifies persons (given name and surname or business name, personal identification code or registry code, or, in the absence of a personal identification code, the date, month and year of birth) who concluded transactions relevant to taxation during the period indicated in the request and also information concerning the transactions concluded by such persons.

(3) Agencies specified in subsection 1 of this section are required to notify the tax authority of any circumstances which render it impossible to comply with a request for information or for submission of items of property or documents, or due to which it is necessary to extend the term for compliance with a request. The term is extended in accordance with § 50 of this Act.

(4) State, rural municipality and city agencies are required to submit returns and other documents to the tax authorities by electronic means. The minister in charge of the policy sector establishes the list of tax returns and documents to be submitted by state, rural municipality and city agencies by electronic means.

[RT I 2008, 60, 331 – entry into force 01.01.2009]

§ 64. Right to refuse to provide information or submit evidence

(1) The right to refuse to perform an obligation based on §§ 60–63 of this Act to provide information or submit evidence exists:

- 1) for attorneys in respect of circumstances which have become known to them in connection with the provision of legal assistance;
- 2) for doctors, notaries, patent attorneys and ministers of religion in respect of information which has become known to them in connection with their administrative activities;
- 3) for agencies which organise state statistical surveys and officials who have carried out such surveys in respect of information which has become known to them in connection with a survey;
- 4) for auditors and persons engaged in the administrative activities of an auditor, in accordance with the provisions of the Auditors Activities Act;
- 5) for spouses, registered partners, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives or sisters or brothers of spouses or registered partners of taxable persons, unless such persons are required to provide information in the given case and submit documents in connection with their own tax liability;
- 6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5 of this subsection in an offence;
- 7) where the provision of information or submission of evidence would violate the confidentiality of messages sent or received by mail, telegraph, telephone or other commonly used means or the confidentiality of a state secret.

[RT I 2007, 16, 77 – entry into force 01.01.2008]

(2) Persons who assist persons specified in clauses 1–4 of subsection 1 of this section in their administrative activities also have the right to refuse to disclose information in respect of facts which has become known to them in the performance of their duties.

(3) Where persons specified in clause 5 of subsection 1 of this section are requested to give testimony or to submit or present documents or evidence, such persons must be notified in writing or orally of their right to refuse to perform the obligation. A signature is taken from the person about oral notification.

§ 65. Making copies of documents and removal of documents and items of property

(1) A tax authority may make copies and extracts of documents submitted thereto by a party to the proceedings and officially certify the accuracy thereof. Documents are officially certified in accordance with the provisions of the Administrative Procedure Act.

(2) A tax authority may remove documents and items of property submitted thereto where:

- 1) the documents or items of property are necessary to resolve a tax case and the tax authority has reason to believe that such evidence may not be available later, or
- 2) it is necessary to make extracts or copies of the documents, or
- 3) the documents and items of property refer to a possible offence.

(3) A report is prepared concerning the removal of documents stating the names and number of documents and, in the case the files are removed, also the number of pages. A report is prepared concerning the removal of items of property, stating the description and number of removed items of property. The report is signed by the person who prepared the report and persons who participated in the action. Where a party to the proceedings refuses to sign the report, the person who prepares the report makes a corresponding notation in the report. A report is prepared in two copies, one of which is given to the party to the proceedings whose items of property or documents have been removed.

(4) Documents are not removed in the cases provided in clauses 1 and 2 of subsection 2 of this section where the party to the proceedings objects to their removal and bears the costs of making copies or extracts of the documents. The accuracy of copies and extracts is certified in accordance with the provisions of subsection 1 of this section and the party to the proceedings signs beside the notation concerning certification. Where the number of certified copies or extracts is large, a report is prepared in which a list of the documents of which copies or extracts have been made are set out. The report is signed by an official of the tax authority and the party to the proceedings.

§ 66. Reimbursement of costs to third party

(1) Documented travel costs and accommodation costs incurred and average wages which are not received by a third party due to the performance of the obligations provided in §§ 61 and 62 of this Act outside the residence thereof are, at the request of the third party, reimbursed thereto. A tax authority pays, based on an invoice submitted thereto, for the making of copies or extracts in an amount of up to 0.20 euros per page on paper, starting from the twenty-first page.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(2) A tax authority has the right to claim amounts paid to a third party, for the reimbursement of costs from a taxable person, where the taxable person:

- 1) fails to comply with an order of the tax authority requesting the submission of information, items of property or documents in the same case, or
- 2) could not be reached at the residence or registered office of the taxable person, or at any other address of which the tax authority has been informed, or
- 3) evades the proceedings, or
- 4) hinders the process of ascertaining facts relevant for the purposes of tax proceedings in another manner.

(3) A tax authority does not have the right to request the reimbursement of costs of a third party from a taxable person where the tax authority contacted the third party without giving the taxable person the opportunity to submit information, except in the cases specified in clauses 2–4 of subsection 2 of this section.

(4) A tax authority submits, in an order, a claim for the reimbursement of costs to a taxable person, sets a term for reimbursement and issues a warning stating that, in the case of a failure to reimburse the costs by the due date, the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(5) Costs specified in the first sentence of subsection 1 of this section are reimbursed in the amount and in accordance with the procedure established by a regulation of the Government of the Republic.

§ 67. Non-compliance levy for failure to submit information, items of property or documents

(1) When setting a term for the performance of obligations provided in §§ 60–62 of this Act, a tax authority may issue a warning (§ 136) stating that a non-compliance levy may be imposed for a failure to perform an obligation within the term. A tax authority may also issue a warning concerning the imposition of non-compliance levy on a taxable person who has failed to perform an obligation to submit reports or other documents arising from an Act concerning a tax.

(2) Where a person fails to perform an obligation imposed on the person by an administrative decision by the due date stated in a warning, the person must pay the non-compliance levy specified in the warning. The tax authority submits, in an order, a claim for payment of a non-compliance levy to an obligated person, sets a term for payment and issues a warning stating that, in the case of a failure to pay the non-compliance levy within the specified term, the claim will be subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(3) A non-compliance levy to enforce the performance of the same obligation may not exceed 640 euros the first time and 2,000 euros the second time. Non-compliance levies imposed to enforce the performance of the same obligation may not exceed 2,640 euros in total.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 68. Involvement of experts

(1) A tax authority may, on its own initiative or at the request of a taxable person, involve an expert in proceedings. The parties to the proceedings are informed of the name of the expert before the expert is involved unless it is necessary to carry out expedited proceedings in the case.

(2) Where grounds provided in § 49 of this Act become evident, the expert is required to remove themselves. A party to the proceedings may request the removal of the expert on the same grounds. A request must be submitted within five working days as of the date of becoming aware of the identity of the expert. Thereafter, removal is permitted only where it is proven that it was not possible to submit the request on time. The tax authority decides regarding removal within five working days as of the date on which a request for the removal of an expert is submitted by a party to the proceedings or by the expert themselves.

(3) An expert presents their opinion in writing. Where it is deemed necessary by the tax authority, the expert may be asked to be present during the procedural actions and, in such a case, the expert may give their opinion orally. An oral opinion is recorded in the report of the procedural action and signed by the expert. The party to the proceedings has the right to submit questions to an expert.

(4) An expert has the right to examine the materials which are necessary for the performance of their tasks and to make suggestions for supplementing the materials. The expert is required to maintain the confidentiality of information subject to tax secrecy which has become known to them in connection with the performance of their duties (§ 26). The obligation to maintain tax secrecy is explained to the expert and the explanation is confirmed by their signature.

§ 69. Reimbursement of costs relating to expert assessment

(1) At the request of an expert the documented travel and accommodation costs incurred by an expert because of performing their obligations outside their residence are reimbursed to the expert and remuneration is paid for the expert assessment carried out.

(2) The costs of an expert assessment carried out on the initiative of a tax authority are borne by the tax authority.

(3) The costs of an expert assessment carried out on the initiative of a party to the proceedings and at the expense of a tax authority are borne by the person on whose initiative the expert is involved. The tax authority submits an order for payment of a claim to a taxable person for the reimbursement of costs, sets a term for reimbursement and issues a warning stating that, in the event of a failure to reimburse the costs by the due date, the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(4) Costs specified in subsection 1 of this section are reimbursed in the amount and in accordance with the procedure established by a regulation of the Government of the Republic.

§ 70. Meters and preventive measures

(1) In order to make an assessment of tax to be paid, to verify the correctness of tax payments or to prevent an offence, a tax authority has the right to request a taxable person to:

- 1) install meters on receptacles, storage facilities or equipment;
- 2) seal receptacles, storage facilities and equipment, as well as gambling inventory when gambling is being organised;
- 3) close off territories or parts thereof;
- 4) install equipment, including a cash register, enabling cash transactions to be monitored.

(2) The installation of meters or equipment specified in clauses 1 or 4 of subsection 1 of this section may be demanded where a taxable person has failed to comply with an obligation to install a corresponding meter or equipment imposed on the taxable person by a law.

(3) A tax authority may appoint an official who, during a term set by the tax authority, has the right to be present at the place of business of a taxable person during general working time or the working time of the enterprise for the purpose of monitoring the use of a meter or equipment.

(4) An order for the installation of meters or equipment enabling cash transactions to be monitored, for monitoring the use of meters or such equipment or for the application of preventive measures is prepared in writing.

(5) A preventive measure is removed at the latest on the working day following the day on which the reason for application of the preventive measure is removed or ceases to exist.

(6) A tax authority is required to compensate for any direct damage caused because of the activities provided in clause 2 or 3 of subsection 1 of this section where no offence on the part of the taxpayer is ascertained or where a preventive measure is not removed within the term prescribed in subsection 5 of this section.

§ 71. Substitutional performance

(1) When setting a term for the performance of an obligation specified in § 70 of this Act, a tax authority may issue a warning (§ 136) stating that substitutional performance is applied in the case of a failure to perform the obligation by the due date. The person is also informed in a warning of the estimated amount of the costs of substitutional performance and reference is made to the provisions based on which the costs of substitutional performance are collected.

(2) Where a taxable person fails to perform an obligation provided in subsection 1 of § 70 of this Act within the set term or where performance of the obligation is necessary to prevent an offence, a tax authority performs the necessary action itself or uses the assistance of a third party or a state, rural municipality or city agency to do so. The costs of the action are borne by the person who failed to perform the obligation when a corresponding written warning had been served to the person. The tax authority submits a claim for the reimbursement of costs to the person in an order, sets a term for reimbursement and issues a warning stating that, in the case of a failure to reimburse the costs within the specified term, the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(3) At the request of a person with regard to whom a coercive measure is applied, the official executing substitutional performance presents their identification and enforcement order. A third party presents the enforcement order issued thereto by a tax authority to carry out substitutional performance.

(4) The person or agency carrying out substitutional performance prepares a written report concerning the action.

§ 72. Inspection and other procedural actions

(1) An official of the tax authority has the right, in order to conduct inspections, to have access to plots of land, buildings and premises where the business or administrative activities of a taxable person are carried out. An official of the tax authority also has the right to inspect a movable, related to the business or administrative activities of the taxable person, which is not at the location of the business or administrative activities of the taxable person. During the inspection the officials of tax authorities do not have the right to conduct searches, open locked spaces or storage rooms or enter a dwelling against the will of the persons residing therein even where the business or administrative activities of a person are carried out therein.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(2) An official of the tax authority has the right to inspect property owned or possessed by a third party, including immovable property, buildings, ships and vehicles and other movable property, where the inspection does not involve entry into and search of the dwelling or premises of the person against the person's will.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(3) The advance notice of the conduct of an inspection specified in subsections 1 and 2 of this section is given within a period of time which enables the taxable person to form an opinion on the planned action. In urgent cases or where the advance notice may endanger the attainment of the purpose of the inspection, the advance notice of the conduct of an inspection needs not be given. The advance notice of the conduct of an inspection also needs not be given where the tax authority is unable to ascertain the residence or registered office of the owner or possessor of the property. To conduct an inspection, a written order, which among other items of property sets out the purpose of the inspection, is presented to the taxable person or a representative thereof. Where no written order is presented in order to conduct an inspection, the taxable person has the right to request that the taxable person be subsequently informed in writing of the grounds for the inspection.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(4) An inspection at the location of business or administrative activities of the taxable person is conducted during the working time of the enterprise or during general working time. The course of the inspection and the facts established by the inspection are recorded.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(4¹) The party to the proceedings who is present at the inspection is immediately introduced their rights and obligation orally or in a written form in a simple and understandable language. The signature of the party to the proceedings concerning the clarification of the rights and obligations is taken in the record.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(5) In order to conduct an inspection, an official of a tax authority has the right to:

- 1) involve specialists and experts;
- 2) make extracts or copies of documents in accordance with the procedure provided in § 65 of this Act;
- 3) take photographs of or record in another manner the inspected territory or items of property;

- 4) take inventories and measurements of goods, materials and other property and prepare plans or sketch maps of inspected territories or buildings;
- 5) remove documents and items of property in accordance with the provisions of § 65 of this Act;
- 6) request information concerning the economic or administrative activities of the taxable person to a limited extent for inspection purposes from persons on the plot of land or in the buildings or on the premises which are being inspected. The testimony is recorded in accordance with the procedure provided in subsection 4 of § 60 of this Act.

[RT I 2007, 23, 121 – entry into force 01.07.2007]

(6) Officials of tax authorities have the right to take samples from the fuel tanks and elsewhere in the fuel system of motor vehicles to ascertain whether fuel used as motor fuel is fiscally marked. The results of the procedural action are recorded.

(7) The tax authorities have the right to involve specialists in inspections and other procedural actions where the assistance of a person who has specific expertise is required to conduct the inspections or procedural actions. A notation concerning the involvement of a specialist is made in the report on the procedural action. The provisions of subsection 4 of § 68 of this Act apply to specialists.

§ 72¹. Establishment of identity

(1) The tax authority may, with the knowledge of a person, establish the identity of the person for the purposes of the Law Enforcement Act based on a valid identity document.

(2) For establishment of identity an official of the tax authority has the right to stop a person, require them to present an identity document and obtain statements enabling the establishment of identity.

(3) Upon the establishment of identity an official of the tax authority may require from a person the presentation of a document in proof of a special right where in accordance with a legislation the person is required to carry such a document with them.

(4) An official of the tax authority may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established based on the legislation of the European Union or another Act.

(5) Upon the establishment of identity direct coercion may be used by an official of the tax authority insofar as it is unavoidable for the achievement of the objective. The official of the tax authority has the right to use physical force upon the establishment of identity where it is impossible to achieve thereof by another administrative coercive measure.

(6) Before the application of direct coercion an official of the tax authority is required to caution the person with regard to whom they are planning to apply direct coercion.

(7) The application of direct coercion is recorded based on and in accordance with the procedure provided in § 18 of the Administrative Procedure Act. The minutes of the application of the measure set out, in addition to the information provided in the Administrative Procedure Act, the direct coercive equipment applied, the official who has applied the coercive measure and the person with regard to whom the direct coercion has been applied.

(8) The person with regard to whom direct coercion has been applied is given, at their request, a copy of the minutes at the first opportunity.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

Chapter 7 TAX AUDIT

[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 73. Objective and scope of tax audit

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 74. Competence

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 75. Advance notice of tax audit

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 76. Commencement of tax audit

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 77. Time and place of tax audit

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 78. Rights and obligations of taxable person during tax audit

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 79. Collection of explanations, examination and removal of documents and items of property, and other actions

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 80. Closing interview

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 81. Audit report

[Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

Chapter 7¹ **ENQUIRY TO COMMUNICATIONS UNDERTAKING, SURVEILLANCE ACTIONS AND SECRET CO-OPERATION**

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

§ 81¹. Enquiry to communications undertaking

(1) The Tax and Customs Board may make an enquiry to the electronic communications undertaking on the basis specified in clauses 1 and 2 of subsection 1 of § 126² of the Code of Criminal Procedure and with regard to the persons specified in clauses 1 and 2 of subsection 3 of § 126² of the Code of Criminal Procedure to get the following information:

- 1) the information needed to establish the end-user related to the identifier of the user used in the electronic communications network, except the information related to the transmission of a message;
- 2) the information to the electronic communications undertaking specified in subsections 2 and 3 of § 111¹ of the Electronic Communications Act which are not mentioned in clause 1 of this subsection.

(2) The authorisation for making the enquiry specified in clause 2 of subsection 1 of this section is granted by the prosecutor's office. The authorisation for making an inquiry sets out the period for which the request for information is allowed with an accuracy of date.

[RT I, 29.06.2012, 2 – entry into force 01.01.2013]

§ 81². Collection of data for decision on access to intelligence and employment in service of person

(1) The Tax and Customs Board may, with the written consent of the person, collect personal information with regard thereto by means of surveillance actions specified in subsection 1 of § 126³ of the Code of Criminal Procedure and, by means of the enquiry to the communications undertaking with regard to the information specified in subsections 2 and 3 of § 111¹ of the Electronic Communications Act where this is needed for making a decision with regard to a person to allow access to surveillance information for them or for employment of a person in the Tax and Customs Board

(2) A person is notified of the performance of actions prescribed in subsection 1 of this section with regard to them after the decision is made and they are familiarised with the data collected by means of the actions at their request.

[RT I, 29.06.2012, 2 – entry into force 01.01.2013]

§ 81³. Secret co-operation and covert measures

(1) The Tax and Customs Board is entitled to involve persons in secret co-operation and use undercover agents to ensure the conduct of surveillance activities and collection of information, as well as use covert measures under the conditions provided in the Police and Border Guard Act.

(2) The head of the Tax and Customs Board or an official appointed by them gives a written authorisation for the involvement of a person.

(3) The head of the Tax and Customs Board gives a written permission for involvement of an undercover agent.

(4) The document necessary for taking covert measures is issued and the necessary amendment in the database or register is made by an administrative body or legal person whose competence involves the issue of such a document or making an amendment in the database or register based on the reasoned request by the head of the Tax and Customs Board or an official authorised by them.

[RT I, 29.06.2012, 2 – entry into force 01.01.2013]

Chapter 8 TAX RETURNS AND MAKING ASSESSMENT OF TAX

Subchapter 1 General Provisions

§ 82. Evidential power of information submitted by taxable person

When verifying compliance with the tax liability and determining the amount of tax due, a tax authority bases its assessment, in particular, on the tax returns (subsection 1 of § 85) submitted by the taxable person, the accounts kept by the taxable person and other records kept by the taxable person concerning their activities. Where a tax authority has doubts concerning the accuracy of information submitted by a taxable person, the tax authority collects supplementary evidence.

§ 83. Taking account of void transactions upon taxation

(1) A transaction which is contrary to law or morality is taxed in the same way as a lawful transaction. Transactions which are contrary to law or good morals are taxed equally to lawful transactions. The consequences of unlawful activities result in the creation of the same tax liabilities as would arise as a result of lawful activities with similar economic content.

(2) A transaction or action which is contrary to law or good morals may result in an increase in tax liability, where the increase is prescribed by a law.

(3) The fact of a transaction being void is not taken into account upon taxation where the parties do not return that which was received as a result of the transaction or do not restore the situation prior to the conclusion of the transaction in another manner.

(4) Ostensible transactions are not taken into account upon taxation. Where an ostensible transaction is entered into to conceal another transaction, the provisions concerning the concealed transaction apply upon taxation.

[RT I 2008, 60, 331 – entry into force 01.01.2009]

§ 84. Transactions and actions performed for purposes of tax evasion

Where it is evident from the content of a transaction or action that the transaction or action is performed for the purposes of tax evasion, conditions corresponding to the actual economic content of the transaction or action apply upon taxation.

Subchapter 2 Tax Return

§ 85. Tax return

(1) A tax return (hereinafter return) means an income tax return, value added tax return, excise duty return, customs declaration, social tax return, gambling tax return, annual tax report or other document for the

calculation of tax which is to be submitted to a tax authority in accordance with an obligation to submit the document arising from a law.

(2) Documents the submission of which is prescribed by a law, or a regulation are appended to the return.

(3) A tax authority has the right to issue reminders regarding the submission of returns and orders for the submission of returns.

(4) A person who submits a return is required to submit information which is correct to the knowledge of the person and to certify the correctness of the information in writing.

(5) A declaration concerning the obligations included in the estate arising from this Act, an Act concerning a tax and acts specified in subsection 4 of § 3 of this Act are submitted within the frames of accounting records for taxation purposes of the bequether.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

§ 86. Submission and acceptance of returns

(1) A return is sent by mail, on electronic data media or using electronic means of data communication or are served at the offices of a tax authority or at another place designated by a tax authority. A person may choose the manner of submitting a return unless otherwise provided by law.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(2) Cases where a certificate concerning the receipt of a return is to be issued or a notation concerning the receipt of a return is to be made on the return may be prescribed by a law or a regulation.

§ 87. Signing of return

(1) A return is signed by the taxable person or the legal or authorised representative of the taxable person. A return is signed on behalf of a person with restricted active legal capacity by the legal representative or guardian of the person.

(2) An authorised representative of a natural person may sign a return in the cases provided in the customs legislation as well as in the case that the person is unable to sign the return due to an illness or trip abroad. The tax authority may request that the authorised representative prove that the taxable person is unable to perform the obligations of the taxable person due to one of the abovementioned reasons. The tax authority may request that the taxable person sign the return after the hindering circumstances cease to exist.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(3) Where a return in writing is signed by an authorised representative, a document certifying authorisation is also submitted to the tax authority unless it has been submitted earlier.

(4) Upon submission of a return using electronic means of data communication, the electronic signature must be given in a manner enabling to establish the identity of the person who submitted the return and the time when the signature was given. An e-signature is given on the conditions and in accordance with the procedure provided by the Electronic Identification and Trust Services for Electronic Transactions Act. E-signature is not added, where the return has been submitted through the e-Tax Board and the tax authority has identified the person submitting the return in a secure manner.

[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

§ 88. Calculation of amount of tax

(1) A taxable person calculates the amount of tax payable based on a return. A tax authority has the right to verify the amount calculated by a taxable person and, where necessary, assess tax within the term specified in § 98 of this Act.

(2) Where so prescribed by an Act or a regulation, a tax authority calculates the amount of tax payable based on a return and sends the person a tax notice concerning the amount payable. A tax notice is an administrative decision which is following the requirements provided in § 46 of this Act and which is sent to a taxable person not later than 30 days before the due date for the payment of tax. A tax notice is not issued where the amount of tax is less than 10 euros. A tax authority may also issue a tax notice in respect of an amount of tax calculated based on a return submitted after the due date for the submission of the return where the amount of tax is calculated based on the information set out in the return.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) The provisions of §§ 101–104 of this Act apply to the amendment and repeal of tax notices specified in subsection 2 of this section, taking account of the special rules provided in subsections 4–6 of this section.

(4) A tax notice specified in subsection 2 of this section may be amended or repealed, either to increase or reduce tax liability, during the limitation period for assessing tax without taking account of the restrictions provided in §§ 101–104 of this Act.

(5) Calculation errors discovered in a tax return or tax notice may be corrected before expiry of the term for challenging the tax notice as well as where the term for filing a challenge is restored. The abovementioned restriction does not apply where the tax notice can be amended or repealed on other grounds.

(6) Where a tax notice is amended or repealed due to facts reducing the tax liability, the tax authority issues a new tax notice or decides concerning the repeal of the tax notice. To amend a tax notice due to facts increasing the tax liability, the tax authority repeals the tax notice and issues a notice of assessment (§ 95).

§ 89. Amendment of return

(1) Where, before expiry of the limitation period for making an assessment of the amount of tax (§ 98), a taxable person finds that, due to mistakes or the insufficiency of the information in the return submitted by the taxable person or on behalf of the taxable person, the amount of tax declared is less than the amount of tax payable based on an Act concerning a tax, the taxable person immediately notifies the tax authority thereof in writing unless otherwise provided in an Act concerning a tax or the customs legislation.
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(2) The obligation specified in subsection 1 of this section also extends to a legal successor of the taxable person, executor of the will, administrator of estate or another person who has an obligation to administer the estate arising from an Act.
[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(3) A taxable person who uses goods or services for purposes other than that due to which the goods or services were subject to a tax incentive or tax exemption is required to immediately notify a tax authority thereof and, in accordance with the provisions of subsection 1 of this section, declare the amount of tax which would have been due had the tax incentive or tax exemption not been applied.

§ 90. Deficiencies in return

(1) Where a return is not in compliance with the requirements established by an Act or a regulation, the tax authority draws the attention to the deficiencies and, where necessary, sets a term for the taxable person to eliminate the deficiencies.

(2) Where the deficiencies are not eliminated within the term set by the tax authority, the return is deemed not to be lodged.

(3) Deficiencies in customs declarations are eliminated in accordance with the procedure provided in the customs legislation.
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

§ 91. Non-compliance levy for failure to submit return or corrections thereto

(1) Where a return is not submitted by the due date provided by a law, the tax authority may set a term for the submission of the return and issue a warning (§ 136) stating that a non-compliance levy may be imposed for a failure to submit the return within the term set by the tax authority.

(2) A non-compliance levy may also be imposed where a person has been reminded of the obligation to submit a return before the due date for the submission thereof, and where a taxable person fails to eliminate deficiencies from a return within the term set based on subsection 1 of § 90 of this Act and the tax authority has issued a written warning concerning the imposition of a non-compliance levy when setting the term for the elimination of the deficiencies.

(3) Where a person fails to perform an obligation imposed on the person by an administrative decision by the due date stated in a warning, the person is required to pay the non-compliance levy specified in the warning. The tax authority submits a claim for payment of the non-compliance levy to the person by an order, sets a term for payment and issues a warning stating that, in the case of a failure to pay the non-compliance levy within the term, the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

(4) Where a tax authority sets a term for submission of the same return or for the elimination of deficiencies in the same return, the non-compliance levy may not exceed 1,300 euros the first time and 2,000 euros the second time. Non-compliance levies imposed by a tax authority to enforce submission of the same return or corrections to the same return may not exceed 3,300 euros in total.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(5) The provisions of this section are also applied in the event of the violation of record-keeping and reporting obligations by the payment service provider provided in the Value Added Tax Act.
[RT I, 21.11.2023, 1 - entry into force 01.01.2024]

Subchapter 2¹

Binding Preliminary Tax Ruling

[RT I 2007, 23, 121 - entry into force 01.01.2008]

§ 91¹. Binding preliminary tax ruling

By a binding preliminary tax ruling (hereinafter preliminary tax ruling), the Tax and Customs Board provides, on the application of a taxable person, a binding assessment of taxation of an action or set of actions (hereinafter in this Subchapter action) to be performed in the future.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91². Refusal to provide preliminary tax ruling

- (1) A tax authority has the right to refuse to give a preliminary tax ruling where:
- 1) application of legal provisions regulating the taxation of an action is explicit under objective circumstances;
 - 2) the action is hypothetical;
 - 3) the action is aimed at tax evasion.

(2) The procedure provided in this Subchapter do not apply to determination of the value of transactions concluded between the related persons specified in subsection 7 of § 14 and subsection 4 of § 50 of the Income Tax Act.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(3) The tax authority notifies the applicant of the refusal to give a preliminary tax ruling and returns the application within 15 calendar days as of the date of receipt of the application.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91³. Formal requirements for preliminary tax ruling

(1) The requirements established regarding administrative decisions and provided in § 46 of this Act apply to preliminary tax rulings taking into account the special procedure provided for preliminary tax rulings in this Subchapter. A preliminary tax ruling may be amended to correct obvious spelling mistakes or calculation errors therein.

- (2) An preliminary tax ruling is prepared in writing and it must include:
- 1) data concerning the taxable person who may rely on the preliminary tax ruling;
 - 2) a list of the documents which are the basis for the preliminary tax ruling;
 - 3) a reference to the legal provisions with regard to application of which the preliminary tax ruling is made;
 - 4) assessment of taxation of the action described in the application;
 - 5) a confirmation of the binding force of the preliminary tax ruling and the term of validity of the binding force.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91⁴. Binding force of preliminary tax ruling

- (1) A preliminary tax ruling is binding for a tax authority where:
- 1) the act was performed during the term specified in the preliminary tax ruling;
 - 2) the performed act conforms to the description provided in the preliminary tax ruling in all circumstances significant in terms of taxation;
 - 3) the legal provisions relevant for taxation purposes have not been substantially amended before performance of the act.

(2) A preliminary tax ruling which was made by fraudulent means or threats or by influencing the tax authority in any other unlawful manner is not binding for the tax authority. A tax authority declares invalid the preliminary tax ruling that was made by fraudulent means or threats or by influencing the tax authority in any other unlawful manner.

(3) A taxable person is required to immediately notify the Tax and Customs Board of performance of an action described in the preliminary tax ruling.

[RT I 2007, 23, 121– entry into force 01.01.2008]

§ 91⁵. Application for preliminary tax ruling

(1) An application for a preliminary tax ruling is submitted in writing to the Tax and Customs Board. An application is required to include an exhaustive description of the planned action and analysis of the circumstances significant in terms of taxation, as well as an assessment of the applicant concerning the legal basis for the taxation of the action.

(2) In addition to the information specified in subsection 1 of this section, an application sets out at least the following data:

- 1) the name of the body with which the application is filed;
- 2) the name, personal identification code or registry code, postal address and other contact details of the applicant;
- 3) confirmation of the applicant that, to their knowledge, there are no grounds for the suspension of the proceedings relating to the application, specified in subsection 1 of § 91⁹ of this Act;
- 4) a list of documents and drafts of the documents relevant for the performance of the action described in the application and existing at the time of submission of the application;
- 5) the planned time for the performance of the action.

(3) At the request of the tax authority, the applicant submits all the documents, as well as drafts of the documents, relevant for the performance of the planned action.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91⁶. State fee

The applicant pays state fee for review of an application for a preliminary tax ruling at the rate provided in the State Fees Act.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91⁷. Deficiencies in application for preliminary tax ruling

(1) Where the application does not comply with the requirements provided in subsections 1 and 2 of § 91⁵ of this Act, the documents of the action are not sufficient for giving a preliminary tax ruling or the applicant has not paid the state fee, the tax authority sets a term of up to fifteen days for the applicant for elimination of deficiencies. A tax authority notifies the applicant of the deficiencies in the application within fifteen calendar days as of the receipt of the application.

(2) In order to clarify the content of a planned action, a tax authority may require the applicant to appear at the offices of the tax authority to provide explanations.

(3) Where the deficiencies are not eliminated by the due date, the tax authority refuses to review the application and returns it to the applicant.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91⁸. Withdrawal of application

(1) The applicant has the right to withdraw the application before the preliminary tax ruling has been given. A notice of withdrawal of an application is required to be in writing.

(2) The withdrawal of an application does not prevent submission of a new application concerning taxation of the same action.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91⁹. Suspension of processing

(1) A tax authority may suspend the proceedings of an application for preliminary tax ruling where an action relating to the application or a similar action is being reviewed by way of challenge procedure or is being heard in a court at the time of submission of the application and the expected decision is of crucial importance in terms of taxation, or, where tax proceedings are being conducted in a case relating to the application, until entry into force of the corresponding decision or termination of the proceedings.

(2) The tax authority notifies the applicant of the suspension of the proceedings within seven calendar days as of the date of suspension of proceedings.

(3) The tax authority resumes proceedings and reviews the application after the circumstances impeding performance of a procedural action cease to exist. In such a case, the application is deemed to be submitted on the date on which the decision enters into force, or the proceeding is terminated.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91¹⁰. Term for giving preliminary tax ruling

(1) A tax authority gives a preliminary tax ruling within 60 calendar days as of the date of receipt of an application or elimination of the deficiencies in an application.

(2) A tax authority may extend the term for giving a preliminary tax ruling by a written decision by 30 calendar days under compelling significant circumstances.
[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91¹¹. Right of appeal

(1) Upon refusal to review the application, the applicant has the right to file a challenge to the tax authority in accordance with § 137 of this Act or to file an action with an administrative court under the conditions and in accordance with the procedure provided by the Code of Administrative Court Procedure.

(2) There is no right of appeal in the case of disagreement with the assessment provided by the tax authority in the preliminary tax ruling.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

§ 91¹². Disclosure of summary of preliminary tax ruling

(1) A tax authority discloses the summary of a preliminary tax ruling on taxation of the action of general importance and of the action repeatedly described in applications on their web page.

(2) Upon disclosing the summary of a preliminary tax ruling, a tax authority is guided by the obligation to maintain tax secrecy provided in § 26 of this Act and does not disclose data which enable identification of persons involved in the action.

(3) An applicant may set out in the application which information they would not reasonably desire to be disclosed.

[RT I 2007, 23, 121 – entry into force 01.01.2008]

Subchapter 3 Notice of Assessment and Liability Decision

§ 92. Determination of amount of tax liability by tax authority

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(1) A tax authority makes an assessment of the amount of tax liability:

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

- 1) where a return is not submitted by the due date prescribed by an Act, unless otherwise provided by law;
- 2) where a taxable person has submitted false information in the return resulting in the amount of tax indicated by the taxable person in the return or the amount of tax calculated by the tax authority based on the information in the return being less than the amount of tax which should be paid in accordance with an Act concerning a tax;
- 3) where a taxable person has submitted false information resulting in the amount of tax to be refunded as calculated by the taxable person or based on the information submitted by the taxable person being more than the amount to be refunded in accordance with an Act concerning a tax;

3¹) Where a customs debt is incurred on the basis specified in Articles 79 and 82 of the Customs Code;

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

- 4) in other cases prescribed by an Act or a regulation.

(2) The provisions of subsection 1 of this section also apply where an Act concerning a tax prescribes the payment of tax by way of purchasing revenue stamps and a tax authority establishes that the amount of tax paid differs from the amount of tax payable based on an Act.

(3) Upon assessing tax payable, a tax authority takes into consideration all the facts relevant to the particular tax case which the tax authority deems to be reliable.

(4) Upon assessing tax, a tax authority is not required to take into consideration facts reducing the tax liability which have not been declared by the taxable person by the due date for the submission of the return where the tax authority is not aware of such facts without a declaration of intention on the part of the taxable person.

§ 93. Assessment of tax with resolute condition

(1) In justified cases, the tax authority may assess tax on the condition that the notice of assessment may be amended or repealed because of further inspection or where more evidence is submitted (hereinafter resolute condition).

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) The tax authority determines the period of validity of the condition in the notice of assessment and sets out the grounds for the conditional assessment of tax.

(3) During the period of validity of the condition, the restrictions provided in Subchapter 4 of this Chapter do not apply to the amendment and repeal of the notice of assessment.

(4) A taxable person may apply for the amendment or repeal of a notice of assessment during the period of validity of the condition.

(5) A resolutive condition may be revoked by a written decision at any time. A resolutive condition is also revoked where it appears during additional tax control that no facts occur altering the tax liability. Where a condition has not been revoked earlier, its validity expires upon expiry of the limitation period for assessing tax. [RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 94. Assessment of tax by estimation

(1) A tax authority may, by way of estimation, establish facts which are the basis for assessing tax payable. Estimation is permitted where the written evidence which is necessary to assess tax is incomplete, insufficient, or unreliable or has been destroyed or is missing and where it is not possible to establish the facts on which the tax liability is based by means of any other evidence. Estimation is also permitted where the costs of a taxpayer who is a natural person exceed their declared income and where the taxpayer fails to provide evidence proving that the costs have been incurred out of income which was taxed earlier, or which is not subject to tax or out of loans taken.

(2) Estimation is based on the information collected in a case, as well as on the business indicators and costs of the taxable person and comparisons with information ascertained in other similar tax cases. The methods of estimation and evidence used for estimation are set out in a notice of assessment.

(3) Upon estimation, economic benefits related to property are deemed to be in the ownership of the owner of the property. Economic benefits are items of property, monetarily appraisable rights and income or gains derived from an item of property. Where a person has actual control over the property of another person and enjoys the economic benefits related to the property in a manner which precludes the owner of the property from enjoying the benefits, the economic benefits are deemed to be in the ownership of the possessor for the purposes of assessing tax.

(4) Economic benefits are not deemed to be in the ownership of the possessor where the person who possesses proprietary rights which are in their name or an item of property which is used by them as a broker, representative, pledgee, lessee, commercial lessee or usufructuary submits evidence concerning the ownership of the property and the identity of the owner. Where the possessor of the property fails to submit reliable evidence, such rights or items of property are deemed to be owned by the possessor for the purposes of assessing tax.

§ 95. Notice of assessment

(1) A tax authority prepares a notice of assessment to assess tax.

(2) A notice of assessment is an administrative decision which is following the requirements provided in § 46 of this Act. The notice of assessment must clarify the method by which assessment of the amount payable or claim for refund is made. Where none of the evidence submitted by a taxable person is taken into consideration upon assessing tax or claim for refund or where only some of the evidence is taken into consideration, the reasons therefor must be set out in the notice of assessment. [RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(3) Where several taxable persons are solidarily liable for the payment of an amount of tax, the tax authority has the right to issue a joint notice of assessment to such persons.

(4) A tax authority may submit a claim for the performance of an accessory obligation to a taxable person in a notice of assessment. A claim may be submitted in a joint notice of assessment also in the case where the claim is not directed against all the taxable persons. In such a case, the person against whom the claim is submitted is indicated in the administrative decision.

(5) A notice of assessment is served to the taxable person in accordance with the procedure provided in Chapter 4 of this Act not later than 30 days before the due date for payment of the amount of tax, unless otherwise provided by an Act. A notice of assessment by which the amount of duty related to the incurrence of a customs debt is determined is served to the taxable person not later than ten days before the due date for payment of the amount of tax. The notice of assessment may contain a warning concerning the initiation of compulsory enforcement in the case of a failure to perform the obligation. [RT I 2008, 60, 331 – entry into force 01.01.2009]

(6) The provisions concerning a notice of assessment also apply to administrative decisions issued for the application of tax incentives or tax exemptions unless otherwise provided by a law.

§ 96. Liability decision

(1) In order to collect tax arrears from a third party who is liable for the performance of obligations of a taxpayer or withholding agent based on an Act, a tax authority makes a liability decision.

(2) The provisions of subsections 2–5 of § 95 of this Act apply to liability decisions, taking account of the special rules provided in this section.

(3) In a liability decision, the basis for the application of liability and the methods of calculating the amount of tax are indicated and a term for payment of the amount of tax and for the performance of accessory obligations, which may not be less than 30 days as of the date of service of the decision, is set out. Where an amount of tax is assessed by a notice of assessment which has not been served to the addressee of a liability decision, a copy of the notice of assessment is appended to the liability decision and the method of calculating the amount of tax is not indicated in the liability decision.

(4) A liability decision may contain a warning concerning the initiation of compulsory enforcement in the case of a failure to perform the obligation. A copy of the liability decision is sent to a taxable person whose tax a third party is obligated to pay.

(5) Unless otherwise provided by a law, a liability decision obligating a person to pay an amount of tax may be made within the limitation period for assessing tax (§ 98). Liability decisions concerning persons specified in §§ 38–40 of this Act may be made only after the recovery is commenced with respect to a taxpayer or withholding agent in a manner provided in clause 3 of subsection 1 of § 130 of this Act and where, as a result, the tax arrears have not been collected within three months, or the taxpayer or withholding agent is declared bankrupt.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(6) A liability decision is not made where:

- 1) no tax arrears have been incurred;
- 2) the limitation period for the collection of the tax arrears has expired;
- 3) the tax arrears have been forgiven.

§ 97. Rounding of amounts

The amount of tax payable, as well as the amount of claim for refund, and the amount arising from accessory obligations is rounded to the nearest cent unless otherwise provided by an Act concerning a tax or the customs legislation. Interest amount is rounded to the nearest euro unless otherwise provided by an Act concerning a tax or the customs legislation.

[RT I, 07.12.2018, 1 – entry into force 01.01.2020]

§ 98. Limitation period for making assessment of tax

(1) The limitation period for assessing the amount of tax is three years. In the case of intentional non-payment or withholding of a tax, including the incurred tax arrears in the case of the criminal offence committed by the person specified in § 41 of this Act, the limitation period for assessing the amount of tax is five years. The limitation period begins to run on the due date for submission of the return that was not submitted, or which contained information based on which the amount of tax was calculated incorrectly.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) In the case of tax liabilities which do not involve an obligation provided by a law to submit a return, the limitation period for assessing the amount of tax is one year. Where an amount of tax is not assessed or is assessed incorrectly due to a taxable person failing to perform or performing unsatisfactorily the obligations imposed thereon by a law, the limitation period for assessing the amount of tax is four years. A limitation period begins to run on 1 January of the year following the year during which the tax liability arises.

(3) An Act concerning a tax may prescribe shorter limitation periods than those provided in subsections 1 and 2 of this section.

(4) After the expiry of the limitation period, a notice of assessment in this case may not be made or modified or the prior notice of assessment repealed. The notice of assessment has been made within the limitation period, where its service has begun before the expiry of the limitation period.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 99. Suspension of limitation period

(1) The limitation period for making an assessment of the amount of tax is suspended:

- 1) where it is not possible to make an assessment of the amount of tax due to *force majeure* within the last six months of the limitation period, until the circumstances which prevent the assessment of the amount of tax from being made cease to exist;
- 2) for the time of challenging a notice of assessment until the final decision made in the case enters into force;
- 3) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]
- 4) as of the drawing up a misdemeanour report until the date on which the decision made in the case enters into force or the date on which proceedings in the case are terminated;

5) as of the date on which criminal proceedings commence until the entry into force of a court judgment or the date on which the criminal proceedings are terminated;

6) for one year as of the date of submission of a return which has not been submitted or amendment of the submitted return, where a taxable person submits or amends the tax return less than a year before the expiry of the limitation period for making an assessment of the tax return.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

7) from the date of receipt of complaint submitted based on Chapter 14¹ of this Act or commencement of any other mutual agreement procedure with a competent authority of a foreign state until the date of implementation of mutual agreement or final decision of the competent authorities in the respective case or the date of service of the notice of termination of the procedure.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

(2) Where the tax authority has postponed the commencement of the tax proceedings at the request of the taxable person, the limitation period for the assessment of the amount of tax is suspended as of the date on which the tax proceedings would have been initially started until the date of commencement of the tax proceedings.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(3) The limitation period for assessing the amount of tax is not suspended for the duration of the procedure of making a liability decision.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 100. Non-assessment and non-collection of amount of tax

(1) An amount of tax is not assessed, and a notice of assessment is not issued where the amount of tax is less than 10 euros unless otherwise provided by an Act concerning a tax or the customs legislation.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(2) A tax authority has the right not to assess or collect an amount of tax where the tax authority has ascertained that the costs related to making an assessment of and collecting the amount of tax exceed the amount of tax or the collection of the amount of tax is hopeless due to the insolvency of the taxable person and the tax authority does not consider it expedient to submit a bankruptcy petition or an insolvency petition.

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

Subchapter 4 Amendment and Repeal of Notice of Assessment

§ 101. Amendment and repeal of notice of assessment

(1) A notice of assessment may be amended or repealed:

- 1) with the consent or at the request of a taxable person, or
- 2) where the notice of assessment is prepared by an administrative authority which is not competent to prepare a notice in the case, or

[RT I 2005, 57, 451 – entry into force 18.11.2005]

3) where preparation of the notice of assessment was achieved by fraudulent means or threats or by using other illegal means, or

4) in order to correct obvious spelling mistakes or calculation errors in the administrative decision, or

5) in other cases provided by an Act, except in the cases provided in Subchapter 4 of Chapter 4 of the Administrative Procedure Act.

(2) In the case specified in clause 1 of subsection 1 of this section, a notice of assessment may be amended or repealed to reduce a tax liability only where the application for amendment or repeal of the notice of assessment is submitted within the term prescribed for challenging the notice of assessment or where a term which has expired has been restored.

(3) The provisions of subsection 1 of this section also apply to an administrative decision by which the preparation, amendment, or repeal of a notice of assessment is refused.

(4) The provisions of § 58 of the Administrative Procedure Act apply to the violation of procedural or formal requirements which could not have affected the content of a notice of assessment.

§ 102. Amendment and repeal of notice of assessment due to emergence of new fact or evidence

(1) A notice of assessment is amended or repealed due to emergence of a new fact or evidence:

- 1) to increase a tax liability, or

2) to reduce a tax liability where the situation that the new facts or evidence became known later was not caused by the intention or negligence of the taxable person.

(2) Where a new fact or evidence, causing the making or amending of a notice of assessment which increases the tax liability, is accompanied by the emergence of circumstances reducing the tax liability, these are taken into account upon taxation.

(3) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 103. Amendment or repeal of notice of assessment on other grounds

(1) A notice of assessment is amended or repealed:

1) due to the amendment or repeal of the preliminary administrative decision based on which the notice of assessment was made, or due to the issue of a new preliminary administrative decision in the case, or

2) due to an event with retroactive effect, or

3) in order to prevent double taxation due to notices of assessment which preclude each other, taking account of the provisions of a treaty.

(2) The notices of assessment which preclude each other are notices by which the same amount of tax or the same tax incentive or tax exemption is imposed on a taxable person several times, the same amount of tax is imposed on several persons or a tax liability for one period of taxation is imposed on a person for several periods of taxation.

(3) A notice of assessment specified in subsection 2 of this section may be amended or repealed to reduce a tax liability where the same amount of tax is imposed on a taxable person several times. Where a tax incentive or tax exemption has been applied several times, a notice of assessment may be amended or repealed to increase a tax liability where the multiple tax incentive or tax exemption was caused by false information submitted by a taxable person.

(4) In the case provided in clause 2 of subsection 1 of this section, the limitation period for assessing the amount of tax begins to run on 1 January of the year following the year during which the event occurs where evidence relating to the tax liability has been preserved.

§ 104. Application of provisions of this Subchapter to other administrative decisions

(1) Unless otherwise provided by a law, the provisions of this Subchapter concerning the amendment and repeal of notices of assessment also apply to cases where a new administrative decision is issued because of the repeal of a notice of assessment.

(2) The provisions of §§ 101–103 of this Act apply to the amendment and repeal of liability decisions. A liability decision is repealed or amended also in the case the extent of the obligation of a person who is liable for payment of the tax arrears of a taxpayer, or a withholding agent, is amended because of the making, amending or repealing of the liability decision.

Chapter 9 COMPLIANCE WITH TAX CLAIMS AND SETTLEMENT OF TAX LIABILITIES

Subchapter 1 Payment and Refund

§ 105. Payment and set-off

(1) A taxable person is required to pay the amount of tax and the amounts arising from accessory obligations to a tax (§ 31) into the designated account. In the cases prescribed by an Act concerning a tax or the customs legislation, the tax is paid to the tax authority in cash or by way of purchasing revenue stamps by the due date provided in an Act concerning a tax or the customs legislation or, in the cases prescribed by a law, by the due date designated by a tax authority. The provisions of this section are not applied where a taxable person submits the tax return (§ 85) within the prescribed term and the financial obligations of the taxable person can be set off against a claim for refund (§ 33).

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(1¹) The financial obligation specified in subsection 6 of § 1 of this Act is paid to the designated account. Where a reference number is noted in the document requiring payment, it must be noted upon the performance of the obligation.

[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

(2) In order to ensure the performance of the future financial obligations by the due date, a taxable person has the right to make payments to the tax authority before the due date for the performance of a financial obligation or use the claim of refund (§ 33) arising due to other reasons for covering future financial obligations.

(3) On the due date provided in an Act concerning a tax or the customs legislation or, in the cases prescribed by a law, on the due date designated by the tax authority, the tax authority sets off the financial obligations of a taxable person against their claim for refund based on the tax return (§ 33). Set-off takes place on a continuous basis on the due date for the performance of a financial obligation without the corresponding request of a taxable person.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(4) An amount of tax payable based on a tax notice (§ 88) or assessed in a notice of assessment (§ 95) is set off against a claim for refund submitted by a taxable person within 30 days as of the date of service of an administrative decision where the taxable person does not request earlier payment.

(5) In the case provided in subsection 1 of this section, the date of receipt of the amount payable in the designated account or in cash in the cash register of the tax authority or the date of receipt of authorisation data of payment by the tax authority is deemed to be the date of payment. In the case of compulsory enforcement carried out by an enforcement agent, the date of payment of an amount to the enforcement agent or the date of receipt of the amount in the official bank account of the enforcement agent is deemed to be the date of payment.

[RT I, 04.07.2017, 5 – entry into force 20.12.2017]

(6) The financial obligations of a taxable person are performed or set off in the sequence that the obligations are created unless the taxable person applies for the exclusion of the obligations specified in clauses 14–16 of this section from the set-off before the due date for compliance with the obligations. The claims with one and the same due date are complied with based on the following sequence:

1) fine and pecuniary punishment;

[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

1¹) contribution to mandatory funded pension;

[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

2) unemployment insurance premium;

3) income tax withheld;

4) social tax;

5) personal income tax;

6) land tax;

6¹) motor vehicle tax;

[RT I, 17.08.2024, 1 - entry into force 01.01.2025]

6²) mineral resources extraction charge;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011 - clause number 6.1 changed to number 6.2 [RT I, 17.08.2024, 1]]

6³) water abstraction charge;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011 - clause number 6.2 changed to number 6.3 [RT I, 17.08.2024, 1]]

6⁴) pollution charge for waste disposal;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011 - clause number 6.3 changed to number 6.4 [RT I, 17.08.2024, 1]]

6⁵) pollution charge for emission of pollutants into water bodies, groundwater or soil;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011 - clause number 6.4 changed to number 6.5 [RT I, 17.08.2024, 1]]

6⁶) pollution charge for emission of pollutants into ambient air;

[RT I, 14.03.2011, 4 – entry into force 01.04.2011 - clause number 6.5 changed to number 6.6 [RT I, 17.08.2024, 1]]

7) customs duty;

8) gambling tax;

9) excise duties;

10) heavy goods vehicle tax;

11) income tax on a permanent establishment of a resident legal person or non-resident legal person;

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

12) value added tax;

13) local taxes;

14) interest;

15) non-compliance levies;

16) other obligations.

(6¹) Upon payment and set-off of the financial obligations arising from this Act and the fines imposed by the tax authority in the procedure provided in subsection 6 of this section, the amounts paid in the manner established in subsection 1¹ of § 105 of this Act are not taken account of.
[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

(6²) Contribution to mandatory funded pension is paid or offset from the funds transferred to the designated account on the due date of payment of the contribution, without taking into account the order in which obligations arise, as provided in the first sentence of subsection 6 of this section.
[RT I, 22.12.2021, 4 – entry into force 01.07.2022]

(7) The sequence of compliance with obligations, provided in subsection 6 of this section, is not taken into account, where a different due date for payment of a financial obligation arises from an administrative decision of a tax authority (§ 95 and § 111). In such a case the payments are made based on the due date specified in the administrative decision of the tax authority.

(8) The obligation provided in subsection 1 of this section may be performed through a third party, unless otherwise provided by an Act concerning a tax. A tax authority is required to accept performance of the obligation by a third party (subsection 8 of § 106).

(9) The procedure for entry in the accounts, payment and refund of the claims and liabilities administered by the tax authority for state taxes is established by a regulation of the minister in charge of the policy sector.
[RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 106. Compliance with claim for refund

(1) A request for compliance with a claim for refund (§ 33) must be submitted to the tax authority in the tax return or in any other written document or a document submitted in a form reproducible in writing together with the details of the bank account of the taxable person.
[RT I 2008, 58, 323 – entry into force 01.01.2009]

(2) The amount which the person is entitled to recover, is refunded within 60 days as of the date of receipt of the request unless another term is provided in an Act concerning a tax. A claim for refund is complied with immediately where the tax authority has verified the correctness of the claim for refund earlier based on subsection 1¹ of § 33 of this Act. In the case of a refund exceeding 640,000 euros, a written decision is made stating the actions performed to verify the excess payment and the name of the official conducting the verification. The decision is signed by the head of the tax authority, or an official authorised by the head.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

(2¹) Where the tax authority calculates the amount of interest (§ 115) before the term for compliance with the claim for refund, the tax authority sets off the claim for interest against the claim for refund before satisfaction of a request for compliance with the claim for refund without setting a term for the payment of the claim for interest.
[RT I 2008, 58, 323 – entry into force 01.01.2009]

(3) Where a request for compliance with the claim for refund is submitted prior to the due date for the payment of tax, the overpaid amount is refunded within 60 days as of the due date for payment of tax unless the tax authority decides to comply with the claim for refund earlier.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

(4) Where a claim for refund is complied with by transferring an amount to the bank account of a taxable person located in a foreign state, the tax authority has the right to deduct the costs of transferring the amount to be refunded from the refunded amount.

(5) The overpaid amount of tax is refunded from the place of receipt of the tax.

(6) Where the size of the claim for refund does not exceed 10 euros, the claim for refund is only complied with based on a written request submitted separately by the entitled person. Where no request is submitted, the tax authority keeps the amount subject to the claim for refund to cover future tax liabilities or set-offs of the taxable person.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(7) Where a request for compliance with the claim for refund is satisfied in part, a reasoned written decision is served to the person within the term provided in subsection 2 of this section. Where the tax authority establishes that the actual claim for refund of the taxable person is up to 10 euros less than the claim for refund stated in the request of a taxable person for compliance with the claim for refund, such reasoned written decision is only issued at the request of the taxable person.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(8) At the request of a person entitled to apply for compliance with the claim for refund, the tax authority uses the claim for refund for compliance with the financial obligations of a third person to the extent specified in the request (subsection 8 of § 105).

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(9) The limitation period for submission of a request for compliance with the claim for refund is seven years as of the date of making the last amendment in the claim for refund.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 107. Suspension and extension of compliance with claim for refund

(1) The tax authority for state taxes has the right to suspend compliance with the claim for refund specified in § 106 of this Act in the case where the elements of violation of this Act or Acts concerning taxes have been established in the activities of the taxable person and criminal proceedings or misdemeanour proceedings have been commenced in connection with the violation.

(2) The compliance with the claim for refund is suspended, until a decision in misdemeanour proceedings or a court judgment in a criminal case enters into force, or a court judgment is made to terminate the criminal proceedings. A reasoned written decision is made regarding suspension of the compliance with the claim for refund.

(3) Where the claim for refund is not sufficiently proven, the tax authority may extend the term for the compliance with the claim by a reasoned written decision and set a term for the person who submitted the claim for refund to submit additional proof. Where evidence is not submitted within the set term, the tax authority decides not to refund the overpaid amount. The provisions concerning a notice of assessment (§ 95) apply to the making of such a decision.

(3¹) A tax authority has the right to suspend the fulfilment of the claim for refund where the taxable person has failed to submit the tax return (§ 85) by the due date for the compliance with the claim for refund. The claim for refund is complied with within 30 days as of the submission of the return.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(4) Where it becomes evident after the compliance with the claim for refund that it has no legal basis, the tax authority decides to recover the overpaid amount. The provisions concerning a notice of assessment apply to the making of such a decision.

(5) In the case of extension or suspension of the compliance with the claim for refund in the cases provided in this Act or an Act concerning a tax, a taxable person has the right to comply with the claim for refund where the taxable person provides sufficient security. Security is provided and accepted in accordance with §§ 120 – 127 of this Act.

[RT I 2005, 68, 528 – entry into force 01.01.2006]

Subchapter 2 Set-off

§ 108. Set-off at request of taxable person

[Repealed - RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 109. Set-off by tax authority

[Repealed - RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 110. Conditions for set-off

[Repealed - RT I 2008, 58, 323 – entry into force 01.01.2009]

Chapter 10 PAYMENT OF TAX ARREARS IN INSTALMENTS, WRITING OFF AND FORGIVENESS OF TAX ARREARS

§ 111. Payment of tax arrears in instalments

(1) A tax authority has the right, at the request of a taxable person with solvency problems, to permit payment of tax arrears, as well as payment of such known obligation the due date of which has not yet arrived, to be paid in instalments. The payment of tax arrears in instalments does not relieve the taxable person from compliance with current tax liabilities.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(1¹) The contribution to mandatory funded pension is not paid in instalments.
[RT I, 22.12.2021, 4 – entry into force 01.07.2022]

(2) [Repealed – RT I 2008, 58, 323 – entry into force 01.01.2009]

(3) A taxable person submits a reasoned request for the tax arrears to be paid in instalments and a schedule for payment of the tax arrears.

(4) An official of a tax authority representing the state, a rural municipality or a city in bankruptcy proceedings may, where a compromise is made, vote for an extension of the term for the payment of tax arrears where a decision concerning the payment of tax arrears in instalments has been made and the decision enters into force on the date on which the compromise is approved by a court.

(5) Where the payment of tax arrears in instalments is state aid for the purposes of the Competition Act, the tax authority follows the provisions of § 34¹ of the Competition Act.
[RT I 2008, 60, 331 – entry into force 01.01.2009]

(6) The minister in charge of the policy sector establishes, by a regulation, the procedure for the payment of tax arrears of state taxes in instalments.

§ 112. Decision on payment of tax arrears in instalments

(1) A tax authority decides to satisfy or to refuse to satisfy a request for the payment of tax arrears in instalments within twenty days as of the receipt of the request. Upon deciding, the tax authority may alter the schedule for payment of tax arrears submitted by the taxable person. The rejection of the request or partial satisfaction of the request must be reasoned.

(2) Upon deciding to satisfy a request, the tax authority takes into account the financial situation and economic indicators of the taxable person, the taxable person's prior performance of obligations arising from Acts concerning a tax, the feasibility of the payment of tax arrears in instalments and, where security is required, the reliability of the security provided, and the circumstances specified in subsection 4 of this section. The tax authority has the right to request that documents that are necessary to establish these circumstances be submitted. In such a case, the tax authority decides on the request within 10 days as of the submission of the documents.

(3) The tax authority has the right to request security upon the payment of tax arrears in instalments. Security is not requested from a taxable person who is bankrupt and whose tax arrears are to be paid in instalments to make a compromise in bankruptcy proceedings. A request for security is prepared in writing unless the obligation to provide security arises from a law. Where security is required, a decision on the payment of tax arrears in instalments is made within five working days as of the date on which the security is provided.

(4) A tax authority has the right to refuse the request for the payment of tax arrears in instalments where:

- 1) the request is not reasoned or is insufficiently reasoned, or
- 2) the taxable person has been issued an order to pay the tax arrears within forty-eight hours as of the date of receipt of the order (§ 129), or
- 3) the taxable person does not keep accounts in accordance with the procedure provided in legislation, does not submit tax returns or does not preserve documents, or
- 4) the taxable person fails to provide the security required or the tax authority does not consider that the security provided is sufficient or trustworthy, or
- 5) upon consideration of the compromise proposal made by the debtor in bankruptcy proceedings, the tax authority finds that the financial situation of the debtor does not enable the compliance with the obligations assumed as a result of the compromise, or
- 6) other circumstances or grounds exist which cause the tax authority not to consider the payment of the tax arrears in instalments to be expedient.

§ 113. Revocation of decision on payment of tax arrears in instalments

(1) Where a taxable person does not meet the schedule for the payment of tax arrears, does not submit declarations by the due date during the period of validity of the schedule, does not pay current taxes by the due date during the period of validity of the schedule, does not perform an obligation provided in the Law of Property Act to keep the item of property encumbered with a pledge in order to guarantee tax arrears or, in the case of a decrease in the value of security, does not submit replacement security accepted by the tax authority, the tax authority has the right to implement, selectively or jointly, the following measures:

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

- 1) to revoke the decision on the payment of tax arrears in instalments;
- 2) to revoke a reduction in the interest rate (subsection 2 of § 117);
- 3) to calculate interest retroactively at a rate, established in subsection 1 of § 117 of this Act on the amount of tax that is being paid in instalments.

(2) A tax authority has the right to revoke a decision on the payment of tax arrears in instalments made in order to make a compromise where the compromise is annulled based on the Bankruptcy Act.

(3) The tax authority revokes a decision on the payment of tax arrears in instalments where the reorganisation proceedings or debt restructuring proceedings have been initiated regarding a taxable person.

[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

§ 114. Writing off and forgiveness of tax arrears

(1) The tax authority for state taxes writes off:

1) the tax arrears of a legal person upon the dissolution of the legal person in the case of bankruptcy or liquidation proceedings or the compulsory dissolution of the legal person without liquidation proceedings, where a third party is not liable for tax compliance, or tax arrears cannot be collected from such a third party;

2) the tax arrears of a natural person in the case of the death or declaration of death of the natural person, where there is no estate which could be subject to a claim for payment, or the part of tax arrears to the extent exceeding the value of the inventoried estate from which claims with higher ranking have been satisfied in accordance with the provisions of the Law of Succession Act.

(2) The tax authority for state taxes may forgive tax arrears to make a compromise in bankruptcy proceedings, as well as by debt restructuring by way of reducing the debts in the reorganisation proceedings or in the debt restructuring proceedings. In the case the tax authority agrees to a compromise proposal, the tax authority decides to forgive tax arrears, which enters into force on the date on which the compromise is approved.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(3) The tax authority for state taxes may forgive the tax arrears of a taxable person at the reasoned written request of the taxable person or at their own initiative in exceptional justified cases where collection of the tax arrears is hopeless or would be unfair due to circumstances beyond the control of the taxable person, including force majeure, also when the income tax debt has resulted from the realization of the taxable person's property as a security for the debt of third parties in enforcement proceedings or bankruptcy proceedings.

The tax authority has the right to request that documents that are necessary to establish the abovementioned circumstances be submitted. In such a case, the tax authority may decide within 30 days as of the submission of the documents. The provisions of subsection 5 of § 111 of this Act apply to the forgiveness of tax arrears.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) The minister in charge of the policy sector establishes, by a regulation, the procedures for the writing off and forgiveness of tax arrears.

§ 114¹. Restructuring of tax arrears and release therefrom

(1) The provisions of this section are without prejudice to the restructuring of tax claims and release therefrom in the reorganisation procedure of a legal person or debt restructuring proceedings of a natural person or release from debts in the bankruptcy procedure in accordance with special laws.

(2) Where the restructuring of tax claims and release therefrom in the reorganisation procedure of a legal person, confirmation of compromise in the bankruptcy procedure or debt restructuring of a natural person (entrepreneur) is state aid for the purposes of the Competition Act, the tax authority follows the provisions of § 34¹ of the Competition Act.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

Chapter 11 INTEREST

§ 115. Interest payable by taxable person

(1) Where a taxable person fails to pay tax by the due date prescribed by a law, the taxable person is required to calculate and pay interest on the amount of tax outstanding by the due date. Interest is calculated as of the day following the day on which payment of the tax was due in accordance with a law until the date of payment or set-off, inclusive of the latter.

(1¹) Upon provision of international administrative assistance, the interest on the amount of tax due in a foreign state is calculated after the expiry of the period for voluntary payment of the amount of tax until the date of payment of the tax, inclusive of the latter. The period for voluntary compliance may not be less than 10 calendar days.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) Where, at the request of a taxable person, an amount of tax is refunded to the taxable person or is transferred to cover other tax liabilities of the taxable person and where such amount of tax is larger than that due to be refunded or transferred in accordance with an Act concerning a tax, the taxable person is required to calculate and pay interest on the amount refunded to the taxable person or transferred to cover other liabilities without basis. Interest is calculated as of the day on which the amount was refunded to the taxable person or transferred to cover other tax liabilities until the date of payment or set-off of the amount, inclusive of the latter.

(3) Where a taxable person fails to pay interest in accordance with the provisions of subsections 1, 1¹ and 2 of this section, the tax authority issues a claim for interest stating the number of days delayed, the interest rate, the amount of interest payable and the term for payment. The term may not be shorter than 10 days. The provisions concerning a notice of assessment (§ 95) apply to claims for interest, except in the case provided in § 46² of this Act.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) A claim for interest may be issued in a notice of assessment, a liability decision, a decision concerning compliance with a claim for refund or a warning simultaneously with the assessment or collection of an amount of tax. Where interest is set off by a claim for refund or is recovered in the course of enforcement proceedings, the term for payment of a claim for interest provided in subsection 3 of this section is not applied.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(5) The provisions of subsection 1 of this section also apply in the case where the taxable person fails to make preliminary payments by the due date provided by a law.

(6) Interest is received by the state.

[RT I 2008, 58, 323– entry into force 01.01.2009]

§ 116. Interest payable to taxable person

(1) Where, based on an administrative decision issued by the tax authority, an amount of tax has been collected from a taxable person or an amount of tax has been set off against a claim for refund submitted by a taxable person and the amount of tax exceeds the amount of tax due according to an Act concerning a tax, the tax authority is required to calculate interest on the overpaid amount for the benefit of the taxable person. Interest is calculated as of the date of set-off or payment until the the date of amendment or repeal of the administrative decision which was the basis for the payment. Interest is not calculated where the tax authority has issued the administrative decision based on the information declared by the taxable person.

[RT I, 10.12.2010, 4– entry into force 01.01.2011]

(2) Where a tax authority fails to comply with a claim for refund (§ 33) within the term provided by a law, the tax authority is required to calculate interest on the amount outstanding by the due date. Interest is calculated as of the day on which the overpaid amount had to be refunded until the date of payment or set-off of the amount, inclusive of the latter.

(3) Where a tax authority has, in accordance with the provisions of subsection 3 of § 107 of this Act, set a term for a taxable person to submit additional documents, interest is not calculated for the benefit of the taxable person as of the date of service of the corresponding decision until the date of submission of the additional documents.

(4) Where a tax authority has not entered the interest specified in subsections 1 and 2 of this section on its own initiative to the prepayment account of the taxable person, the taxable person may apply for interest within two years as of:

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

1) the date of entry into force of a decision to amend or repeal a notice of assessment or a decision to refuse to comply with a claim for refund;

2) the entry into force of a judgment of acquittal regarding a misdemeanour which caused a claim for refund to be suspended or a judgment of acquittal in a criminal case regarding such a claim, or as of the date on which an order on terminating criminal proceedings regarding such a claim is made, or as of the date on which a judgment terminating misdemeanour proceedings regarding such a claim is made.

[RT I 2003, 71, 472 - entry into force 01.01.2004]

(5) A tax authority is required to pay interest within fifteen days as of the date of receipt of the request specified in subsection 4 of this section. A reasoned written decision is made upon refusal to pay interest.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(6) Where a taxable person has not applied for the refund of the amount paid to the tax authority without basis and the interest calculated on such amount to their bank account before the amendment or repeal of the administrative decision which was the basis for the payment, the overpaid amount is deemed to be payment for the purposes of subsection 2 of § 105.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

§ 117. Interest rate

(1) The rate of interest provided in §§ 115 and 116 of this Act is 0.06 per cent per day.

(1¹) The assessment of the interest rate payable on import and export duties relating to import and export of goods is based on the provisions of Article 114 (1) of the Customs Code.
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(2) Upon the payment of tax arrears in instalments, a tax authority has the right to reduce the interest rate by up to 50 per cent as of the date of making the decision on payment of the tax arrears in instalments. Upon the payment of the tax arrears in instalments, a tax authority has the right, in a justified exceptional case, to reduce the interest rate by up to 50 per cent as of the date on which tax arrears were created.
[RT I, 07.12.2018, 1 – entry into force 01.01.2020]

(3) Where a person fails to comply with the claims contained in the schedule of payment in instalments by the due date, the tax authority calculates interest on the claims not complied with by the due date in the amount provided in subsection 1 of this section.
[RT I, 07.06.2013, 1 – entry force 01.07.2013]

§ 118. Limitation period for calculation of interest

(1) The limitation period for the calculation of interest is one year as of the date of full payment of the amount of tax calculated based on the return, determined by a notice of assessment or collectable by a liability decision or the date of full payment or set-off of an amount refunded to a person without basis.
[RT I, 07.06.2013, 1 – entry force 01.07.2013]

(2) [Repealed – RT I 2008, 58, 323 – entry into force 01.01.2009]

(3) A claim for interest is not submitted after expiry of the period specified in subsection 1 of this section. The provisions of subsection 4 of § 98 of this Act are applied to the limitation period for the claim for interest.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(4) The limitation period for the calculation of interest on the amount of tax that is being paid in instalments is one year as of the date of expiry or repeal of the schedule of payments in instalments.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(5) The limitation period for the calculation of interest on the amount of tax restructured with the reorganisation plan or debt restructuring plan is one year as of the date of revocation of the reorganisation plan or debt restructuring plan.
[RT I, 07.06.2013, 1 – entry force 01.07.2013]

(6) The limitation period for the calculation of interest suspends for the duration of contesting the interest claim or the amount of tax based on which the interest claim is calculated until the final decision made in the case enters into force.
[RT I, 07.06.2013, 1 – entry force 01.07.2013]

§ 119. Non-calculation of interest

(1) The calculation of interest is suspended:

1) on tax liabilities not complied with by a credit institution by the due date for the duration of a moratorium on the credit institution;

2) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

3) on tax liabilities not complied with by the due date where the tax liabilities are being complied with in accordance with a valid compromise approved in bankruptcy proceedings;

4) [Repealed – RT I, 11.07.2014, 4 – entry into force 01.08.2014]

5) where the amount of interest exceeds the tax claim on which the calculation is based;
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

6) from the initiation of reorganization proceedings or debt restructuring proceedings until approval of the reorganisation plan or the debt restructuring plan.
[RT I, 07.06.2013, 1 – entry into force 01.07.2013]

(1¹) The calculation of interest on the tax liability the due date of which arrived before the declaration of bankruptcy terminates as of the date on which the taxpayer is declared bankrupt.
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) Interest is not calculated on the amount of tax outstanding on the due date or a part thereof which is equal to the amount to be paid or refunded to a taxable person by the tax authority based on this Act, an Act concerning a tax or the customs legislation.
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(3) Unless otherwise provided by an Act concerning a tax, a claim for interest is not submitted where the amount of interest is less than 10 euros.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) Where, for reasons independent of a taxable person, a tax authority sends a tax notice specified in § 88 of this Act or a land tax notice to the taxable person later than 30 days before the due date for payment of the tax and where the amount indicated in the tax notice is paid after the due date for payment of the tax, interest is not be calculated for the same number of days as the number of days by which the tax authority was late in sending of the tax notice.

(5) Interest is not calculated for the period during which the taxable person was unable to perform their tax liability due to the undue delay of the tax authority in carrying out the tax control or, due to misleading or incorrect information provided in writing by the tax authority, less was declared or more was claimed back than prescribed by an Act, unless

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

1) the taxpayer was aware that the information is misleading or incorrect upon declaring, paying or submitting a claim for refund.

2) the taxable person caused the issue of false information by threat, coercion, submission of misleading or false information to the tax authority, or by any other illegal means.

(6) A tax authority may not calculate or collect interest on the grounds provided in § 100 of this Act.

(7) [Repealed – RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(8) Interest is not calculated on the amount of value added tax which is to be paid on the anti-dumping or balancing customs duty, established retrospectively.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(9) Interest is not calculated on the amount of value added tax, which is to be paid because the European Commission did not allocate quota for the ensured tariff quota.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(10) Interest is not calculated on an outstanding tax liability related to an estate, as of the day of the opening of succession.

[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

Chapter 12

SECURITY

§ 120. Security

(1) A tax authority has the right to request the provision of security:

1) in the case of payment of tax arrears in instalments (§ 111);

2) in the case of extension or suspension of compliance with a claim for refund (subsection 5 of § 107);

[RT I 2005, 68, 528 – entry into force 01.01.2006]

2¹) in the case of suspension of the execution of an administrative decision (§ 146);

[RT I 2005, 68, 528 – entry into force 01.01.2006]

3) in other cases prescribed by a law.

(1¹) The tax authority may demand the guaranteeing of the taxes payable related to the incurring of a customs debt upon keeping goods under customs supervision and release into free circulation.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(2) No security is required where the amount of a claim is less than 64 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) No security is required from a state, rural municipality and city agency.

(4) The bases for the assessment and calculation of the amount of security required to ensure payment of various taxes, other than customs duties, payable related to the incurrance of the customs debt, are established by a regulation of the minister in charge of the policy sector.

[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

§ 121. Scope of security

A tax authority determines the amount of security to be provided. The tax authority determines the scope of security based on the amount of the secured claim and the costs of possible compulsory enforcement.

§ 122. Types of security

Unless otherwise provided by an Act concerning a tax, a person who is obligated to provide security may choose between the following types of security:

- 1) surety;
- 2) an amount of security paid as a deposit into the designated account;
[RT I, 13.12.2011, 1 – entry into force 01.01.2012]
- 3) a registered security over movables or a mortgage established for the benefit of the state, a rural municipality or a city.

§ 123. Surety

(1) Any person who is accepted by a tax authority as a surety and who undertakes to pay the amount indicated in a contract of suretyship at the request of the tax authority may act as a surety.

- (2) A tax authority has the right not to accept a surety where:
- 1) the surety does not have sufficient property to secure the tax arrears;
 - 2) the amount to the extent of which security is provided is not sufficient in the opinion of the tax authority;
 - 3) the previous activities, financial situation or reputation of the surety give sufficient reason to doubt the reliability of the security.

§ 124. Pledge

(1) A pledge is established in accordance with the procedure provided in the Law of Property Act or the Commercial Pledges Act.

(2) On behalf of the state, a pledge contract is signed by the head or deputy head of the tax authority for state taxes, or a person authorised by the head of the tax authority for state taxes. On behalf of a rural municipality or city, a pledge contract is signed by the head or deputy head of the tax authority for local taxes, or a person authorised by the head of the tax authority for local taxes.

(3) A tax authority has the right not to accept a pledge proposed as security where, in the opinion of the tax authority, the value of the object of the pledge is not sufficient to secure the tax arrears or the object of the pledge is not easily realised or leads to excessive administrative costs.

(4) Where a pledge is no longer sufficient to secure a claim because of a reduction in the value of the object of the pledge, a taxable person is required to provide additional security.

§ 125. Replacement of security

(1) A person who provides security has the right to replace the security with another security permitted by this Act or an Act concerning a tax.

(2) A tax authority has the right to request that a security be replaced where the value of the security falls or the security is no longer sufficient to secure tax arrears which have been or may be incurred.

(3) A tax authority has the right not to accept a replacement security where the security is not sufficient to secure tax arrears or is not reliable.

§ 126. Release of security

- (1) Unless otherwise provided by a law or a regulation, a tax authority releases a security where:
- 1) the claim for the securing of which the security was provided is not created;
 - 2) the claim for the securing of which the security was provided has terminated;
 - 3) the claim for the securing of which the security was provided has been invalidated or declared null and void.

(2) A surety is notified of the release of the security within 10 days as of the occurrence of a fact provided in subsection 1 of this section. An entry of a registered security over movable or of mortgage is deleted in accordance with the procedure provided by law.

(3) An amount of security paid into the designated account is released within 10 days as of the submission of a corresponding request unless otherwise prescribed by legislation. Where a person has not submitted a request for the release of an amount of security within one year as of the occurrence of facts provided in subsection 1 of this section, the tax authority transfers the amount of security to the prepayment account of the person.
[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(4) A taxable person may request that the security not be released and that it be used in order to secure other claims of the tax authority which have arisen, or which may arise.

§ 127. Use of security

(1) In order to make a claim against a surety, the surety is notified of an obligation with which the principal debtor has not complied. Where the surety has not commenced payment of the tax arrears of the principal debtor within 30 days as of the date of receipt of the notice of the tax authority, the tax authority recovers the debt in accordance with the procedure provided in Chapter 13 of this Act.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) Upon a failure to comply with a secured claim, the amount of security, paid into the designated account, is calculated to cover the claim. Where a security is provided to cover several claims, the provisions of subsection 5 of § 128 of this Act apply to the ranking of compliance with the claims.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(3) Upon a failure to comply with a claim secured by a registered security over movables, a tax authority has the right to sell the security in accordance with the procedure provided by legislation regulating enforcement procedure.

Chapter 13 COMPULSORY ENFORCEMENT

Subchapter 1 Compulsory Enforcement of Claims Arising from Tax Arrears

§ 128. Compulsory enforcement

(1) A tax authority is required to collect tax arrears unpaid by a taxable person. Compulsory enforcement of claims arising from tax arrears is conducted in accordance with the procedure provided in this Chapter and in legislation regulating enforcement procedure. Where a taxable person is declared bankrupt, tax arrears are settled in accordance with the procedure provided in the Bankruptcy Act.

(2) Compulsory enforcement of claims arising from tax arrears is permitted where:

- 1) the due date for compliance with the obligation has arrived and the claim is collectable;
- 2) the taxable person has been notified of the administrative decision containing the claim in accordance with the procedure provided by law;
- 3) the tax arrears are not being paid in instalments;
- 4) the limitation period for the tax arrears has not expired and the tax arrears have not been forgiven or have not extinguished on other grounds;
- 5) execution of an administrative decision has not been suspended.

(3) Compulsory enforcement of the amount of tax due by the taxable person is permitted only after the taxpayer has been given at least once the term to pay the tax arrears with a warning about the consequences of non-compliance with obligation on due term (§ 129).

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4) A tax authority may also collect:

- 1) financial obligations arising from this Act, including the costs of substitutional performance, a non-compliance levy and the costs of the performance of obligations by an interpreter or translator, expert or third party, where the administrative decision on which they are based, has been notified to a taxable person;
- 2) deterrent fine or fine imposed by a decision enforced by the Tax and Customs Board in accordance with subsection 2¹ of § 54¹⁰ or subsection 1 of § 202 of the Code of Enforcement Procedure and other case costs arising from that decision;

[RT I, 22.12.2021, 1 – entry into force 01.03.2022]

3) obligations arising from a court decision, which has entered into force in criminal proceedings, the claimant of which is the Tax and Customs Board.

[RT I, 06.01.2016, 5 – entry into force 01.01.2017]

4) obligations assumed based on the contract in accordance with § 42 of this Act and financial obligations secured but not settled by the due date;

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

5) enforcement costs arising from the submission of a financial claim arising from an Act concerning a tax or the imposition of an obligation by performing the actions specified in clauses 1 and 2 of subsection 1¹ of § 136¹ of this Act.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(4¹) The provisions of this Act regarding compulsory enforcement of tax arrears are applied upon compulsory enforcement of the financial obligation specified in subsection 4 of this section.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(5) The tax authority first collects the amount of tax to be paid and thereafter interest. Where other financial obligations arising from this Act are subject to compulsory enforcement together with tax arrears, the arrears are collected in the sequence provided in subsection 6 of § 105 of this Act. Where the amounts of money recovered as a result of compulsory enforcement are not sufficient to comply with all tax claims, the amounts of money recovered as a result of compulsory enforcement are calculated to cover different taxes in the sequence provided in subsection 6 of § 105 of this Act.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(5¹) [Repealed – RT I 2008, 58, 323 – entry into force 01.01.2009]

(6) Where the amounts of money recovered as a result of compulsory enforcement performed by an enforcement agent are not sufficient to satisfy all the claims, the amount received is first calculated to cover the costs of execution and the remuneration of the enforcement agent and, thereafter, the claims are satisfied in the order provided in subsection 6 of § 105 of this Act.

[RT I 2008, 58, 323 – entry into force 01.01.2009]

(7) A tax authority for a state tax may, by way of compulsory enforcement, collect state tax arrears of rural municipality and city agencies. Where a state agency incurs tax arrears, the administrative authority exercising supervisory control over the state agency is addressed to settle the case.

(8) A tax authority has the right to waive compulsory enforcement where the costs related to compulsory enforcement exceed the amount to be collected or collection of the amount is hopeless due to the insolvency of the taxable person and where it is not expedient to submit a bankruptcy petition or an insolvency petition.

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

§ 129. Warning of compulsory enforcement

(1) A tax authority has the right to issue an order to a taxable person to pay tax arrears within 10 days as of the date of receipt of the order.

(2) A tax authority has the right to issue an order to a taxable person to pay tax arrears within forty-eight hours as of the service of the order where the tax authority has reason to believe that any delay in the collection of tax arrears may render collection of the tax arrears impossible.

(3) In addition to the provisions of § 46 of this Act, an order issued based on subsection 1 or 2 of this section contains a warning concerning the commencement of compulsory enforcement where the obligation is not complied with within the term.

(4) Where several persons are solidarily liable for the payment of tax arrears, a tax authority has the right to issue a joint order to such persons.

§ 130. Enforcement actions of tax authority

(1) Where an obligated person has not complied with the financial obligation within the term determined in an administrative decision of the tax authority or in the judgment specified in clause 2 or 3 of subsection 4 of § 128 of this Act, the tax authority commences collection of the tax arrears by way of compulsory enforcement. The tax authority has the right to:

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

1) request the entry of a prohibition notice which makes visible the restraint on disposition in the land register or other property register without the consent of the person concerned;

2) request the establishment of a mortgage on an immovable, a ship entered in the ships register or an aircraft entered in the civil aircraft register in accordance with the rules on the judicial mortgage provided in the Law of Property Act;

3) make a claim for payment against financial entitlement in accordance with the procedure provided in this Act and the legislation regulating enforcement procedure;

4) to seize other proprietary rights which cannot be enforced based on clause 3 of this subsection, as well as request the entry of a prohibition notice which makes visible the restraint on disposition in the register maintained with regard to the rights;

5) issue an order to freeze securities or a securities account in accordance with the provisions of the Securities Register Maintenance Act.

[RT I, 26.06.2017, 1 – entry into force 06.07.2017]

(1¹) In order to perform actions listed in subsection 1 of this section, the tax authority submits a request or order or forwards the order through the enforcement register.

[RT I, 09.04.2021, 1 - entry into force 01.01.2024]

(2) To recover tax arrears, the financial obligation specified in subsection 4 of § 128 of this Act and a fine imposed by the tax authority, the tax authority may apply to an enforcement agent for the continuation of the enforcement proceedings in case the enforcement actions of the tax authority have resulted in a failure to perform the financial obligation within a reasonable time. In the event of the continuation by the enforcement agent of the enforcement proceedings initiated by the tax authority, the conditions provided in §§ 24 and 25 of the Code of Enforcement Procedure are not applied and the prohibition notices and seizures applied by the tax authority remain in force. The tax authority notifies the debtor of the transfer of the compulsory enforcement of the claim to the enforcement agent.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

(3) The tax authority immediately notifies the enforcement agent of the compliance with the claim based on the prohibition notice or seizure applied by the tax authority.

[RT I, 09.04.2021, 1 – entry into force 19.04.2021]

§ 131. Seizure of bank account

(1) A tax authority has the right to issue an order to a credit institution for the seizure of the bank account of a debtor or for the transfer of money from the bank account of a debtor to the designated account in the amount of the tax arrears.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(2) A credit institution is required to comply without delay with an order issued by a tax authority for the seizure of the bank account of a taxable person. Where the amount in the bank account is lower than the amount to be transferred according to the order of the tax authority, the credit institution is required to comply with the order for the transfer of the tax arrears in an amount equal to the amount in the bank account of the taxable person and, in the case of further receipts of money in the bank account of the debtor, transfer the money to the designated account until the amount indicated in the order is paid, unless the tax authority has granted permission to open the seized bank account.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(3) Upon collection of the tax arrears or seizure of the bank account of a natural person, the amount reserved to cover the business income tax on the account opened based on the Simplified Business Income Taxation Act and the amount of the minimum monthly wage per debtor and each of their dependant family members are not subject to collection or seizure by a tax authority each month. Information concerning the dependants is given to the tax authority by a person who, at the request of the tax authority, submits the necessary documents. Upon issue of the order the tax authority may take the information available about the dependants of the person as a basis for the issuance of the order. Where the person submits different information about their dependants after the order is issued, the order is amended.

[RT I, 07.07.2017, 2 – entry into force 01.01.2018]

(4) Payments from the seized bank account may only be made to the extent of the seized amount with the permission of a tax authority. Permission is not needed for transfer to the tax authority, except where the seizure has been applied based on subsection 1 of § 136¹ of this Act. The seized bank account is opened with the permission of the tax authority. The tax authority issues an order for the release of the bank account from the seizure within three working days as of the payment of tax arrears.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(5) A credit institution is prohibited from opening a bank account for a taxable person in case an order of a tax authority concerning the seizure of the bank account of the taxable person has been received.

(6) In the case of a seizure of the bank account of a taxable person, the credit institution forwards immediately, by mail or by electronic means, the following information to the tax authority that issued the order:

1) the date and time of receipt of the order unless the order has been submitted through the enforcement register;

[RT I, 09.04.2021, 1 - entry into force 01.01.2024]

2) [Repealed – [RT I, 23.03.2017, 1 – entry into force 01.04.2017]

the name and title of the employee who received the order;

3) the date and time of seizure of the bank account;

4) the balance in the bank account at the moment of seizure of the bank account.

§ 132. Limitation period for compulsory enforcement

[RT I, 07.06.2013, 1 – entry into force 01.01.2014]

(1) The limitation period for the compulsory enforcement of the amount of tax calculated on the basis of the tax return or recoverable on the basis of an administrative decision is five years. The limitation period begins to run on 1 January of the year following the year in which the obligation becomes due.

(2) The limitation period for the compulsory enforcement of the amount of tax recoverable based on a notice of assessment and liability decision is five years. The limitation period begins to run on 1 January of the year following the year of service of the notice of assessment or liability decision.

(3) The limitation period for the compulsory enforcement of a claim for interest is five years as of 1 January of the year following the year of the filing of the claim.

(4) The limitation period for the compulsory enforcement of other financial obligations recoverable by a tax authority, except limitation periods provided in special laws, is five years as of 1 January of the year following the year of the filing of the claim.

(5) A limitation period for the compulsory enforcement is interrupted upon:

- 1) submission of an enforcement statement to collect tax arrears to an enforcement agent;
- 2) declaration of bankruptcy of the taxable person;
- 3) entry into force of the administrative court order for initial legal protection;
- 4) entry into force of the order on reorganisation or of the order on the acceptance of the insolvency petition for processing.

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

(6) The running of a new limitation period for compulsory enforcement is calculated as of 1 January of the year following the year in which the basis for interruption of the limitation period ceases to exist.

(7) A limitation period for compulsory enforcement is interrupted only regarding the amount which is related to the circumstance causing the interruption of the limitation period.

(8) Tax liability and accessory obligations related thereto and other financial obligations collectable by the tax authority terminate upon the expiry of the limitation period for compulsory enforcement.

[RT I, 07.06.2013, 1 – entry into force 01.01.2014]

§ 133. Competence of tax authority as representative of state, rural municipality or city in liquidation, bankruptcy and judicial proceedings

(1) The state is represented by the Tax and Customs Board upon the collection of tax arrears in liquidation, bankruptcy, reorganisation, debt restructuring or judicial proceedings.

[RT I, 06.12.2010, 1 – entry into force 05.04.2011]

(2) A rural municipality or city is represented by a rural municipality or city administrative agency with the powers of a tax authority upon the recovery of tax arrears in liquidation, bankruptcy, reorganisation, debt restructuring or judicial proceedings.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

(3) A tax authority may submit a bankruptcy or insolvency petition for the declaration of bankruptcy of a taxable person where enforcement actions performed by the tax authority or an enforcement agent do not result in the collection of tax arrears.

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

(4) A tax authority may submit a bankruptcy or insolvency petition for the declaration of bankruptcy of a taxable person before the case provided in subsection 3 of this section, in case the basis provided in clause 3 of subsection 2 of § 10 of the Bankruptcy Act exists.

[RT I, 20.06.2022, 1 – entry into force 01.07.2022]

§ 134. Compulsory enforcement by way of international administrative assistance

[Repealed – RT I, 13.12.2011, 1 – entry into force 01.01.2012]

Subchapter 2 Ensuring Performance of Obligations

[RT I, 10.12.2010, 4 - entry into force 01.01.2011]

§ 135. Application of coercive measures

(1) The provisions of the Substitutional Performance and Non-Compliance Levies Act are applied to non-compliance levy and substitutional performance prescribed in §§ 25⁸, 67, 71 and 91 of this Act and in an Act concerning a tax, taking account of the special rules provided in this Act and an Act concerning a tax. A coercive measure may be applied repeatedly until the objective intended by an administrative decision is achieved.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

(2) The application of a coercive measure may be suspended by a court in accordance with the procedure prescribed in the Code of Administrative Court Procedure, or based on a reasoned request by the tax authority that issued an administrative decision. A tax authority may postpone the application of a coercive measure and issue a new warning setting a new term for compliance with the administrative decision. A tax authority may not postpone the application of a coercive measure for longer than two months. A decision to amend the application of a coercive measure is served in accordance with the procedure provided in Chapter 4 of this Act.
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

(3) Non-compliance levies and the costs of substitutional performance are collected by way of compulsory enforcement in accordance with the provisions of subsection 4 of § 128 of this Act.

§ 136. Warning of application of coercive measure

(1) A person in respect of whom a coercive measure is sought to be applied is set a term for compliance with the obligation and the person is warned that coercive measures may be applied in case the obligation is not performed by the due date.

(2) Warnings are prepared in writing. A warning may be issued in an administrative decision where a coercive measure is applied to ensure compliance with the administrative decision.

(3) The following must be set out in a warning:

- 1) the name and address of the person to whom the warning is issued;
- 2) a reference to the administrative decision imposing an obligation in the case of the non-compliance with which a coercive measure is applied;
- 3) the due date for voluntary performance of the obligation, except in the case of an obligation to refrain from a particular activity;
- 4) the type of coercive measure or, in the case of a non-compliance levy, the amount of the non-compliance levy to be applied in the case of a failure to perform the obligation by the due date;
- 5) the name of the tax authority that issued the warning;
- 6) the given name and surname of an official competent to sign and their signature;
- 7) the date of issue of the warning.

(4) In case a tax authority intends to use several coercive measures to ensure compliance with the same obligation, the order of possible application and the dates of commencement of application of the coercive measures must be indicated. The tax authority may apply a new coercive measure only where compliance with an administrative decision is not achieved by the initial coercive measure.

(5) Where a tax authority wishes to apply coercive measures of the same type to ensure compliance with several obligations, the coercive measure is indicated in a warning separately for each obligation.

(6) Where a person is required by an administrative decision to refrain from acting or to tolerate actions to be performed by a tax authority, a warning may be given that a coercive measure may be re-applied in the event of each failure to comply with the obligation.

§ 136¹. Performance of actions ensuring enforcement before imposition of financial claim or obligation

(1) Where, upon verification of the correctness of payment of taxes, a justified doubt arises that, after imposition of a financial claim or obligation arising from an Act concerning a tax, the compulsory enforcement thereof may become considerably more difficult or impossible due to the activities of the taxable person, the head of the tax authority or an official authorised by them may submit a request to an administrative court to be granted permission for the performance of the enforcement actions provided in subsection 1 of § 130 of this Act.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1¹) Where the performance of the enforcement actions provided in subsection 1 of § 130 of this Act is impossible in the case or it is highly probable it would be ineffective, the head of the tax authority or an official authorised by them may submit a request to an administrative court for the grant of permission to the enforcement agent for the performance of the following enforcement actions:

- 1) the seizure of the property belonging to a taxable person or the addressee of the liability decision and which is in the possession of the taxable person, the addressee of the liability decision or a third party;
- 2) prohibition on the third party to transfer the property to a taxable person or an addressee of the liability decision or to perform other obligations with regard to them, which may be combined also with the obligation to transfer the property to the enforcement agent or pay money to the designated account.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1²) In the case specified in clause 1 of subsection 1¹ of this section the court may, based on the application of a taxable person or an addressee of the liability decision, order the sale of the seized property and the deposit of the proceeds of the sale in the designated account, in case the value of an object may significantly decrease or in case keeping the object would cause excessive costs.

[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1³) The request specified in subsections 1 and 1¹ of this section is submitted to the administrative court within whose territorial jurisdiction the place of residence or registered office of the taxable person or an addressee of the liability decision is located. Where the place of residence or registered office of the taxable person or an addressee of the liability decision is unknown or outside Estonia, the request is submitted to the administrative court within whose territorial jurisdiction the property concerned is located.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1⁴) In order to recover enforcement costs related to the performance of the actions specified in clauses 1 and 2 of subsection 1¹ of this section, the tax authority draws up an order in which it sets a term for payment and issues a warning that in the case of a failure to pay the enforcement costs, within the term, the outstanding obligation is subject to compulsory enforcement in accordance with the provisions of §§ 128–132 of this Act.
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) The following is stated in the request submitted to an administrative court:

- 1) the reasons indicating the considerable difficulty or impossibility to collect potential tax liability;
- 2) the estimated amount of the potential financial claim or obligation;
- 3) information concerning security, upon the provision of which the tax authority terminates the enforcement actions;
- 4) one or several enforcement actions provided in subsection 1 of § 130 of this Act or in the Code of Enforcement Procedure and the reason why the tax authority considers it necessary to perform the selected action.

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(3) Where the circumstances requiring the performance of an enforcement action cease to exist or where the taxable person provides security to ensure the payment of the financial claim or obligation, the tax authority terminates an enforcement action no later than within two working days. The judicial mortgage is terminated and deleted based on the application of the tax authority. The consent of the owner of the immovable provided in § 330 of the Law of Property Act is not required for termination of such mortgage.
[RT I, 23.12.2022, 1 – entry into force 01.02.2023]

(4) The tax authority as well as the person whose rights are affected by the order may lodge an appeal against the order granting or rejecting the request and application specified in subsections 1–1² of this section. An appeal against court order may be lodged with regard to an appeal against the circuit court order.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

Chapter 14

CHALLENGE PROCEEDINGS

§ 137. Right to file challenge

(1) Where a taxable person or another party to the proceedings finds that their rights have been violated or their freedoms have been restricted by a tax notice, a notice of assessment, liability decision, order or another administrative decision issued by a tax authority, they have the right to demand the repeal or amendment of the administrative decision or the issue of a new administrative decision.
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

(2) A party to the proceedings also has the right to challenge:

- 1) a delay;
- 2) an omission;
- 3) the refusal to remove an official or expert;
- 4) the return of an request for the issue of an administrative decision;
- 5) other measures taken by a tax authority.

(3) A challenge against an administrative decision or action of the Tax and Customs Board is filed with the Tax and Customs Board.
[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

(4) The provisions of this Chapter apply to the resolution of challenges against administrative decisions and actions of tax authorities for local taxes taking account of the special rules provided in the Local Taxes Act.

§ 138. Term for filing challenge

(1) A challenge against an administrative decision must be filed within 30 days as of the date of notification or service of the administrative decision.

(2) A challenge against an action must be filed within 30 days as of the day when the person who filed the challenge becomes or should have become aware of the challenged action.
[RT I 2003, 88, 591 – entry into force 01.01.2004]

(3) Where the competent authorities commence mutual agreement proceedings, the time limit for filing an appeal against the tax notice or notice of assessment and for filing an appeal with the Administrative Court is suspended, until the final decision is being implemented, or until the date of service of the notice of termination of the procedure.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 139. Requirements for challenges

(1) A challenge is filed in writing.

(2) The following is set out in a challenge:

- 1) the name of the administrative authority with which the challenge is filed;
 - 2) the name, postal address and telecommunications numbers of the person who filed the challenge;
 - 3) the name of the challenged administrative decision and the date of issue thereof or the time of the challenged action;
 - 4) the content of the challenged administrative decision or action;
 - 5) the reasons why the person who filed the challenge finds that the administrative decision or action violates the rights of the person;
 - 6) the clearly expressed claim of the person who filed the challenge;
- [RT I, 23.02.2011, 3 – entry into force 01.01.2012]
- 7) the confirmation by the person who filed the challenge that no judgment has entered into force and no judicial proceedings are being performed concerning the case;
 - 8) a list of documents appended to the challenge.

(3) A challenge is signed by the person who filed the challenge or their representative. The representative of the person who filed the challenge appends their authorisation document thereto unless such a document has been submitted before. Where an attorney has signed the challenge as a representative, it is not necessary to append the power of attorney to the challenge, but the tax authority has the right to request submission thereof in a justified case.

[RT I, 23.03.2017, 1 – entry into force 01.04.2017]

(4) The relevant documents are appended to a challenge. Where it is not possible to submit the documents, their location is indicated in the challenge.

§ 140. Restoration of term for filing challenge

The term for filing a challenge may be restored under the conditions provided in § 50 of this Act.

§ 141. Withdrawal of challenge

(1) A person filing a challenge has the right to withdraw the challenge prior to the making of a decision. A notice of withdrawal of the challenge is filed in writing or orally. A tax authority records an oral withdrawal, and the record is signed by the party withdrawing the challenge.

(2) The withdrawal of a challenge does not prevent the filing of a new challenge during the term for filing challenges.

§ 142. Deficiencies in challenge

Where a challenge does not comply with the requirements provided in § 139 of this Act, the tax authority with which the challenge is filed draws the attention of the person who filed the challenge to the deficiencies in the challenge and, where necessary, grants a term of up to 10 days to the person who filed the challenge to eliminate the deficiencies.

§ 143. Return of challenge

(1) A challenge is returned where:

- 1) the person who filed the challenge has no right to file the challenge;
- 2) the person who filed the challenge has failed to eliminate the deficiencies in the challenge within the designated term;
- 3) the term for filing the challenge has expired and is not restored;
- 4) a court judgment has entered into force in the case;
- 5) judicial proceedings are being conducted in the case.

(2) Where the review of a challenge is not within the competence of an administrative authority, the administrative authority returns the challenge and explains to the person where they have to access or forwards the challenge to the competent administrative authority, notifying the person who filed the challenge.

(3) A challenge is returned to a party by a written decision within seven days as of the filing of the challenge. The decision sets out the grounds for the return of the challenge and an explanation concerning the procedure for further appeal. In the case provided in clause 2 of subsection 1 of this section, the challenge is returned within seven days as of the expiry of the term for the elimination of the deficiencies (§ 142).
[RT I 2008, 60, 331 – entry into force 01.01.2009]

§ 144. Contestation of return of challenge

(1) The person filing a challenge may file a complaint with the Tax and Customs Board against the decision to return the challenge made by the Tax and Customs Board within 30 days as of the date of notification or service of the decision.
[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

(2) Where an agency specified in subsection 1 of this section finds that the return of a challenge was not justified, the agency accepts the challenge.

(3) Where an agency specified in subsection 1 of this section finds that a complaint against the return of a challenge is not justified, the agency denies the complaint and returns the challenge.

(4) A person is notified of the dismissal of a complaint against the return of a challenge by a written decision within seven days as of the filing of the complaint setting out the grounds for the dismissal and an explanation concerning the procedure for further appeal.

§ 145. Service of challenge

[Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]

§ 146. Suspension of execution of administrative decision

(1) The filing of a challenge does not prevent the challenged administrative decision from being executed, except in the cases provided in subsections 2 and 3 of this section.

(2) The execution of orders issued to a third party based on §§ 61 or 62 of this Act is suspended until the final decision made in the case enters into force.

(3) An administrative authority resolving a challenge may suspend the execution of an administrative decision where this is necessary. Where the execution of an administrative decision is suspended at the request of a taxable person, the tax authority has the right to request that the taxable person provide security where the suspended administrative decision contains a financial obligation. Security is provided and accepted in accordance with the provisions of §§ 120–127 of this Act.
[RT I 2005, 57, 451 – entry into force 18.11.2005]

§ 147. Review of challenge

(1) Upon the review of a challenge, the lawfulness and purposefulness of the issue of an administrative decision are verified.

(2) The administrative authority which reviews a challenge:

- 1) [Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]
- 2) conducts on-the-spot visits of inspection, where necessary;
- 3) involves experts or specialists, where necessary;
- 4) [Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]
- 5) hears the explanations of interested parties;
- 6) resolves issues concerning suspension of the execution of an administrative decision;
- 7) performs other acts provided by law.

(3) A challenge is reviewed within 30 days as of the receipt thereof by the administrative authority reviewing the challenge.

(4) Where a challenge needs to be examined further, an administrative authority which reviews the challenge may, by a written decision, extend the term for review of the challenge by up to 10 days.

(5) An administrative authority which reviews a challenge may, where necessary, request that the person who filed the challenge submit additional evidence. In such a case, a challenge is reviewed within five days as of the submission of evidence, but the administrative authority has no obligation to review the challenge earlier than within the term provided in subsection 3 of this section.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

§ 147¹. Suspension of challenge proceedings

The Tax and Customs Board may suspend the proceedings of a challenge against a tax notice or a notice of assessment, where the Tax and Customs Board has received a complaint, arising from a treaty, filed by the party in the same case until the mutual agreement or final decision of the competent authorities in the case has been implemented or until the date of service of the notice of termination of the proceedings. The Tax and Customs Board immediately notifies the person of the suspension of the challenge proceedings and of the resumption of the proceedings.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 148. Powers of tax authority upon review of challenge

(1) In the case of resolving the case on the merits of a challenge, the tax authority has the right to:

1) satisfy the challenge in full or in part and repeal an administrative decision either in full or in part and to eliminate the factual consequences of the administrative decision;

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

2) issue an administrative decision, perform an action or make a new decision on the merits of the case;

3) assign a relevant structural unit a task to issue an administrative decision, to perform an action or pass a new resolution of the case;

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

4) restore the situation prior to the action being performed or assign such task to the relevant structural unit;

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

5) dismiss the challenge.

(2) Where a decision to repeal or amend an administrative decision made on a challenge affects the rights of a third party, the third party must be granted the opportunity to submit explanations and objections prior to the decision being made.

(3) Where the person filing a challenge has filed or files an appeal in the case with a court within the term for review of the challenge, the tax authority has the right to return the challenge and not to make a decision on the challenge.

§ 149. Decision on challenge

(1) A decision on a challenge is prepared in writing and it indicates also the decision concerning the adjudication of the challenge. A decision on a challenge is served to the person who filed the challenge and to a third party involved in challenge proceedings in accordance with the procedure provided in Chapter 4 of this Act.

(2) Where a challenge is satisfied, the tax authority is not required to prepare a decision on the challenge but performs the desired action or amends an administrative decision.

(3) Upon dismissal of a challenge or satisfaction in part of the challenge, a judgment on the challenge must, in addition to the requirements provided in subsection 1 of this section, be reasoned and contain an explanation concerning the procedure for further appeal.

[RT I, 25.10.2012, 1 – entry into force 01.12.2012]

§ 150. Burden of proof

(1) Where the amount of tax assessed in a tax notice or a notice of assessment is contested, the burden of proof that the tax was assessed incorrectly lies with the taxable person.

(2) Where the amount of tax assessed is contested by a taxable person, the burden of proof regarding evidence possessed only by a tax authority lies with the tax authority.

§ 151. Right of appeal

(1) A taxable person or another party to the proceedings may file an appeal with a court for resolution of the case at each stage of the challenge proceedings. A person also has the right of recourse to a court without filing a challenge.

(2) A taxable person or another party to the proceedings whose challenge was dismissed in the course of challenge proceedings or whose rights were violated in the challenge proceedings has the right to file an action with an administrative court under the conditions and in accordance with the procedure provided by the Code of Administrative Court Procedure.

(3) Repeal of the decision on challenge may be claimed by an appeal filed with the administrative court:

1) together with the claim that was dismissed in whole or in part by the decision on the challenge;

2) where the person's rights have been violated in a manner other than dismissal of the challenge in whole or in part, irrespective of the filing of a claim specified in clause 1 of this subsection.

[RT I, 23.02.2011, 3 – entry into force 01.01.2012]

Chapter 14¹

RESOLUTION OF DOUBLE TAXATION COMPLAINT

[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

Subchapter 1

General Provisions and Filing of Complaint

[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹. Scope of regulation

This Chapter lays down the procedure for the resolution of disputes between Member States (hereinafter an issue in dispute) arising from treaties for the elimination of double taxation of income or capital (hereinafter tax treaty) and the rights and obligations of the complainant and the Tax and Customs Board.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151². Complaint

(1) A resident of a Member State has the right to file a complaint for the resolution of an issue in dispute, which has arisen from the interpretation and application of a tax treaty, in accordance with the procedure provided in this Chapter or in accordance with the applicable tax treaty.

(2) A person who is not a resident of a Member State has the right to file a complaint in accordance with the applicable tax treaty.

(3) A complaint may also be filed where a person has filed a challenge with the Tax and Customs Board in the same case, has had a recourse to a court or a court judgment has entered into force in the same case.

(4) The filing of a complaint in an issue in dispute does not prevent a Member State from instituting or continuing proceedings in a case of misdemeanour or criminal case in respect of the same case or continuing the proceedings under the circumstances related to the issue in dispute

(5) Where the Tax and Customs Board receives a complaint concerning an issue in dispute, it terminates the mutual agreement procedure previously initiated in the same issue in dispute. The proceedings are terminated as at the date on which the first competent authority of the Member State receives the complaint filed based on this Chapter.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151³. Communication of complaint and information to competent authority

(1) The complaint and other documents and information submitted during the proceedings must be submitted simultaneously to all the competent authorities of the Member States concerned. The Tax and Customs Board notifies the complaining resident of the Member State (hereinafter complainant) and the competent authority of the Member State concerned of the receipt of the complaint within two months as of the receipt. It also informs, within two months, the competent authority of the Member State concerned of the language of the proceedings which it intends to use for the communication of the complaint.

(2) A resident natural person in Estonia and a party who is neither a large company nor part of a large consolidation group for the purposes of clauses 17 and 20 of § 3 of the Accounting Act have the right to submit a complaint, the required additional documents and information, a notice of withdrawal of the complaint and a request to set up an Advisory Commission only to the Tax and Customs Board.

(3) In the case specified in subsection 2 of this section, the Tax and Customs Board forwards a notice of withdrawal of the complaint, information on the request to set up an Advisory Commission, requested additional information and documents and explanations submitted, simultaneously to all the other competent authorities of the Member States resolving the dispute within two months as of the receipt thereof.

(4) A complaint, a notice of withdrawal of the complaint and a request to set up an Advisory Commission is deemed to have been filed by the complainant as of the date on which the notice was communicated. The additional information and documents requested are deemed to have been submitted as of their service to the competent authorities of the Member States concerned.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁴. Term for filing complaint

A complaint must be filed within three years as of the date of notification or service of such administrative decision or the date of becoming aware of the action which may create or has created an issue in dispute.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁵. Content of complaint

(1) A complaint sets out:

- 1) the name of the complainant and names of other persons concerned, the registry code or personal identification code or, in the absence thereof the date of birth, address, means of communication, taxpayer identification number, where available, and other information enabling the complainant and other persons concerned to be identified;
- 2) the Member States concerned by the complaint;
- 3) relevant tax periods;
- 4) facts essential for the resolution of the dispute, information concerning the administrative decision or action giving rise to the dispute and the amounts related to the dispute in the currencies of all the Member States concerned;
- 5) a reference to the applicable legal provisions and the tax treaty;
- 6) an explanation of how the dispute is related to the application of the tax treaty;
- 7) the details of any appeals and litigation relating to transactions concerning the dispute;
- 8) information on double taxation complaints filed under the same circumstances and for the same tax period and a statement by the complainant that the complainant agrees to terminate the proceedings initiated to review those complaints;
- 9) a confirmation as to whether the complainant wishes to have the complaint reviewed based on this Chapter or the tax treaty.

(2) The copies of an administrative decision or other document that caused an issue in dispute and copies of other relevant documents are appended to the complaint.

(3) Complaints and other documents are filed in Estonian or in a foreign language by agreement with the Tax and Customs Board.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁶. Requests for information and documents

(1) The Tax and Customs Board may demand additional information and documents necessary for the resolution of a case within three months as of the receipt of the complaint. Thereafter the Tax and Customs Board may request additional information and documents only during the mutual agreement proceedings.

(2) The term for submission of additional information and documents must be of a reasonable length, but not longer than three months.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁷. Acceptance of complaint

(1) The Tax and Customs Board decides on acceptance of a complaint within six months as of the receipt of the complaint or after expiry of the term prescribed for submission of information and documents required based on subsection 1 of § 151⁶ of this Act. The Tax and Customs Board immediately informs the complainant and the competent authorities of the Member States concerned of the acceptance of the complaint.

(2) Where the complainant has filed a challenge in the same case or has filed an action with a court for resolution of the case, the term provided in subsection 1 of this section commences running as of the date on which the decision on the challenge is made, judicial proceedings are suspended or when the final decision in this case enters into force.

(3) A complaint is deemed to be accepted where, in the case provided in this section, the Tax and Customs Board has not decided within the specified period on acceptance, return or unilateral resolution of the complaint.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁸. Return of complaint

(1) The Tax and Customs Board may return a complaint, without reviewing the merits, within six months as of the receipt of the complaint or after expiry of the term for elimination of deficiencies where:

- 1) the complaint is not filed within the term prescribed by a law;
- 2) there is no issue in dispute;
- 3) the complaint does not comply with the requirements provided in § 151⁵ of this Act and the required additional information and documents have not been submitted.

(2) A complaint is returned to the complainant by a written decision complying with the requirements provided in § 46 of this Act, indicating the reason for the return. The Tax and Customs Board immediately informs the complainant and the competent authority of the Member State concerned of the termination of the proceedings.

(3) Where the complaint has been returned by all the competent authorities of the Member States concerned, the complainant has the right, within 30 days as of the receipt of the last decision to return the complaint, to file a challenge with the Tax and Customs Board in accordance with § 137 of this Act or to dispute the decision to return the complaint made based on subsection 1 of this section in the administrative court in accordance with the procedure provided in the Code of Administrative Court Procedure.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151⁹. Withdrawal of complaint

(1) The complainant has the right to withdraw the complaint by a written notice before the final decision is made.

(2) Submission of a notice of withdrawal of the complaint terminates the proceedings of the complaint. The Tax and Customs Board forwards a notification of termination of the proceedings to the complainant and the competent authority of the other Member State concerned.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁰. Unilateral resolution of complaint

(1) Within six months as of the receipt of the complaint or of the additional information and documents, the Tax and Customs Board may resolve the complaint on a unilateral basis without involving the competent authority of the Member State concerned.

(2) The Tax and Customs Board notifies the complainant and the competent authority of the Member State concerned without delay of the unilateral resolution of the complaint. The proceedings are deemed to be terminated as of the date of notification.

(3) Where the Tax and Customs Board receives a notification that the complaint is unilaterally resolved by the competent authority of the other Member State concerned, it terminates the proceedings and immediately sends a notification in this respect to the complainant and the competent authority of the Member State resolving the issue in dispute.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹¹. Suspension of proceedings

(1) Where, under the circumstances related to an issue in dispute, misdemeanour or criminal proceedings are commenced against the complainant due to fraud, wilful default or gross negligence, the Tax and Customs Board has the right to suspend the proceedings as of the commencement of misdemeanour or criminal proceedings until termination of the proceedings in that case.

(2) The Tax and Customs Board informs, without delay, the complainant and the competent authority of the Member State concerned, of the suspension of the proceedings and continuation of the proceedings.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹². Termination of proceedings

(1) The Tax and Customs Board may terminate the processing of a complaint where:

- 1) a judgment enters into force by which the allegations submitted in an issue in dispute, which have been submitted on the same legal basis and with regard to the same facts, have been assessed;
- 2) a court judgment by which the complainant has been punished for a misdemeanour or convicted of a criminal offence under the legal circumstances related to the issue in dispute;
- 3) the issue in dispute ceases to exist.

(2) The Tax and Customs Board informs the complainant, the competent authority of the Member State concerned and, where appropriate, the Advisory Commission or the Alternative Dispute Resolution Commission of the termination of the proceedings.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

Subchapter 2 Mutual Agreement Procedure

§ 151¹³. Commencement of proceedings

The Tax and Customs Board, in co-operation with the competent authority of the Member State concerned, initiates mutual agreement procedure where:

- 1) the complaint has been accepted by the competent authorities of all the Member States concerned;
- 2) the Advisory Commission decides that the complaint has not been lawfully returned by the competent authorities of the Member States concerned and one of the competent authorities of the Member States concerned requests the commencement of the mutual agreement procedure within 60 days of such decision.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁴. Term for conduct of proceedings

(1) The competent authorities of the Member States concerned endeavour to resolve the complaint within two years as of the date of the last notification concerning that the Member State has taken a decision on the acceptance of the complaint. That period may be extended by one year at the reasoned request of the competent authority of the Member State concerned.

(2) Where the complainant submits a challenge to the tax authority or a court prior to the commencement of the mutual agreement procedure under the circumstances specified in an issue in dispute, the term provided in subsection 1 of this section commences running as of the date when the challenge decision is made, the challenge or judicial proceedings are suspended, or the final court decision enters into force in the case.

(3) In the case provided in subsection 2 of § 151²⁶ of this Act, the term of the mutual agreement procedure commences running as of the date of service of the decision of the Advisory Commission to the complainant.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁵. Mutual agreement between competent authorities

(1) Where the Tax and Customs Board reaches an agreement with the competent authority of the Member State concerned, it immediately notifies the complainant of the content of the agreement.

(2) Where the competent authorities of the Member States concerned fail to reach an agreement on the issue in dispute within the time limit, the Tax and Customs Board informs the complainant thereof, stating the reason for a failure to reach an agreement.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁶. Validity and implementation of mutual agreement

(1) The complainant has the right to request the competent authorities of the Member States concerned to implement the agreement where the complainant accepts the agreement and confirms that they do not file a challenge or complaint with the court in the Member States concerned. The right to submit the confirmation and proof of renouncing the right to domestic remedies is available within 60 days as of the day on which the complainant was notified of the content of the agreement.

(2) The mutual agreement is binding on the competent authorities of all the Member States concerned which have made the decision only in respect of that dispute and enters into force upon submission of the confirmation provided in subsection 1 of this section.

(3) The Tax and Customs Board immediately executes the agreement which has entered into force.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

Subchapter 3 Dispute Resolution Procedure in Commission

[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁷. Request for setting up Advisory Commission

(1) A complainant has the right to request the Tax and Customs Board to set up an Advisory Commission in the following cases:

- 1) for the assessment of the lawfulness of a decision to return a complaint based on subsection 1 of § 151⁸ of this Act where at least one competent authority of the Member State concerned has returned the complaint but not all the competent authorities of the Member States concerned have done so;
- 2) for delivering an opinion on the complaint where the competent authorities of the Member States concerned have not reached an agreement for resolution of the complaint within the time limit.

(2) A complainant does not have the right to request setting up an Advisory Commission where:

- 1) the decision to return the complaint has been disputed or it is possible to dispute it in the Member State concerned;
- 2) the complaint was returned by the competent authorities of the Member States concerned and the legality of the return of the complaint has been confirmed in an appeal procedure;
- 3) the judgment has entered into force in the case in which the court has already assessed the same factual and legal grounds and the allegations of the complainant.

(3) The request must be filed within 50 calendar days as of the service of the decision to return the complaint or as of the entry into force of a court judgment annulling the decision to return the complaint or as of the service of the notification of a failure to reach a mutual agreement. Where the complainant has waived the right to challenge the decision in court or in a challenge procedure, the respective evidence must be appended to the request.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁸. Setting up Advisory Commission

(1) The Advisory Commission is comprised of:

- 1) the chair;
- 2) one representative from each competent authority of the Member State concerned;
- 3) one independent person of standing nominated by the competent authority of each Member State concerned from a list maintained by the European Commission.

(2) The chairman of the Advisory Commission is elected by the representatives of the competent authorities of the Member States concerned and independent persons of standing appointed in accordance with clause 3 of subsection 1 of this section from a list maintained by the European Commission. Unless otherwise decided by the representatives of the competent authorities of the Member States concerned and by independent persons of standing, a judge is elected the chair.

(3) By agreement between the competent authorities of the Member States concerned, the number of representatives of the competent authorities of the Member States concerned and independent persons of standing may be increased to two per Member State.

(4) The Tax and Customs Board agrees with the competent authority of the Member State concerned on the procedure for the appointment of independent persons of standing in the Advisory Commission. Where the rules for the appointment of independent persons of standing have not been agreed upon, the Tax and Customs Board selects an independent person of standing by drawing lots.

(5) Following the appointment of independent persons of standing, one alternate member is appointed for each of them in accordance with the rules for the appointment of independent persons of standing in the event that the independent persons of standing are unable to fulfil their obligations.

(6) In the case provided in subsection 1 of § 151¹⁷ of this Act, the Tax and Customs Board, in co-operation with the competent authority of the Member State concerned, sets up an Advisory Commission within 120 days as of receipt of the request of the complainant.

(7) Where the Advisory Commission has deemed the appeal to be unlawful but within 60 days as of the making of the decision specified in subsection 1 of § 151²⁶ of this Act, a request has not been made by a competent authority of any of the Member States concerned to commence the mutual agreement procedure, the Advisory Commission is deemed to have been set up for delivering an opinion.

(8) The Tax and Customs Board refuses to set up an Advisory Commission unless an issue in dispute concerns double taxation. The Tax and Customs Board immediately informs the complainant and the competent authority of the Member State concerned of not setting up the Advisory Commission.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151¹⁹. Payment of remuneration and reimbursement of costs to independent person of standing

(1) An independent person of standing has the right to receive a fee of up to 1,000 euros for each day of the meeting, which includes the taxes and payments due prescribed by a law.

(2) The extent of and procedure for the reimbursement of costs of an independent person of standing is established by a regulation of the Government of the Republic.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁰. Objection

(1) The competent authority of each Member State concerned has the right to submit an objection with evidence against an independent person of standing appointed to the Advisory Commission or the Alternative Dispute Resolution Commission where:

- 1) the person belongs to the composition of or represents the tax authority concerned or has been in such legal relationship for the last three years;
- 2) the person has or has had a significant holding or voting right in the legal person that is concerned by an issue in dispute or the person is or has been an employee or adviser to such legal person for the last five years;
- 3) the person fails to ensure the objectivity necessary for the resolution of the dispute;
- 4) the person is a member of staff of an enterprise that provides tax advice, is otherwise professionally engaged in tax consultancy or has been engaged in this at any time within the period of three years prior to the date of appointment to the Advisory Commission or the Alternative Dispute Resolution Commission;
- 5) other grounds have been agreed upon between the competent authorities of the Member States concerned.

(2) A competent authority of the Member State dealing with an issue in dispute is not entitled to submit an objection based on subsection 1 of this section where an independent person of standing has been appointed by a competent court designated as such or a national competent appointing authority or person.

(3) Where the Tax and Customs Board satisfies an objection submitted against an independent person of standing who it has appointed, the duties of the independent person of standing who has been removed from the Advisory Commission or the Alternative Dispute Resolution Commission, are performed by their substitute.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²¹. Alternative Dispute Resolution Commission

(1) The Tax and Customs Board may agree with the competent authority of the Member State concerned to set up an Alternative Dispute Resolution Commission to deliver the opinion provided in § 151²⁷ of this Act, instead of the Advisory Commission.

(2) The composition and form of the Alternative Dispute Resolution Commission may differ from the composition and form of the Advisory Commission, except in respect of the compliance with the requirement of independence by an independent person of standing.

(3) The Alternative Dispute Resolution Commission may apply other dispute resolution procedure or technique in addition to the procedure provided in this Subchapter, including the last best offer procedure, to resolve the dispute in a binding manner.

(4) The provisions of §§ 151¹⁹, 151²⁴, 151²⁵ and 151³¹ of this Act are applied to the resolution of disputes by the Alternative Dispute Resolution Commission unless the Tax and Customs Board has agreed otherwise with the competent authority of the Member State concerned.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²². Request for setting up Advisory Commission and appointment of independent person of standing by minister in charge of policy sector

(1) Where the Advisory Commission or the Alternative Dispute Resolution Commission has not been set up by the due date or where the Tax and Customs Board has not appointed an independent person of standing or their substitute, the members of the Advisory Commission are appointed by the minister in charge of the policy sector, based on the written request of the complainant, from the list kept by the European Commission, specified in subsection 1 of § 151³³ of this Act. Where no independent person of standing has been appointed by the competent authority of any Member State resolving the complaint, the minister in charge of the policy sector appoints two independent persons of standing from the list kept by the European Commission, specified in subsection 1 of § 151³³ of this Act.

(2) Where there is more than one complainant, each complainant submits a request for the appointment of independent persons of standing to the competent authority of the Member State of residence.

(3) The request is filed within 30 calendar days as of the expiry of the term provided in subsection 6 of § 151¹⁸ of this Act.

(4) Independent persons of standing appoint the chairman of the Advisory Commission by drawing lots.
[RT I, 29.12.2022, 1 – entry into force 01.01.2023]

§ 151²³. Rules of procedure and notification thereof

(1) The Tax and Customs Board notifies the complainant, within 120 days as of the receipt of the request to set up the Advisory Commission on an issue in dispute, of:

- 1) the rules of procedure of the Advisory Commission or the Alternative Dispute Resolution Commission;
- 2) the date of adoption of the opinion on the resolution of the issue in dispute;

3) the applicable legal provisions in national law and tax treaties.

(2) The rules of procedure are signed by the representatives of the competent authorities of the Member States concerned and includes the following:

- 1) the description and circumstances of the issue in dispute;
- 2) the legal and factual circumstances of the issues in dispute being resolved as agreed between the competent authorities of the Member States concerned;
- 3) the form of dispute resolution and the description of the procedure to be followed in the case of an alternative dispute resolution procedure where it differs from the nature of the procedure for giving an independent opinion applied by the Advisory Commission;
- 4) the time frame for the resolution of disputes;
- 5) the composition of the Advisory Commission or the Alternative Dispute Resolution Commission, including the number and names of the members and information on their competence and qualifications and the existence of any potential conflict of interest;
- 6) the procedure governing the participation in the proceedings of the complainant, persons concerned in the dispute and third parties, the exchange of information and documents, and the costs and other organizational aspects, relating to the proceedings;
- 7) the organization of dispute resolution proceedings and the manner in which opinions are delivered.

(3) Where the setting up of the Advisory Commission is requested based on clause 1 of subsection 1 of § 151¹⁷ of this Act to assess the legality of the decision to return the complaint, the competent authorities of the Member States concerned submit the information provided in clauses 1 and 4–6 of subsection 2 of this section.

(4) Unless the competent authorities of the Member States concerned inform the complainant of the procedure of procedure in accordance with subsections 1–3 of this section, the chair of the Advisory Commission or the Alternative Dispute Resolution Commission and independent persons of standing draw up the procedure of procedure in accordance with the standard procedure of procedure provided in the Implementing Regulation of Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union (OJ L 265, 14.10.2017, pp. 1–14). The complainant is served the rules of procedure within two weeks as of the setting up of the Advisory Commission or the Alternative Dispute Resolution Commission.

(5) Where the chair of the Advisory Commission or the Alternative Dispute Resolution Commission and independent persons of standing do not agree on the rules of procedure or do not inform the complainant thereof, the complainant has the right to file an action with an Administrative Court to oblige the Tax and Customs Board.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁴. Taking of evidence

(1) The complainant is entitled to, with the consent of the competent authorities of the Member States concerned, submit to the Advisory Commission or to the Alternative Dispute Resolution Commission any additional evidence which may be relevant for the resolution of the dispute.

(2) The Advisory Commission and the Alternative Dispute Resolution Commission have the right to request information and evidence necessary for the resolution of the complaint from the complainant and the Tax and Customs Board.

(3) The Tax and Customs Board may refuse to provide information to the Advisory Commission or to the Alternative Dispute Resolution Commission where:

- 1) the taking of information is contrary to national law;
- 2) the information cannot be obtained under national law;
- 3) the information relates to a trade, business, industrial or administrative secret or a marketing process;
- 4) the disclosure of the information is contrary to public policy.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁵. Hearing

(1) The complainant has the right to, at the request and with the consent of the Tax and Customs Board and the competent authority of the other Member State concerned, appear for the consultation with the Advisory Commission or the Alternative Dispute Resolution Commission.

(2) The Advisory Commission and the Alternative Dispute Resolution Commission have the right to request that the complainant appear for the consultation in the commission for the purpose of submitting information, explanations and evidence.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁶. Assessment of legality of decision to return complaint

(1) The Advisory Commission submits a decision on the legality of the return of the complaint within six months as of the setting up of the Advisory Commission. The Advisory Commission notifies the complainant and the competent authorities of the Member States concerned of the decision within 30 days as of the adoption of the decision.

(2) Where the Advisory Commission determines that the complaint is following the requirements, the mutual agreement procedure is initiated at the request of the competent authority of one of the Member States concerned in accordance with the procedure provided in Subchapter 2 of this Chapter.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁷. Opinion

(1) The Advisory Commission or the Alternative Dispute Resolution Commission issues a written opinion on the resolution of an issue in dispute to the Tax and Customs Board and the competent authority of the Member State concerned within six months as of the setting up of the commission. Due to the complexity of the issue in dispute the time limit may be extended by three months. The complainant and the competent authorities of the Member States concerned must be notified of the extension of the time limit for delivery of an opinion.

(2) Where, within 60 days as of the service of the decision specified in subsection 1 of § 151²⁶ of this Act, none of the competent authorities of the Member State concerned has requested the initiation of mutual agreement procedure and the Member States have not agreed to set up the Alternative Dispute Resolution Commission, the Advisory Commission provides an opinion on how to resolve the issue in dispute.

(3) The Advisory Commission or the Alternative Dispute Resolution Commission adopts its opinion by a simple majority of votes. Where a majority of votes cannot be reached, the vote of the chair of the commission determines the result of the vote.

(4) The Advisory Commission or the Alternative Dispute Resolution Commission bases its opinion on the applicable tax treaty and other applicable legislation.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁸. Final decision of competent authorities

(1) The Tax and Customs Board agrees with the competent authority of the Member State concerned on how to resolve an issue in dispute within six months as of the notification of the opinion specified in § 151²⁷ of this Act. Where the competent authorities of the Member States concerned fail to reach an agreement within the specified period, they are bound by the opinion of the Commission.

(2) The final decision of the competent authorities of the Member States concerned is binding only in respect of this dispute.

(3) The Tax and Customs Board immediately notifies the complainant of the decision made. Where the Tax and Customs Board has not notified the complainant of the decision within 30 days as of the due date for making the decision, the complainant may file a challenge with the Tax and Customs Board on the basis of § 137 of this Act or file a complaint with the administrative court in accordance with the procedure provided in the Code of Administrative Court Procedure.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151²⁹. Enforcement of final decision of competent authorities

(1) The final decision is enforced without delay by the competent authorities of the Member States concerned where the complainant accepts the final decision and confirms renouncing the right to any other national remedy. The confirmation and evidence must be submitted within 60 days as of the date of notification of the final decision.

(2) The complainant has the right to request immediate execution of the final decision, unless the administrative court has determined that the independent person of standing does not comply with the requirement of independence, and this could have affected the final decision.

(3) The complainant has the right to file an action with the administrative court in case the decision is not enforced.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151³⁰. Publication of final decision of competent authorities

(1) The Tax and Customs Board may, with the consent of the complainant, agree with the competent authority of the Member State concerned to publish the final decision.

(2) Where the complainant does not consent to publishing the final decision or the competent authorities of the Member States concerned do not reach an agreement, the Tax and Customs Board publishes a summary of the decision on its web page. The following must be summarized:

- 1) a description of the issue in dispute;
- 2) the date of the decision;
- 3) the relevant tax period;
- 4) the legal basis;
- 5) the area of activity;
- 6) a brief description of the final decision;
- 7) a description of the method for dispute resolution.

(3) The information to be published is submitted to the complainant prior to its publication. The complainant has the right to, within 60 days as of the receipt of the information, request non-disclosure of the information concerning a trade, business, industrial or administrative secret or a marketing process or of information that is contrary to public policy. The Tax and Customs Board must not disclose special categories of personal data in the decision.

(4) The Tax and Customs Board immediately forwards the information to be published on the final decision to the European Commission in the standard form approved by the implementing regulation of Council Directive (EU) 2017/1852.

[RT I, 29.12.2022, 1 – entry into force 01.01.2023]

§ 151³¹. Case Costs

(1) Unless otherwise agreed upon between the Tax and Customs Board and the competent authority of the Member State concerned, the following costs are shared equally among the Member States:

- 1) reimbursement of the costs of an independent person of standing to the extent established by a regulation of the Government of the Republic based on subsection 2 of § 151¹⁹ of this Act;
- 2) payment of fees of an independent person of standing in the amount of up to 1,000 euros for each day of the meeting.

(2) The costs of the complainant are not reimbursed.

(3) Where the competent authorities of the Member States concerned agree, the complainant is required to bear the costs specified in subsection 1 of this section, where:

- 1) the Advisory Commission decides that the competent authorities of the Member States concerned acted lawfully when returning the complaint;
- 2) the complainant withdraws the complaint.

(4) The Tax and Customs Board issues an order for the recovery of costs from the complainant, sets a term for payment thereof and issues a warning that in the case of a failure to pay costs by the due date the claim is subject to compulsory enforcement in accordance with §§ 128–132 of this Act.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151³². Obligation to maintain secrecy

(1) A complainant, their representative and a member of the Advisory Commission or Alternative Dispute Resolution Commission may not disclose information, which is known to them in connection with the proceedings of the Advisory Commission or Alternative Dispute Resolution Commission, information concerning the existence of the data media or information on the data media. The obligation to maintain confidentiality is without a time-limit.

(2) The Tax and Customs Board has the right to demand a written confirmation of the compliance with the obligation to maintain secrecy from the complainant and their representative.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

Subchapter 4

List of Independent Persons of Standing

§ 151³³. Independent person of standing

(1) The minister in charge of the policy sector organizes a public competition for the election of independent persons of standing and appoints by a directive at least three competent, independent, impartial and honest persons to be entered on a list kept by the European Commission.

(2) The minister in charge of the policy sector notifies the European Commission of the persons appointed by the minister and provides the European Commission with complete and up-to-date information on their administrative and academic background, competence, knowledge and potential conflict of interest.

(3) A person who is appointed an independent person of standing immediately informs the minister in charge of the policy sector of any circumstances which may give rise to objections against the person.

(4) The competent authority of each Member State concerned may request that an independent person of standing or their substitute, who has been appointed to the Advisory Commission or the Alternative Dispute Resolution Commission in accordance with the procedure agreed upon between the competent authorities of the Member States concerned or by drawing lots, discloses any interest, relationship or any other circumstances that may affect independence or impartiality of that person or give an impression of being biased in the proceedings.

(5) An independent person of standing appointed to the Advisory Commission or to the Alternative Dispute Resolution Commission must not be, for a period of 12 months as of the date of delivery of an opinion, in a situation that would give a cause to submit an objection.

(6) Where the minister in charge of the policy sector has reason to believe that an independent person of standing included in the list kept by the European Commission is not in compliance with the conditions provided in subsection 1 of this section, the minister informs the European Commission thereof and provides evidence in this respect.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 151³⁴. Recall of independent person of standing

(1) The minister in charge of the policy sector recalls an independent person appointed by the minister where it becomes evident that the person does not comply with the requirements provided in subsection 1 of § 151³³ of this Act. The person whose recall is being considered is heard.

(2) The minister in charge of the policy sector immediately notifies the European Commission of the recall of an independent person of standing for removal of the person from the list.

(3) Where the European Commission notifies the minister in charge of the policy sector that an objection relating to independence has been submitted against an independent person of standing, the minister in charge of the policy sector decides to recall or not to recall the person. The person against whom the objection has been submitted is heard before the objection is resolved.

[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

Chapter 15

PENALTIES APPLICABLE FOR TAX OFFENCES

§ 152. Fraudulent miscalculation of tax

[Repealed – RT I 2007, 13, 69 – entry into force 15.03.2007]

§ 153. Failure to withhold amount of tax

[Repealed – RT I 2007, 13, 69 – entry into force 15.03.2007]

§ 153¹. Concealment of tax liability and increase of claim for refund without basis

[RT I, 23.12.2014, 14 – entry into force 01.01.2015]

(1) A failure to submit information to a tax authority intentionally or submission of false information, where the tax or withholding obligation is decreased thereby or the claim for refund is increased, is punishable by a fine of up to 300 fine units.

(2) The same act, where committed by a legal person, is punishable by a fine of up to 32,000 euros.

[RT I, 23.12.2014, 14 – entry into force 01.01.2015]

§ 153². Tax fraud

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 154. Obstruction of activities of tax authority

(1) A failure to submit a tax return, other document or item of property by the due date, a failure to register with a tax authority, a failure to comply with the requirements for the keeping of records, a failure to comply with an order of a tax authority or a failure to comply with an obligation provided in §§ 25¹¹ and 25¹² of this Act is punishable with a fine of up to 300 fine units.

[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

(2) The same act, where committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) [Repealed – RT I 2007, 13, 69 – entry into force 15.03.2007]

§ 154¹. Violation of rules relating to goods subject to excise duty

(1) The manufacture, dispatch, receipt, possession, storage, transfer or another unlawful act concerning excise goods in violation of the requirements provided in an Act concerning excise duty or legislation issued on the basis thereof, provided that the elements of a misdemeanour provided in §§ 153¹ or 154 of this Act do not exist, is punishable by a fine of up to 300 fine units.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

(2) The same act, where committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 155. Violation of rules related to excise goods

[Repealed – RT I 2002, 63, 387 – entry into force 01.09.2002]

§ 155¹. Failure to perform obligations of excise warehousekeeper and registered consignee

[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

(1) A failure to perform the obligations of an excise warehousekeeper and registered consignee provided in an excise duty Act or legislation established on the basis thereof, where the elements of a misdemeanour provided in §§ 153¹, 154 and 154¹ of this Act do not exist, is punishable by a fine of up to 300 fine units.

[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(2) The same act, where committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 155². Unlawful actions involving motor fuel imported under exemption from excise duty

(1) The intentional performance of unlawful actions or transactions involving fuel imported under an exemption from excise duty in the standard fuel tank of a motor vehicle is punishable by a fine of up to 300 fine units.

[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(2) The same act, where committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 155³. Obstruction of exchange of information

(1) A failure to comply with the obligations of the information provider and information source provided in the Tax Information Exchange Act or obstruction of information exchange is punishable by a fine of up to 300 fine units.

[RT I, 07.12.2018, 1 – entry into force 17.12.2018]

(2) The same act, where committed by a legal person, is punishable by a fine of up to 3,200 euros.

[RT I, 23.12.2014, 15 – entry into force 01.01.2015]

§ 156. Tampering with meter or preventive measure

(1) Tampering with or removal or replacement of a meter or preventive measure installed based on an Act concerning a tax or this Act without the permission of a tax authority, or any other activity due to which a meter or preventive measure cannot be used as intended is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, where committed by a legal person, is punishable by a fine of up to 2,600 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

§ 156¹. Violation of obligation to maintain secrecy in dispute resolution proceedings

(1) For violation of the obligation to maintain secrecy provided in § 151³² of this Act by a member of the Advisory Commission or the Alternative Dispute Resolution Commission, the complainant, or their representative -
is punishable by a fine of up to 100 fine units.

(2) The same act, where committed by a legal person,
is punishable by a fine of up to 3,200 euros.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 157. Organisation of gambling without decision of Tax and Customs Board

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 158. Violation of obligations arising from Heavy Goods Vehicle Tax Act

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 159. Failure to issue certificate

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 160. Expiry of imposition of penalty

[Repealed – RT I 2009, 19, 114 – entry into force 06.04.2009]

§ 161. Release from punishment

[Repealed – RT I 2009, 19, 114 – entry into force 06.04.2009]

§ 162. Proceedings and receipt of fines

(1) The expiry date of misdemeanours provided in §§ 153¹, 154, 154¹, 155¹ and 1552 of this Act is three years.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(2) The following extra-judicial body conducts proceedings in the misdemeanour case provided in this Chapter:
1) the Tax and Customs Board;
2) the tax authority for local taxes (in cases relating to local taxes).

(3) The fines imposed by a tax authority for state taxes are paid into the state budget; the fines imposed by a tax authority for local taxes are paid into the budget of the local government.
[RT I 2003, 88, 591 – entry into force 01.01.2004]

Chapter 16 IMPLEMENTING PROVISIONS

§ 163. Application of this Act to tax liabilities incurred prior to entry into force of this Act

(1) The provisions of this Act apply to the making of assessments of the amount of tax and the refund of the overpaid amount relating to tax liabilities incurred prior to the entry into force of this Act.

(2) [Repealed – RT I 2003, 48, 341 – entry into force 01.01.2003]

(2¹) The right to compensation for damage does not arise for a taxable person upon payment of interest calculated on the amount of tax arising from legislation in force prior to the entry into force of this Act and unpaid by the due date. Claims for interest for the period preceding the entry into force of this Act submitted by the tax authority after 5 November 2002 are invalid. All other valid claims for interest are subject to compliance.

(3) The provisions of this Act concerning the amendment and repeal of a tax notices, the notices of assessment and liability decisions also apply to the amendment and repeal of compliance notices, decisions and tax notices issued based on §§ 21, 22, 23¹ and 40 of the Taxation Act in force until the entry into force of this Act.
[RT I 2003, 48, 341 – entry into force 07.07.2003]

§ 164. Collection of tax arrears incurred prior to entry into force of this Act

(1) Tax arrears incurred prior to the entry into force of this Act are collected in accordance with the procedure provided in this Act. The collection that commenced prior to the entry into force of this Act may be continued in accordance with the procedure provided in this Act.

(2) The provisions of this Act concerning the compulsory enforcement of the liability decision apply to the compulsory enforcement of the compliance notices issued to the guarantor for the payment of the amount of tax in accordance with the Taxation Act in force prior to the entry into force of this Act.

§ 165. Application of provisions concerning limitation periods

(1) The provisions of this Act concerning suspension (§ 99) and interruption (subsections 4–6 of § 132) of limitation periods apply to limitation periods which have begun to run prior to the entry into force of this Act where the grounds for the suspension or interruption of the limitation period arise after the entry into force of this Act.

(2) The limitation period provided in subsection 2 of § 98 of this Act is applied, as of the entry into force of this Act, to the tax liability which has arisen prior to the entry into force of this Act and in respect of which there is no obligation to submit the tax return provided by a law.

(3) The limitation period for the calculation of interest on the amount of tax or on the amount refunded to the person without a basis, which are returned or set off prior to the entry into force of this Act, is one year as of the entry into force of this Act.

§ 166. Resolution of disputes

Objections and appeals filed prior to the entry into force of this Act are resolved in accordance with the procedure provided in the Taxation Act in force prior to the entry into force of this Act.

§ 167. Punishment of legal persons for acts committed prior to entry into force of Penal Code

(1) A legal person is punished for tax offences committed prior to the entry into force of the Penal Code and after the repeal of the Taxation Act, in accordance with the provisions of subsections 2–13 of this section.

(2) A failure to submit the tax return by the due date, a failure to comply with the requirements for the keeping of records, a failure to register with a tax authority, a failure to give notice of changes in information submitted upon registration or a failure to submit documents to a tax authority is punishable by a fine of up to 640 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(3) Tampering with or removal or replacement of a meter or preventive measure installed on the orders of a tax authority, or any other activity due to which a meter or preventive measure cannot be used as intended, or obstruction of the activities of a tax authority upon verification of the correctness of payment of taxes, assessment of tax payable or collection of tax arrears, or a failure to comply with the administrative decision issued by a tax authority to this effect, is punishable by a fine of up to 1,300 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(4) Indicating in the return or other documents submitted to a tax authority a smaller amount of tax than that prescribed in an Act concerning a tax or a larger amount of tax than that due to be refunded in accordance with an Act concerning a tax is punishable by a fine in an amount of up to 40 per cent of the amount by which the amount of tax, as indicated by the taxpayer, is lower than the amount of tax to be paid in accordance with an Act concerning a tax, or by which the amount of tax to be refunded as indicated by the taxpayer is larger than the amount of tax to be refunded in accordance with an Act concerning a tax.

(5) An activity specified in subsection 4 of this section, where the activity is performed intentionally, is punishable by a fine in an amount of up to 100 per cent of the amount by which the amount of tax, as indicated by the taxpayer, is lower than the amount of tax to be paid in accordance with an Act concerning a tax or by which the amount of tax to be refunded, as indicated by the taxpayer, is larger than the amount of tax to be refunded in accordance with an Act concerning a tax.

(6) A failure to withhold or pay taxes which are subject to be withheld is punishable by a fine in an amount of up to 100 per cent of the amount of tax unpaid within the set term.

(7) A credit institution that fails to comply with an order of the tax authority to seize a bank account, a fine is imposed in the amount of tax payable by the taxpayer by the due date, is imposed a fine up to the amount unpaid by the taxpayer by the due date, but the fine does not exceed the amount in the bank account of the taxpayer at the time of the seizure.

(8) Organisation of gambling using a gambling machine that does not have a revenue stamp for the corresponding taxable period is punishable by a fine of up to 3,200 euros per a gambling machine without a revenue stamp located at the gambling venue.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(9) Organisation of gambling using a gambling table that does not have a revenue stamp for the corresponding taxable period is punishable by a fine of up to 6,400 euros per gambling table without a revenue stamp in the gambling location.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(10) Trade in cigarettes at a price which is higher than the price printed on the revenue stamp attached to the sales packaging of the cigarettes is punishable by a fine of between 320 and 2,600 euros.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(11) A failure to re-register a lorry in accordance with the requirements arising from the Heavy Goods Vehicle Tax Act or to use a heavy goods vehicle with a registration certificate, which has not been re-registered, is punishable by a fine of up to 1,300 euros imposed on the owner or possessor of the lorry.
[RT I 2010, 22, 108 – entry into force 01.01.2011]

(12) The director general of a tax authority, their deputy, the head of the regional structural unit of the tax authority and the person authorised by the director general, or the head of the regional structural unit, have the right to hear the cases of tax offences provided in subsections 2–11 of this section and to impose punishments in such cases. An official authorised by the council has the right to hear the cases concerning violations of the Local Taxes Act and to impose punishments in such cases. The cases of tax offences are heard, and punishments are imposed in accordance with the procedure provided in the Code of Administrative Court Procedure, guided by the terms specified in subsection 13 of this section.
[RT I 2005, 57, 451 – entry into force 18.11.2005]

(13) An administrative penalty for the tax offence provided in subsections 2–11 of this section may be imposed not later than within three years as of the commission of the offence.

§ 168. Liability of person convicted of tax offence on the basis of Criminal Code for payment of tax arrears

A person who is convicted of committing a criminal offence provided in § 148¹ of the Criminal Code is liable for tax arrears incurred as a result of the offence committed by the person in accordance with the provisions of subsection 1 of § 41 of this Act and the tax authority may issue a liability decision obligating the person to pay the tax arrears.

§ 168¹. Notification of self-employed person of suspension of activities and deletion of self-employed person from register

(1) A self-employed person who wishes to notify of the suspension of the activities thereof from 1 January up to 31 December 2009 notifies the registrar of the commercial register thereof in compliance with subsection 3 of § 3 of the Commercial Code by an application specified in subsection 1 of § 511⁴ of the Commercial Code. A person is not deemed to be a self-employed person for the purposes of taxation during the period when the business activities of the person are suspended.

(2) A self-employed person who wishes to terminate the activities during the period specified in subsection 1 of this section is required to notify, within five working days, the regional structural unit of the Tax and Customs Board of the termination of activities. It is not necessary to notify of the termination of business activities where the corresponding date was indicated in the application for registration of the self-employed person.

(3) A self-employed person is deleted from the register based on the decision of the head of the tax authority. A self-employed person is deemed to be deleted from the register as of the date specified in the decision.
[RT I 2008, 27, 177 – entry into force 10.07.2008]

§ 168². Suspension of calculation of interest exceeding tax claim

Clause 5 of subsection 1 of § 119 of this Act does not apply in respect of the amount of interest exceeding the tax claim due calculated until 1 January 2011 where the calculation of interest is not continued.
[RT I, 10.12.2010, 4 – entry into force 01.01.2011]

§ 168³. Representation of rural municipality and city

The Tax and Customs Board may represent a rural municipality or a city in the recovery of tax arrears relating to tax liabilities incurred before 1 January 2012 in liquidation, bankruptcy, reorganisation, debt restructuring and judicial proceedings, in accordance with the powers transferred thereto under an administrative contract entered on the basis of the Local Taxes Act.

[RT I, 13.12.2011, 1 – entry into force 01.01.2012]

§ 168⁴. Calculation of limitation period for compulsory enforcement in case of claims arising before 1 January 2014

(1) The limitation period for compulsory enforcement valid from 1 January 2014 is applied to claims that have arisen before 1 January 2014. The regulation concerning limitation period valid until 1 January 2014 is applied to the interest claims and other financial obligations, collectable by the tax authority, determined before 1 January 2014.

(2) Where the limitation period for compulsory enforcement has been interrupted by a circumstance that is not a basis for the interruption of limitation period any more as of 1 January 2014, the basis for interruption of the limitation period is deemed to have ceased from 1 January 2014 and the new limitation period does not begin to run.

[RT I, 07.06.2013, 1 – entry into force 01.01.2014]

§ 168⁵. Payment, set-off and refund of financial obligation arising from judicial proceedings and decision of prosecutor's office

(1) Subsection 6 of § 1 of this Act is applied to the payment and set-off of the state fee for actions in the commercial register, the non-profit associations and foundations register, the commercial pledge register and the land register, which are carried out on 1 April 2014 or later.

(2) Subsection 6 of § 1 of this Act is applied to the payment and set-off of the state fee for actions in the ship's registration book and to the review of the application for the expedited procedure of payment order, which is carried out on 3 February 2015 or later.

[RT I, 21.12.2016, 1 – entry into force 01.03.2018]

(3) Subsection 6 of § 1 of this Act is applied to the public financial obligation arising from judicial proceedings and the decision of the procurator's office, which has become due on 1 July 2014 or later, as well as the state fee for the security in cassation and the state fee for judicial actions not referred to in subsections 1 and 2 of this section, which is paid on 1 July 2014 or later.

[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

§ 168⁶. Transfer of valid data into employment register

Personal data entered into the health insurance database based on clauses 1 and 2 of subsection 1 of § 17 of the Health Insurance Act and the data being the basis for creation, termination and suspension of the insurance cover are entered into the employment register as at 1 July 2014.

[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 168⁷. Disclosure of amount of tax

(1) The amounts specified in subsection 3 of § 27 of this Act are first disclosed by 10 October 2014 for the last two months of the third quarter of 2014.

[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

(2) In accordance with clause 4 of subsection 1 of § 27 of this Act, the amount of liabilities unpaid by the due date and the time when they were incurred specified in clause 4 of subsection 1 of § 31 and subsection 4 of § 128 are disclosed as of 1 January 2019.

[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 168⁸. Compliance with claim for refund

The term for the proceeding of a claim for refund valid until 31 July 2014 is applied upon the proceeding of a claim for refund submitted until 31 July 2014.

[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

§ 168⁹. Calculation of interest on inherited tax arrears

Subsection 10 of § 119 of this Act is applied in the case the succession opened on 1 August 2014 or later.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

§ 168¹⁰. Implementation of regulation on stock record and reporting database

The warehousekeeper or holder of the customs procedure specified in § 25⁹ of this Act enters the inventory into the stock record and reporting database for the first time as at 1 February 2019 at the latest on 20 February of the same year.
[RT I, 03.04.2018, 2 – entry into 01.02.2019]

§ 168¹¹. Entry of data on spouse and registered partner participating in activities of self-employed person in employment register

[RT I, 06.07.2023, 6 - entry into force 01.01.2024]
An entry may be made in the employment register with regard to the spouse or registered partner participating in the activities of a self-employed person as of 1 January 2024.
[RT I, 06.07.2023, 6 - entry into force 01.01.2024]

§ 168¹². Implementation of tax control

The provisions established on the tax control in Chapter 4¹ of this Act are applied to the proceedings which are commenced on 1 January 2019 or later.
[RT I, 07.12.2018, 1 – entry into force 01.01.2019]

§ 168¹³. Implementation of Chapter 14¹ of this act

Chapter 14¹ of this Act is applied to the resolution of an issue in dispute relating to the taxation period beginning on 1 January 2018 or later. A complaint may be filed as of 1 July 2019. The Tax and Customs Board has the right to agree on the application of Chapter 14¹ of this Act to any double taxation complaint submitted before 1 January 2018 or for earlier taxation periods.
[RT I, 06.11.2019, 1 – entry into force 15.11.2019]

§ 168¹⁴. Suspension of disclosure of information and calculation and payment of interest by taxable person

(1) The Tax and Customs Board may suspend the publication of information specified in subsections 3, 5 and 6 of § 27 of this Act as of the first day of the emergency situation declared by the Government of the Republic on 12 March 2020 until two months have passed from the termination of the emergency situation.

(2) The application of the obligation to calculate and pay interest provided in subsections 1, 1¹ and 2 of § 115 of this Act is suspended, due to the emergency situation declared by the Government of the Republic on 12 March 2020, from 1 March 2020 until the termination of the emergency situation.
[RT I, 21.04.2020, 1 – entry into force 22.04.2020]

§ 168¹⁵. Disclosure of tax secrecy for application of support measures

The tax authority may disclose information subject to tax secrecy to government authorities and persons who are required to review and implement measures to support undertakings and persons who are affected by the spread of the coronavirus that causes COVID-19.
[RT I, 21.04.2020, 1 – entry into force 22.04.2020]

§ 168¹⁶. Interest rate as of termination of emergency situation until 31 December 2021

The interest rate provided in §§ 115 and 116 of this Act is 0.03 per cent per day as of the termination of the emergency situation declared by the Government of the Republic on 12 March 2020 until 31 December 2021.
[RT I, 21.04.2020, 1 – entry into force 22.04.2020]

§ 168¹⁷. Interest rate upon payment of tax arrears in instalments from 1 May 2020 until 31 December 2021

Due to the emergency situation declared by the Government of the Republic on 12 March 2020, upon payment of tax arrears in instalments the tax authority may reduce the interest rate by up to 100 per cent from 1 May 2020 until 31 December 2021 as of the date of adopting the decision concerning payment of tax arrears in instalments.
[RT I, 21.04.2020, 1 – entry into force 22.04.2020]

§ 168¹⁸. Application of Subchapter 3³ of Chapter 1 of this Act

Subchapter 3³ of Chapter 1 of this Act is applied to construction work that begins on or after 1 October 2023. The obligation to report the employment chain and employment duration also covers construction works that have started before 1 October 2023 and the expected end date is 1 October 2024 or a later date.
[RT I, 05.04.2022, 1 - entry into force 01.10.2023]

§ 168¹⁹. Payment, set-off and refund of public financial obligations arising from decisions of Defence Resources Agency

Public financial obligations arising from decisions of the Defence Resources Agency, which have become due before 1 May 2024 are still outstanding are subject to the procedure provided in the first section of Chapter 9 of this Act.
[RT I, 20.02.2024, 1 – entry into force 01.05.2024]

§ 169. Revocation of Taxation Act

[Omitted from this text.]

§ 170. Entry into force of Act

- (1) This Act enters into force on 1 July 2002.
- (2) Clause 2 of § 30 of this Act enters into force as of the moment of Estonia's accession to the European Union.
- (3) Sections 152–160 and 162 of this Act enter into force on the date on which the Penal Code enters into force.

¹ Commission Directive 2006/84/EC of 23 October 2006 adapting Directive 2002/94/EC laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, by reason of the accession of Bulgaria and Romania (OJ L 362, 20.12.2006, pp 99–100); Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 009, 14.01.2009, pp 12–30); Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.03.2010, pp 1–12); Council Directive 2011/16/EU on administrative co-operation in the area of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.03.2011, pp 1–12); [RT I, 13.12.2011, 1 – entry into force 01.01.2013] Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, repealing Council Directive 86/613/EEC (OJ L 180, 15.07.2010, pp 1–6). [RT I, 02.07.2012, 8 – entry into force 01.08.2012] Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union (OJ L 265, 14.10.2017, pp 1–14) [RT I, 06.11.2019, 1 – entry into force 15.11.2019] Directive (EU) 2021/2101 of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (OJ L 429, 1.12.2021, pp 1–14). [RT I, 02.05.2024, 1 - entry into force 12.05.2024]