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# Income Tax Act<sup>1</sup>

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RT I 1999, 101, 903  
Entry into force 01.01.2000

Amended by the following acts

Passed	Published	Entry into force
14.06.2000	RT I 2000, 58, 377	01.01.2000
14.06.2000	RT I 2000, 55, 359	01.01.2001
06.12.2000	RT I 2000, 102, 667	01.01.2001
13.12.2000	RT I 2000, 102, 675	01.01.2001
single text on RT paper	RT I 2001, 11, 49	
17.01.2001	RT I 2001, 16, 69	01.03.2001
09.05.2001	RT I 2001, 50, 283	01.01.2002
13.06.2001	RT I 2001, 59, 359	01.01.2002
12.09.2001	RT I 2001, 79, 480	01.10.2001, partially01.01.2002
24.10.2001	RT I 2001, 91, 544	01.01.2002, partially01.01.2003
20.02.2002	RT I 2002, 23, 131	01.03.2002
25.04.2002	RT I 2002, 41, 253	18.05.2002
15.05.2002	RT I 2002, 44, 284	01.07.2002, partially07.06.2002
15.05.2002	RT I 2002, 47, 297	01.01.2003, partially01.01.2004
19.06.2002	RT I 2002, 62, 377	01.10.2002
11.12.2002	RT I 2002, 111, 662	01.01.2003
29.01.2003	RT I 2003, 18, 105	01.03.2003, amendment provided for in subsection 25 (4) applied retroactively as of 01.01.2003
07.08.2003	RT I 2003, 58, 387	01.09.2003
10.12.2003	RT I 2003, 82, 549	01.01.2004
17.12.2003	RT I 2003, 88, 587	01.01.2004, partially01.05.2004, 01.01.2005, 01.01.2006 and 01.01.2007
17.12.2003	RT I 2003, 88, 591	01.01.2004
14.04.2004	RT I 2004, 36, 251	01.05.2004
14.04.2004	RT I 2004, 37, 252	01.05.2004
20.05.2004	RT I 2004, 45, 319	27.05.2004 (amendment applied retroactively as of 01.05.2004); entry into force partially also 01.01.2005, 01.01.2006 and 01.01.2007; subsection 45 (8), § 57 <sup>2</sup> and subsection 61 (24) enter into force by separate act and these provisions apply to interest paid as of same date.
single text on RT paper	RT I 2004, 59, 414	
18.11.2004	RT I 2004, 84, 568	01.01.2005
08.12.2004	RT I 2004, 89, 604	01.01.2005 and 01.01.2006
06.04.2005	RT I 2005, 22, 148	01.01.2006

20.04.2005	RT I 2005, 25, 193	01.07.2005 (part of amendments applied retroactively as of 01.05.2004 and 01.01.2005)
20.06.2005	RT I 2005, 36, 277	01.07.2005 ja 01.01.2006
28.09.2005	RT I 2005, 54, 430	01.01.2006
12.10.2005	RT I 2005, 57, 451	18.11.2005
26.01.2006	RT I 2006, 7, 40	04.02.2006
26.01.2006	RT I 2006, 7, 41	13.02.2006
10.05.2006	RT I 2006, 26, 193	01.01.2007
31.05.2006	RT I 2006, 28, 208	01.07.2006, partially 01.01.2007 and partially applied retroactively as of 01.01.2006
07.06.2006	RT I 2006, 30, 232	01.01.2007
15.11.2006	RT I 2006, 55, 406	01.01.2007
21.12.2006	RT I 2006, 63, 468	01.01.2007
21.12.2006	RT I 2007, 4, 19	01.09.2007
14.02.2007	RT I 2007, 24, 126	01.07.2007
21.02.2007	RT I 2007, 25, 130	01.01.2008
14.06.2007	RT I 2007, 44, 316	14.07.2007
14.06.2007	RT I 2007, 44, 318	01.01.2008
26.03.2008	RT I 2008, 17, 119	01.01.2009
19.06.2008	RT I 2008, 34, 208	01.09.2008
23.10.2008	RT I 2008, 48, 269	14.11.2008
19.11.2008	RT I 2008, 51, 283	01.01.2009, partially 01.01.2010
20.11.2008	RT I 2008, 51, 286	01.01.2009
04.12.2008	RT I 2008, 58, 323	01.01.2009
04.12.2008	RT I 2008, 58, 324	01.01.2009
17.12.2008	RT I 2008, 58, 329	01.01.2010
11.12.2008	RT I 2008, 60, 331	01.01.2009
18.12.2008	RT I 2009, 3, 15	01.02.2009
20.02.2009	RT I 2009, 15, 93	01.04.2009, partially 01.07.2009 and 01.01.2010
26.02.2009	RT I 2009, 18, 109	28.03.2009, partially 01.07.2009
22.04.2009	RT I 2009, 24, 146	01.06.2009
29.10.2009	RT I 2009, 54, 362	01.01.2010, partially 01.12.2009 (amendments applied retroactively as of 01.08.2009)
26.11.2009	RT I 2009, 59, 391	01.01.2010
18.11.2009	RT I 2009, 60, 395	01.07.2010
26.11.2009	RT I 2009, 62, 405	01.01.2010
16.12.2009	RT I 2010, 1, 2	01.01.2012, enters into force on the starting date of authority of XII composition of the Riigikogu, date of entry into force changed 01.01.2012; date of entry into force partially changed 01.01.2013 [RT I, 28.12.2011, 1]; date of entry into force changed 01.01.2014 [RT I, 29.12.2012, 1]
22.04.2010	RT I 2010, 22, 108	01.01.2011, enters into force on the date which has been determined in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union, Council Decision 2010/416/EU of 13 July 2010 (OJ L 196, 28.07.2010, p. 24–26).
03.06.2010	RT I 2010, 34, 181	01.01.2011, partially 01.07.2010 and 01.01.2024
17.06.2010	RT I 2010, 44, 262	01.09.2010
20.10.2010	RT I, 18.11.2010, 1	01.01.2011, partially 01.01.2012

08.12.2010	RT I, 28.12.2010, 6	01.01.2012
26.01.2011	RT I, 18.02.2011, 1	01.01.2012, partially 28.02.2011 and 01.08.2011
09.02.2011	RT I, 04.03.2011, 1	01.04.2011
23.02.2011	RT I, 25.03.2011, 1	01.01.2014; date of entry into force changed 01.07.2014 [RT I, 22.12.2013, 1]
16.06.2011	RT I, 08.07.2011, 5	01.01.2012
23.11.2011	RT I, 13.12.2011, 1	01.01.2012
07.12.2011	RT I, 28.12.2011, 1	01.01.2012, partially on the tenth day after publication in the Riigi Teataja.
07.03.2012	RT I, 29.03.2012, 1	30.03.2012, partially 01.01.2013
13.06.2012	RT I, 06.07.2012, 1	01.04.2013
13.06.2012	RT I, 10.07.2012, 2	01.04.2013, partially 20.07.2012
10.10.2012	RT I, 25.10.2012, 1	01.12.2012
07.12.2012	RT I, 22.12.2012, 1	01.01.2013, partially 01.01.2014 and 01.01.2015
12.12.2012	RT I, 29.12.2012, 1	01.01.2013, partially 01.04.2013 and 01.07.2013
23.01.2013	RT I, 14.02.2013, 1	01.01.2014
28.02.2013	RT I, 20.03.2013, 1	01.04.2013
15.05.2013	RT I, 01.06.2013, 1	01.07.2013
12.06.2013	RT I, 02.07.2013, 1	01.09.2013, partially 01.01.2014; date of entry into force partially changed 01.01.2014 [RT I, 22.12.2013, 1]
05.12.2013	RT I, 22.12.2013, 1	01.01.2014
11.12.2013	RT I, 23.12.2013, 1	01.01.2014, partially 01.01.2015 and 01.01.2020
05.12.2013	RT I, 23.12.2013, 3	01.01.2014, partially 01.01.2015

## Chapter 1 GENERAL PROVISIONS

### § 1. Object of taxation

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

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

(3) Income tax prescribed in §§ 49–52 is imposed on gifts, donations and costs of entertaining guests, distributed profit, and expenses and payments not related to business, made by a resident legal person and a profit-making state agency.  
[RT I 2009, 54, 362 - entry into force 01.01.2010]

(4) Income tax prescribed in § 53 is imposed on fringe benefits granted by a non-resident and on gifts, donations and costs of entertaining guests, profit distributions, and expenses and payments not related to business, made by a non-resident through or on account of its permanent establishment.  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

### § 2. Taxpayer

(1) Income tax specified in subsection 1 (1) is paid by natural persons, contractual investment funds and non-resident legal persons who derive taxable income. A contractual investment fund is a contractual fund established in Estonia or foreign state for the purposes of § 1 of the Investment Funds Act.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

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

(3) Income tax specified in subsection 1 (3) is paid by resident legal persons. The provisions of this Act concerning resident companies apply also to profit-making state agencies.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

(4) Income tax specified in subsection 1 (4) is paid by non-resident legal persons which have a permanent establishment (§ 7) in Estonia.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

### **§ 3. Period of taxation**

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

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

### **§ 4. Tax rates**

(1) Except in the cases specified in subsections 4 (2) and 43 (4), the rate of income tax is:

- 1) 21 per cent;
- 2) 20 per cent as of 2015.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(1<sup>1</sup>) In the case of the object of taxation specified in subsections 1 (2)–(4) the taxable amount, before it is multiplied by the tax rate, shall be divided correspondingly to the date on which the tax liability arises:

- 1) by the number of 0.79;
- 2) by the number of 0.80 as of 2015.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(2) The rate of income tax for income specified in subsections 21 (2) and (3) is 10 per cent.

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

### **§ 5. Receipt of tax**

(1) Income tax paid by resident natural persons is received as follows:

1) without taking into account the deductions provided for in Chapter 4, 11.60 per cent of the taxable income of a resident natural person is received by the local government of the taxpayer's residence;  
[RT I, 22.12.2012, 1 - entry into force 01.01.2014]

2) that part of the income tax which exceeds the amount specified in clause 1), and income tax paid on pensions and gains derived from the transfer of property are received by the state.

(1<sup>1</sup>) [Repealed - RT I, 14.02.2013, 1 - entry into force 01.01.2014]

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

(3) Income tax not specified in subsection (1) is received by the state.

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

## **Chapter 2 DEFINITIONS USED IN ACT**

### **§ 6. Resident**

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

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

(2) A legal person is a resident if it is established pursuant to Estonian law. European public limited companies (SE) and European associations (SCE) whose seat is registered in Estonia are also residents. A resident legal person shall pay income tax on the objects of taxation prescribed in §§ 48–52 and withhold income tax from payments listed in § 41.

(3) A non-resident is a natural or legal person not specified in subsections (1) and (2). The provisions concerning non-residents apply also to a foreign association of persons or pool of assets (excluding contractual investment fund) without the status of a legal person, which pursuant to the law of the state of the incorporation or establishment thereof is regarded as a legal person for income tax purposes. A non-resident shall pay income tax pursuant to the provisions of § 29 only on income derived from Estonian sources. Unless otherwise provided for in this Act, the income of a non-resident legal person shall be declared and income tax shall be imposed, withheld and paid pursuant to the same conditions and procedure as in the case of a non-resident natural person. [RT I, 14.02.2013, 1 - entry into force 01.01.2014]

(3<sup>1</sup>) [Repealed - RT I, 14.02.2013, 1 - entry into force 01.01.2014]

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

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

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

## **§ 7. Permanent establishment**

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

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

(3) When a non-resident carries on business in Estonia through a permanent establishment situated in Estonia, the income which the permanent establishment might be expected to derive if it were a distinct and separate taxpayer engaged in the same or similar activities under the same or similar conditions and dealing wholly independently of the non-resident of which it is a permanent establishment shall be attributed to the permanent establishment. [RT I 2002, 102, 667 - entry into force 01.01.2001]

## **§ 8. Associated persons**

(1) Persons are deemed to be associated if they have common economic interests or if one person has dominant influence over the other. In any case, the following persons shall be regarded associated persons:

- 1) spouses, cohabitants, direct blood or collateral relatives;
- 2) companies belonging to one group for the purposes of § 6 of the Commercial Code;
- 3) legal person and natural person who owns at least 10 per cent of the share capital, total number of votes or rights to the profits of the legal person;
- 4) one person, together with other persons with whom the person is associated, owns more than 50 per cent of the share capital, total number of votes or rights to the profits of a legal person;
- 5) legal persons where more than 50 per cent of the share capital, total number of votes or rights to the profits belong to one and the same person or associated persons;
- 6) persons who own more than 25 per cent of the share capital, total number of votes or rights to the profits of one and the same legal person;
- 7) legal persons where all members of the management boards or the bodies substituting for the management boards are the same persons;

8) employers and their employees, employee's spouses, cohabitants or direct blood relatives;  
9) a person is a member of the management or controlling body of a legal person (§ 9), or the spouse or a direct blood relative of a member of the management or controlling body.

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

(3) In the application of subsection (2), a non-resident and its permanent establishment located in Estonia and a resident of Estonia and its permanent establishment located in a foreign state are also deemed to be associated persons.

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

## **§ 9. Management or controlling body of legal person**

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

(2) Management or controlling bodies include management boards, supervisory boards, partners authorised to represent general or limited partnerships, procurators, founders until registration of the legal person, liquidators, trustees in bankruptcy, auditors, controllers and internal audit committees. Directors of branches of foreign companies and managers of other permanent establishments of non-residents are also deemed to be management bodies.

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

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

[RT I 2005, 57, 451 - entry into force 18.11.2005]

## **§ 10. Low tax rate territory**

(1) A low tax rate territory is a foreign state or a territory with an independent tax jurisdiction in a foreign state, which does not impose a tax on the profits earned or distributed by a legal person or where such tax is less than one-third of the income tax which a natural person who is an Estonian resident would, pursuant to this Act, have to pay on a similar amount of business income, without taking into account the deductions allowed under Chapter 4. If taxes imposed on the income earned or distributed by different types of legal persons differ, a territory is deemed to be a low tax rate territory only with regard to legal persons in the case of whom the tax meets the conditions for low tax rate territories specified in the first sentence of this subsection.

(2) A legal person is not deemed to be located in a low tax rate territory if more than 50 per cent of its annual income is derived from actual economic activity or if the state or territory of location of the legal person provides the Estonian tax authority with information concerning the income of a person controlled by Estonian residents.

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

(3) Without prejudice to the provisions of subsections (1) and (2), the Government of the Republic shall establish a list of territories which are not regarded as low tax rate territories.

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

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

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

(1) The list of non-profit associations, foundations and religious associations benefiting from income tax incentives (hereinafter *list*) shall be approved by the Government of the Republic after obtaining a recommendation from a expert committee.

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

(2) A non-profit association, foundation or religious association (hereinafter *association*) which meets the following requirements shall be entered in the list:

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

- 1) the association operates in the public interest;
- 2) it is a charitable association, that is, an association offering goods or services primarily free of charge or in another non-profit seeking manner to a target group which, arising from its articles of association, the association supports, or makes support payments to the persons belonging in the target group;
- 3) the association does not distribute its assets or income, grant material assistance or monetarily appraisable benefits to its founders, members, members of the management or controlling body (§ 9), persons who have made a donation to it or to the members of the management or controlling body of such person or to the persons associated with such persons and listed in clause 8 (1) 1);

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

4) upon dissolution of the association, the assets remaining after satisfaction of the claims of the creditors shall be transferred to an association entered in the list or specified in subsection (10) or to a legal person in public law;

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

5) the administrative expenses of the association correspond to the character of its activity and the objectives set out in its articles of association;

6) the remuneration paid to the employees and members of the management or control body of the association does not exceed the amount of remuneration normally paid for similar work in the business sector.

(3) The requirement specified in clause (2) 3) does not apply to an association engaged in social welfare, to a religious association or to a case where the associated person belongs to the target group supported by the association and does not receive additional benefits as compared with other persons in the target group. The requirement specified in clause (2) 4) does not apply to religious associations established in Estonia and religious associations established in another Contracting State of the EEA Agreement (hereinafter *Contracting State*) which comply with § 27 of the Churches and Congregations Act.

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

(4) An association shall not be entered in the list if:

1) it does not operate in accordance with its articles of association;

2) the documents submitted for entry in the list do not conform to the requirements established by legislation;

3) it is engaged in business as its principal activity unless at least 90 per cent of the business income after the deduction of the expenditure related to business is used for objectives set out in its articles of association;

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

4) it is engaged in advertising the goods or services of a founder or donor, or promotion of the professional activity or business of a person in the target group;

5) it has tax arrears for which no payment schedule has been arranged;

6) it has repeatedly failed to submit, by the term or pursuant to the procedure prescribed by legislation, a report or tax return, or it has repeatedly delayed payment of tax;

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

7) it is being terminated or bankruptcy proceedings have been brought against it;

8) it is a professional organisation, organisation for business support, trade union or political association.

An association is deemed to be a political association if it is a political party or election coalition or if the main objective or the principal activity of the association is organising campaigns or collecting donations for or against a political party or election coalition or a person running for an elected or appointed office for the performance of public duties.

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

(6) The following is not deemed to be business within the meaning of this section:

1) activities directly related to the objectives set out by the articles of association (for example publication of printed matter, training, information exchange, organisation of events);

2) activities for the sale of donations;

3) organisation of lotteries and auctions for charitable purposes, and other such activities for collecting donations unless such activity is the principal activity of the association;

4) receiving financial income which results from the activities specified in the articles of association.

(7) The Government of the Republic has the right to delete an association from the list if:

1) the activity of the association does not meet the requirements set forth in subsection (2);

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

2) the circumstances specified in subsection (4) become evident;

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

3) the association has failed to notify the Tax and Customs Board of such amendment of its articles of association as a result of which the association no longer meets the requirements for the entry in the list within thirty days after the date of entry of the amendment in the register of non-profit associations and foundations, or

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

4) the association has submitted a written application for deletion of the association from the list.

(8) The Government of the Republic shall establish, by a regulation, the procedure for compiling the list, a list of documents to be submitted for such purpose, the procedure for entry in and deletion from the list of associations, the procedure for formation of the expert committee, its rules of procedure, and the procedure for appointment and removal of the members of the committee.

(9) An application for entry in the list shall be submitted to the Tax and Customs Board by 15 January or 15 July. After obtaining the recommendations of the expert committee, the Tax and Customs Board shall inform the association by 15 March or 15 September correspondingly of an initial decision to deny entry in the list or to delete the association from the list. Based on the proposal of the Minister of Finance, the Government of the

Republic shall enter an association in the list or delete an association from the list as of 1 July or 1 January by an order.

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

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

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

## **Chapter 3**

# **TAXATION OF INCOME OF RESIDENT NATURAL PERSONS**

### **§ 12. Income of resident natural person**

(1) Income tax is charged on income derived by a resident natural person during a period of taxation from all sources of income in Estonia and outside Estonia, including:

- 1) income from employment (§ 13);
- 2) business income (§ 14);
- 3) gains from transfer of property (§ 15);
- 4) rent and royalties (§ 16);
- 5) interest (§ 17);
- 6) dividends (§ 18);
- 7) pensions, scholarships and grants, benefits, awards and gambling winnings (§ 19);

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

- 8) insurance indemnities and payments from pension funds (§§ 20, 20<sup>1</sup> and 21);
- 9) income of a legal person located in a low tax rate territory (§ 22).

(2) The taxable income of a natural person does not include fringe benefits, gifts and donations, dividends or other profit distributions subject to taxation pursuant to §§ 48–53.

(3) Any compensation for certified expenses incurred for the benefit of another person and any compensation for direct proprietary damage shall not be deemed to be income of a natural person, except for compensation paid in connection with business. The provisions of this subsection do not apply to compensation which is paid subject to separate terms, conditions and limits.

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

### **§ 13. Income from employment**

(1) Income tax is charged on all emoluments paid to an employee or official, including wages and salaries, additional remuneration, additional payments, holiday pay, compensation prescribed upon cancellation of the employment contract or upon release from service, compensation or fines for delay ordered by a court or a labour dispute committee, sickness benefit and holiday pay compensated from the state budget. Income tax shall be charged on compensation paid in connection with an accident at work or an occupational disease, unless such compensation is paid as insurance indemnity. For the purposes of this Act, official also means a person specified in subsection 2 (3) of the Public Service Act.

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

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

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

(3) Income tax is not charged on:

- 1) compensation for expenses related to official travel or business travel, daily allowances during assignments abroad and remuneration for business travel abroad paid to an official, an employee or a member of the management or controlling body of a legal person by the employer or a third person instead of the employer, compensation for such expenses paid for a family member of an official, and compensation for relocation expenses arising from appointment to a position located in another area. The tax exempt limit of daily allowances during assignments abroad is 32 euros. The procedure for the payment of compensation for the expenses and daily allowances during assignments abroad specified in the first sentence of this clause shall be established by a regulation of the Government of the Republic;

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

1<sup>1</sup>) payments specified in clause 1) made to a person specified in clause 1) by his or her employer or by a third person instead of employer within the limits in force in the place where the work is performed if the work is performed in a foreign state;



1<sup>2</sup>) daily allowances paid to experts participating in an international civil mission based on the Participation in International Civil Missions Act which do not exceed the limit of daily allowances and compensation for travel, accommodation and other expenses agreed for civil missions in the Council of the European Union.

[RT I, 04.03.2011, 1 - entry into force 01.04.2011]

1<sup>3</sup>) daily allowances paid to persons in active service of the Defence Forces participating in an international military operation on the basis of the Defence Forces Service Act, which shall not exceed four times the tax exempt limit of daily allowances during assignments abroad provided for in clause 1) of this subsection;

[RT I, 20.03.2013, 1 - entry into force 01.04.2013]

2) compensation for service or employment related use of a personal automobile paid to an official, employee, or member of the management or controlling body of a legal person. A personal automobile is deemed to be an automobile in the possession of a person specified in the first sentence which is not in the ownership or possession of the employer; If driving records are kept, the tax exempt limit of compensation paid to one person is 0.30 euros per kilometre, but not more than 256 euros during each calendar month per each employer paying the compensation, and if no records are kept, the tax exempt limit of compensation paid to a person is 64 euros in total during each calendar month for all employers paying the compensation. The procedure for keeping driving records and for the payment of compensation shall be established by a regulation of the Government of the Republic;

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

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

[RT I 2009, 18, 109 - entry into force 01.07.2009]

3) payments made to members of the Riigikogu to compensate for the expenses related to work and official travel and housing expenses and costs related to the provision of residential space to members of the Riigikogu pursuant to the Status of Member of Riigikogu Act;

[RT I 2007, 44, 316 - entry into force 14.07.2007]

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

4<sup>1</sup>) Payments made to members of the Government of the Republic on the basis of § 31<sup>1</sup> of the Government of the Republic Act;

[RT I 2010, 1, 2 - entry into force 01.01.2014 (entry into force amended - RT I, 29.12.2012, 1)]

6) cost of meals given free of charge to members of the crews of ships during voyages and to members of the crews of civil aircraft during flights, which does not exceed 6 euros per day per person;

[RT I 2010, 22, 108 - entry into force 01.01.2011]

7) childbirth allowances paid to an employee or official, in an amount not exceeding 5/12 of the basic exemption (§ 23) granted to a resident natural person during a period of taxation;

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

8) medical devices which are granted by an employer to an employed person whose loss of capacity for work has been established to be 40 per cent and more (in the case of an auditory disability, decrease of auditory ability of 30 decibels and more) and the value of which does not exceed 50 per cent of the total size of payments subject to social tax made to the employee or official during one calendar year;

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

9) in-service training and re-training of employees paid for by the employer upon termination of the employment or service relationship due to redundancy;

10) expenses incurred by an employer for the treatment of damage caused to the health of an employee or official as a result of an accident at work or an occupational disease;

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

11) payments made to diplomats based on subsection 62 (1) of the Foreign Service Act;

12) [Repealed - RT I, 10.07.2012, 2 - entry into force 01.04.2013]

13) cost of meals given free of charge to members of the Defence Forces during military training or training exercises, international military operations, on board an aircraft or warship belonging to the Defence Forces;

[RT I, 10.07.2012, 2 - entry into force 01.04.2013]

14) remuneration paid to persons who have been recruited for secret co-operation;

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

15) insurance premiums of supplementary funded pension paid for an official, an employee or a member of the management or controlling body of a legal person and amounts paid for acquisition of units of voluntary pension funds as provided for in § 28, which shall exceed neither 15 per cent of payments made to them during a calendar year and subject to income tax nor 6000 euros.

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

(4) If a person receives income or fringe benefit (§ 48) specified in subsections (1), (1<sup>1</sup>) or (2) for working in a foreign state, it is not subject to income tax in Estonia if all the following conditions are met:

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

- 1) the person has stayed in the foreign state for the purpose of employment for at least 183 days over the course of a period of 12 consecutive calendar months;
- 2) the specified income has been the taxable income of the person in the foreign state and if this is certified and the amount of income tax is indicated on the certificate (even if the amount is zero).

#### **§ 14. Business income**

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

(2) Business is a person's independent economic or professional activity (including the professional activity of a notary or bailiff and the creative activity of a creative person), the aim of which is to derive income from the production, sale or intermediation of goods, provision of services, or other activities, including creative or scientific activity.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

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

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

(5) Sole proprietors entered in the commercial register may make the deductions allowed under Chapter 6 from their business income. Expenses incurred before registration of a sole proprietor may be deducted from business income if they are related to the registration of the sole proprietor or obtaining of activity licences and registrations necessary for commencement of business activities.

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

(5<sup>1</sup>) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]

(5<sup>2</sup>) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]

(5<sup>3</sup>) Deductions relating to enterprise shall be made from the business income of the period of taxation of a sole proprietor and the received amount shall be divided by 1.33 before it is multiplied by the tax rate.

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

(5<sup>4</sup>) If the amount received by multiplying the amount calculated pursuant to subsection (5<sup>3</sup>) and the factor 0.33 is less than the amount of social tax calculated pursuant to subsections 2 (5), (6) and (8) of the Social Tax Act, then such amount shall not be divided in the manner specified in subsection (5<sup>3</sup>) and income tax shall be calculated from business income after deductions relating to enterprise which has been reduced by the social tax calculated pursuant to subsections 2 (5), (6) and (8) of the Social Tax Act. If the amount of social tax to be paid is higher than business income after deductions relating to enterprise, the amount of tax shall not be carried forward to subsequent periods of taxation pursuant to § 35 of this Act.

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

(5<sup>5</sup>) If the amount received by multiplying the amount calculated pursuant to subsection (5<sup>3</sup>) and the factor 0.33 is more than the amount of social tax calculated pursuant to clause 2 (1) 5) of the Social Tax Act, then such amount shall not be divided in the manner specified in subsection (5<sup>3</sup>) and income tax shall be calculated from business income from which deductions relating to enterprise have been made and which has been reduced by the social tax calculated pursuant to clause 2 (1) 5) of the Social Tax Act.

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

(6) The provisions of this Act concerning sole proprietors entered in the commercial register also apply to notaries and bailiffs.

[RT I, 23.12.2013, 1 - entry into force 01.01.2014]

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

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

(8) The methods for determining the market value of transactions specified in subsection (7) shall be established by a regulation of the Minister of Finance.

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

(9) Subsection (7) shall not apply to difference between the transfer price and the market value of transaction if a sole proprietor has paid income tax on the difference or income tax has been withheld from the difference pursuant to § 41. Subsection (7) shall also not apply in the case provided for in subsection 37 (7).

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

## § 15. Gains from transfer of property

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

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

(2) In the case of a reduction in the share capital of a public limited company, private limited company or association or in the contributions of a general or limited partnership, and in the case of redemption or return of shares or contributions or in other cases, income tax is charged on the portion of the payments received from equity which exceeds the acquisition cost of the holding (shares, contributions), unless the portion of the specified payments or the share of profit which is the basis of the proceeds has been taxed with income tax, taking account of the provisions of the second sentence of subsection 50 (2<sup>1</sup>).

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(3) Income tax is charged on the amount in which the liquidation proceeds received by a person upon the liquidation of a legal person exceed the acquisition cost of the holding, unless the portion of the liquidation proceeds or the share of profit which is the basis of the proceeds has been taxed with income tax, taking account of the provisions of the second sentence of subsection 50 (2<sup>1</sup>).

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(3<sup>1</sup>) Income tax is charged on the part of payment received upon the return of a unit of contractual investment fund or the liquidation of a contractual investment fund, which exceeds the acquisition cost of the unit, excluding a part of the specified payment if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

(4) Income tax is not charged on:

- 1) accepted estate;
  - 2) property returned in the course of ownership reform;
  - 3) expropriation payments and compensation paid upon expropriation, and gains from the transfer of immovable property to the state or a local government without expropriation proceedings for the purposes provided for in subsection 3 (1) of the Immovables Expropriation Act if, prior to the transfer transaction, the requirements provided for in subsection 3 (4) of the Immovables Expropriation Act are complied with;
- [RT I 2009, 18, 109 - entry into force 28.03.2009]
- 4) income from the transfer of movable in personal use;
  - 5) income from the transfer of land returned in the course of ownership reform;
  - 6) income derived by a person holding a public capital bond from the sale of privatisation vouchers issued to him or her on the basis of the public capital bond;
  - 7) income derived by an entitled subject of the agricultural reform from the sale of the employment share issued in his or her name;
  - 8) income derived by a person who is an entitled subject of the ownership reform from the sale of privatisation vouchers issued to him or her on the basis of an unlawfully expropriated property compensation order;
  - 8<sup>1</sup>) compensation paid for unlawfully expropriated property, and compensation for privatisation vouchers issued to but not used by an entitled subject of ownership reform;
  - 9) income from the exchange of a holding (shares, contributions) in the course of a merger, division or transformation of companies or non-profit co-operatives;
  - 10) income from the increase or acquisition of a holding (shares, contributions) in a company by way of a non-monetary contribution;
  - 11) income from the switch of units of an investment fund of a Contracting State pursuant to the procedure provided for in §§ 153 and 154 of the Investment Funds Act.

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

(5) Gains from the transfer of immovable property, contributions to a housing association or membership in a building association are not subject to income tax if:

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

- 1) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling which was used by the taxpayer as his or her place of residence until transfer, or

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

2) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling, and the immovable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property, or  
3) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling and such dwelling and the land adjacent thereto has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption and the size of the registered immovable property does not exceed 2 hectares, or

4) a summer cottage or garden house has been in the taxpayer's ownership as a movable or an essential part of an immovable for more than two years and the size of the registered immovable does not exceed 0.25 hectares, or

5) a structure or apartment as a movable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property or through privatisation with the right of pre-emption, or

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

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

7) an apartment in a residential building belonging to the housing association or building association was used by the taxpayer as his or her place of residence until transfer.

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

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

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

## **§ 16. Income from rent and royalties**

(1) Income tax is charged on income the hire or lease of immovable or movable property or parts thereof, and consideration for constitution of right of superficies or encumbrance of immovable property with right of pre-emption, usufruct, personal right of use or servitude.

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

(3) Income tax is charged on consideration for the right to use industrial, commercial or scientific equipment or information concerning industrial, commercial or scientific experience (know-how), or on consideration for transfer of the right to use the above (hereinafter *royalties*).

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

## **§ 17. Interest**

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

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

(1<sup>1</sup>) Income tax is not charged on interest specified in subsection (1) if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

(2) Income tax is not charged on interest received from deposits with a credit institution which is a resident of a Contracting State or through or on account of a permanent establishment of a credit institution located in a Contracting State.

(3) The provisions of subsection (2) shall not apply to the following interest:

1) which partially or completely depends on the value of a security, deposit, currency, other instrument or the underlying assets thereof or the change in such value, or

2) which is received for depositing money on an investment account specified in § 17<sup>2</sup>.

[RT I 2010, 34, 181 - entry into force 01.01.2011]

## **§ 17<sup>1</sup>. Income on financial assets**

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

(2) The following are considered financial assets:

- 1) securities which are publicly offered in a Contracting State or a member state of the Organisation for Economic Cooperation and Development for the purposes of the Securities Market Act or the legislation of a respective foreign state;
- 2) securities which are admitted for trading on a regulated securities market or multilateral trading facility of a state specified in clause 1) (hereinafter in this section *market*) or concerning which a request has been submitted for admission for trading on such market on the condition that financial supervision is exercised over such market and this market is recognized by such state and operates regularly, and on which the public can acquire or transfer securities;
- 3) shares or units of investment funds not covered by clauses 1) and 2) for the purposes of the Investment Funds Act or shares or units of such investment funds established in a foreign state specified in clause 1) which are subject to financial supervision;
- 4) deposits opened with a credit institution which is a resident of a state specified in clause 1) or in the permanent establishment of a credit institution located in the above state, the interest paid on which is subject to income tax pursuant to § 17;
- 5) unit linked life assurance contracts entered into as of 1 August 2010 which underlying assets are financial assets specified in clauses 1)–4) and clause (3) 1) and which were entered into with an insurance undertaking of a state specified in clause 1);
- 6) derivative instruments not covered by clauses 1) and 2), the party to which is a management company, investment firm or credit institution which is a resident of a state specified in clause 1) and which underlying assets are financial assets specified in clauses 2)–4), and
- 7) short-term debt securities not covered by clauses 1) and 2) if the debt security is liquid and its value can be accurately determined at any time, and it was issued by a resident of a state specified in clause 1), which meets the requirements provided for in clauses 257 (2) 1)–3) of the Investment Funds Act.

(3) Financial assets also include shares or units of investment funds of a state not specified in clause (2) 1) and securities admitted for trading on the market of such state on the condition that:

- 1) financial supervision is exercised over such investment fund or market, and
- 2) a taxpayer concludes a transaction involving the financial assets in the framework of the provision of investment services specified in § 43 of the Securities Market Act with a credit institution, investment firm or management company which is a resident of a state specified in clause (2) 1).

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

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

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

(7) Financial assets do not include insurance contracts for a funded pension and units of pension funds (§§ 28 and 28<sup>1</sup>).

[RT I 2010, 34, 181 - entry into force 01.01.2011]

## **§ 17<sup>2</sup>. Investment account**

(1) The following shall be done for the deferral of income tax liability:

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

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

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

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

(5) Payments from an investment account include all transfers made from the investment account, which are not used for the acquisition of financial assets or for transfer of money to another investment account. Payments also include the income specified in § 17<sup>1</sup>, which is not transferred pursuant to clause (1) 2) of this section to an investment account.

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

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

(8) For the deferral of income tax liability arising from income received on financial assets obtained as inheritance or as gift, the acquisition cost of the above financial assets shall be declared in the tax return as contribution to an investment account.

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

(10) Any loss incurred upon the transfer of securities which have been acquired for the money in an investment account at a price which is lower than the market price to a person associated with the taxpayer or upon the transfer of securities acquired from such person at a price which is higher than the market price shall be declared as payment from the investment account.

(11) If a security specified in subsection 39 (1<sup>1</sup>) was acquired for the money in an investment account, the loss specified in the same subsection shall be declared as payment from the investment account.

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

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

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

## **§ 18. Dividends**

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

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

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

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

(4) If a resident natural person is a member of such association of persons or shareholder or co-owner of such pool of assets, which pursuant to the law of the state of the incorporation or establishment thereof is not regarded as a legal person for income tax purposes, a part of the net profit of the specified association or pool of assets shall be taxed in proportion to the taxpayer's holding, voting rights or share in common ownership.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

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

## **§ 19. Pensions, scholarships and grants, benefits, awards, gambling winnings and maintenance support** [RT I, 18.11.2010, 1 - entry into force 01.01.2011]

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

(2) Income tax is charged on all pensions, benefits, scholarships and grants, cultural, sports and scientific awards, gambling winnings, benefits received on the basis of the Parental Benefit Act and compensation and daily allowances related to sports assignments and paid by an artistic association to creative persons for business trips relating to the creative activity of the creative persons.  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

(3) Income tax is not charged on:

1) [Repealed - RT I 2003, 88, 587 - entry into force 01.01.2004]

2) [Repealed - RT I 2001, 79, 480 - entry into force 01.01.2002]

3) scholarships and grants paid pursuant to law or from the state budget, and benefits paid pursuant to law, except for benefits to persons in alternative service and reservists, and scholarships, grants and benefits which are paid in connection with business or an employment or service relationship or with membership of the management or controlling body of a legal person;

[RT I, 01.06.2013, 1 - entry into force 01.07.2013]

4) international and state cultural and scientific awards and sports awards granted by the Government of the Republic;

5) scholarships and grants not specified in clause 3) which are granted for study or research or for artistic or sports activities and which meet the conditions established by the Government of the Republic;

6) gifts and donations received from a natural person, a state or local government authority, a resident legal person, or from a non-resident through or on account of its permanent establishment located in Estonia, and gifts and donations received from a non-resident legal person if tax is imposed on the gift or donation at the level of natural or legal person in a foreign state;

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

7) winnings from gambling organised on the basis of an operating permit or registration;

[RT I 2009, 24, 146 - entry into force 01.06.2009]

8) benefits paid to victims of crime pursuant to law;

9) conscripts' allowances paid pursuant to law and non-monetary benefits granted in connection with business pursuant to law;

10) compensation for expenses and daily allowances during assignments abroad which are related to sports assignments and paid to persons specified in § 7 of the Sport Act, and which are paid by an artistic association to creative persons for business trips relating to the creative activity of the creative persons within the limits and pursuant to the procedure specified in clause 13 (3) 1).

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

11) maintenance support and maintenance allowance received on the basis of the Maintenance Allowance Act.

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

12) compensation paid on the basis of subsection 196 (1) of the Defence Forces Service Act and subsection 61 (5) of the National Defence League Act;

[RT I, 20.03.2013, 1 - entry into force 01.04.2013]

13) cost of catering provided to members of the National Defence League upon the performance of the functions provided for in subsection 4 (1) of the National Defence League Act and the participation in the activities provided for in subsection 4 (2) of the National Defence League Act;

[RT I, 20.03.2013, 1 - entry into force 01.04.2013]

14) daily allowances and compensation for expenses during assignments abroad paid to active members of the National Defence League on the basis of the National Defence League Act within the limits and pursuant to the procedure specified in clause 13 (3) 1).

[RT I, 20.03.2013, 1 - entry into force 01.04.2013]

## **§ 20. Insurance indemnities**

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

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

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

[RT I 2010, 34, 181 - entry into force 01.01.2011]

(3<sup>1</sup>) If the insurance premiums paid under a unit linked life insurance contract have been deducted from the income of the taxpayer in the form of an insurance premium on a supplementary funded pension (§ 28) during one or several periods of taxation, the amounts are subject to taxation pursuant to § 21.

[RT I 2010, 34, 181 - entry into force 01.01.2011]

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

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

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

### **§ 20<sup>1</sup>. Mandatory funded pension**

[RT I 2008, 48, 269 - entry into force 14.11.2008]

Income tax is charged on payments made from a mandatory pension fund to a unit-holder, the successor of a unit-holder, and on payments made to a policyholder, an insured person and a beneficiary pursuant to a pension contract provided for in the Funded Pensions Act.

[RT I 2008, 48, 269 - entry into force 14.11.2008]

### **§ 21. Supplementary funded pension**

(1) Income tax is charged on payments made to a unit-holder or the successor of a unit-holder on the basis of an insurance contract for a supplementary funded pension or from a voluntary pension fund, taking into account the specifications provided for in subsections (2)–(7). Income tax is charged also on negative changes in the provisions formed pursuant to the provisions of subsection 28 (1<sup>1</sup>) with a view to securing a supplementary funded pension.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

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

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

(2) The rate provided for in subsection 4 (2) is applicable to the following payments made by an insurance undertaking holding an authorisation in a Contracting State to a policyholder under an insurance contract for a supplementary funded pension which meets the conditions provided for in § 63 of the Funded Pensions Act or an equivalent insurance contract:

[RT I 2006, 28, 208 - entry into force 01.07.2006 - introductory sentence part of subsection (2) applied retroactively as of 1 January 2006]

- 1) payments made by the insurance undertaking to the policyholder after the policyholder has reached 55 years of age but not before five years have passed since the entry into the contract;
- 2) payments made by the insurance undertaking in the event of the total and permanent incapacity for work of the policyholder;
- 3) payments made in the event of liquidation of the insurance undertaking.

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

[RT I, 29.03.2012, 1 - entry into force 01.01.2013]

(3) The rate provided for in subsection 4 (2) is applicable to the following payments made to a unit-holder of a voluntary pension fund founded in Estonia on the basis of the Funded Pensions Act or a voluntary pension fund operating in a Contracting State on equivalent bases:

[RT I 2006, 28, 208 - entry into force 01.07.2006 - introductory sentence part of subsection (3) applied retroactively as of 1 January 2006]

- 1) payments made after the unit-holder has reached 55 years of age but not before five years have passed as of the initial acquisition of the units of a voluntary pension fund;
- 2) payments made in the event of the total and permanent incapacity for work of the unit-holder;
- 3) payments made from a voluntary pension fund in the event of liquidation of the pension fund.

(3<sup>1</sup>) If units of a voluntary pension fund have been acquired for the surrender value of a cancelled supplementary funded pension insurance contract pursuant to subsection 63 (5<sup>2</sup>) of the Funded Pensions Act, the five-year term shall be calculated as of the entry into the cancelled contract if it has taken place earlier than the initial acquisition by the unit-holder of the units of the voluntary pension fund.

[RT I, 29.03.2012, 1 - entry into force 01.01.2013]



(4) Income tax is not charged on a pension paid to a policyholder on a regular basis pursuant to an insurance contract specified in subsection (2) after the policyholder has attained 55 years of age or after his or her total and permanent incapacity for work has been verified, on the condition that the insurance contract prescribes that corresponding payments shall be made in equal or increasing amounts at least once every three months until the death of the policyholder.

[RT I 2006, 28, 208 - entry into force 01.07.2006 - subsection (4) applied retroactively as of 1 January 2006]

(5) Income tax is not charged on insurance indemnities paid in the event of death on the basis of an insurance contract for supplementary funded pension.

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

(6) Subsections (2), (2<sup>1</sup>) and (4) also apply to payments made by insurance undertakings to whom an authorisation has been issued in a state not specified in subsection (2) upon compliance with both of the following conditions:

[RT I, 29.03.2012, 1 - entry into force 01.01.2013]

1) the insurance undertaking has the right to enter into insurance contracts for a supplementary funded pension in Estonia either on cross-border basis or through a branch;

2) an international agreement is in force between Estonia and the state that issued the authorisation to the insurance undertaking, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information necessary for the application of the tax rate provided for in subsection 4 (2) and the tax exemption provided for in subsection (4) of this section.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

(7) Subsections (3) and (3<sup>1</sup>) also apply to payments made to unit-holders of a voluntary pension fund operating on the equivalent basis in a state not specified in subsection (3) upon compliance with both of the following conditions:

1) the units of pension fund can be offered in Estonia on cross-border basis;

2) an international agreement is in force between Estonia and the state of the place of business of the pension fund, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information necessary for the application of the tax rate provided for in subsection 4 (2).

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

## **§ 22. Taxation of income of legal persons located in low tax rate territories**

(1) Income tax is charged on the income of a legal person located in a low tax rate territory (§ 10) and controlled by Estonian residents, irrespective of whether the legal person has distributed any profits to taxpayers or not.

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

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

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

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

(6) Resident natural persons shall declare the shares, votes and rights to the profits of a legal person located in a low tax rate territory which were held by them in the calendar year in their income tax returns. A resident taxpayer specified in subsection (3) shall include the part of the income of a foreign legal person attributable to the taxpayer in the taxpayer's taxable income and declare such income in the taxpayer's income tax return. The formats of income tax returns and the procedure for declaration of the income of legal persons registered in low tax rate territories shall be established by a regulation of the Minister of Finance.

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

## **Chapter 4**

# **DEDUCTIONS FROM INCOME OF RESIDENT NATURAL PERSONS**

### **§ 23. Basic exemption**

The basic exemption deductible from the income of a resident natural person during a period of taxation is 1728 euros.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 23<sup>1</sup>. Increased basic exemption upon provision of maintenance to child**

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

(1) One resident parent or guardian of a child or other person maintaining a child on the basis of the Family Law Act, who maintains two or more minor children may deduct increased basic exemption from his or her income in the period of taxation for each child of up to 17 years of age, starting with the second child.

[RT I 2009, 60, 395 - entry into force 01.07.2010]

(2) The increased basic exemption is applicable as of the year in which the child is born, a guardian is appointed for him or her or the maintenance obligation arises until the year in which the child attains 17 years of age to the extent by which the taxable income of the child is lower than the basic exemption for the period of taxation (§ 23).

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

(3) In the event of a dispute, the person to whom child allowance is paid pursuant to § 5 of the State Family Benefits Act is deemed to be the person maintaining the child within the meaning of subsection (1).

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

### **§ 23<sup>2</sup>. Increased basic exemption in event of pension**

If a resident natural person receives a pension paid by a Contracting State pursuant to an Act, a mandatory funded pension provided for in legislation of such state or a pension arising from a social security agreement, increased basic exemption shall be deducted from the income of the person in the amount of those pensions but not more than 2520 euros during a period of taxation.

[RT I, 23.12.2013, 3 - entry into force 01.01.2014]

### **§ 23<sup>3</sup>. Increased basic exemption in event of compensation for accident at work or occupational disease**

If a resident natural person receives compensation for an accident at work or an occupational disease, increased basic exemption shall be deducted from the income of the person in the amount of that compensation but not more than 768 euros during a period of taxation. If compensation for an accident at work or an occupational disease is paid as insurance indemnity, increased basic exemption shall not apply.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

### **§ 24. [Repealed - RT I, 18.11.2010, 1 - entry into force 01.01.2011]**

### **§ 25. Housing loan interest**

(1) A resident natural person has the right to deduct interest payments made during a period of taxation to a credit institution which is a resident of a Contracting State, a financial institution belonging to the same group with such company or branch of a non-resident credit institution registered in a Contracting State for a loan or finance lease taken in order to acquire a house or apartment for himself or herself from the income which he or she receives during the period of taxation. Interest payments for a loan or lease taken in order to acquire a plot of land in order to build a house may be deducted from income under the same conditions.

[RT I 2006, 28, 208 - entry into force 01.07.2006 - subsection (1) applied retroactively as of 1 January 2006]

(2) The erection, expansion and reconstruction of construction works within the meaning of the Building Act, the replacement and modification of utility systems of construction works, changing the division of space in construction works and the building and installation work related to the technical refitting of construction works on the basis of a building permit or building design documentation is also deemed to be acquisition.

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

(4) A parent who is raising a child alone and who has taken parental leave during a period of taxation may fully or partly deduct the interest payments specified in subsection (1) of this section made during the same period

of taxation from the income received during subsequent periods of taxation without taking into account the restriction provided for in § 28<sup>2</sup> of this Act.

[RT I 2003, 88, 587 - entry into force 01.01.2004, partially 01.05.2004 and 01.01.2005]

## **§ 26. Training expenses**

(1) A resident natural person has the right to deduct the training expenses of himself or herself or a relative in descending line, sister or brother of less than 26 years of age or, if no such training expenses are incurred, the training expenses of one permanent resident of Estonia of less than 26 years of age, from the income which the resident natural person receives during the period of taxation.

[RT I 2010, 34, 181 - entry into force 01.07.2010]

(2) Training expenses are certified expenses incurred for studying at a state or local government educational establishment, university in public law, private school which holds a training licence with regard to the given study programme, is registered in the Estonian Education Information System or has the right to provide vocational training or the right to provide instruction of higher education, or foreign educational establishment of equal status with the aforementioned, or for studying on fee-charging courses organised by such educational establishments. Training expenses incurred by a person on account of a scholarship or grant which is exempt from income tax pursuant to clauses 19 (3) 3) and 5) of this Act shall not be deducted from income.

[RT I, 02.07.2013, 1 - entry into force 01.09.2013]

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

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

## **§ 27. Gifts and donations**

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

(1) A resident natural person has the right to deduct certified gifts and donations which are made during a period of taxation to associations included in the list specified in subsection 11 (1) or specified in subsection 11 (10) from the income for the period of taxation.

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

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

(3) The deduction of gifts and donations specified in subsection (1) is limited to 5 per cent of the taxpayer's income of the same period of taxation, after the deductions allowed under Chapter 6 and §§ 23–26 have been made.

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

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

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

## **§ 28. Insurance premiums and acquisition of pension fund units**

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

(1) A resident natural person has the right to deduct the following from the income which he or she receives during a period of taxation:

1) that part of the insurance premiums paid to an insurance undertaking holding an authorisation issued by a Contracting State during the period of taxation under an insurance contract for a supplementary funded pension which meets the conditions of § 63 of the Funded Pensions Act or an equivalent insurance contract, the purpose of which is to ensure payment of the insured sum as a pension, excluding the cases provided for in subsection 63 (5<sup>2</sup>) and § 64 of the same Act;

2) amounts paid to acquire units of a voluntary pension fund established in Estonia or a voluntary pension fund operating in a Contracting State on equivalent basis in accordance with the procedure provided for in the Funded Pensions Act, excluding the cases provided for in § 55 and subsection 63 (5<sup>2</sup>) of the Funded Pensions Act.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

(1<sup>1</sup>) The principles of calculation of the part of an insurance premium specified in clause (1) 1) shall be established by a regulation of the Minister of Finance. A negative change which occurs in a technical provision established on the basis of an insurance contract with a view to securing a supplementary funded pension and which is due to deduction of the amounts charged for an insurance cover not specified in § 63 of the Funded Pensions Act shall be added to the taxable income of a natural person.

(1<sup>2</sup>) In case of an insurance undertaking or voluntary pension fund operating in a state not specified in subsection (1), the amounts specified in subsection (1) may be deducted from the income for a period of taxation upon compliance with both of the following conditions:

1) the insurance undertaking has the right to enter into insurance contracts for a supplementary funded pension in Estonia either on cross-border basis or through a branch or the units of pension fund can be offered in Estonia on cross-border basis;

2) an international agreement is in force between Estonia and the state that issued the authorisation to the insurance undertaking or the state of the place of business of the pension fund, which provides the Tax and Customs Board with the opportunity to receive from the tax authority of this state the information specified in subsections 57<sup>1</sup>(4) and (5).

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

(2) The deductions specified in subsection (1) are limited to 15 per cent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions allowed under Chapter 6 have been made, but no more than 6000 euros. If the above amounts were also paid for the taxpayer by the employer pursuant to clause 13 (3) 15), the limits specified in the previous sentence shall be reduced by the amounts paid by the employer, which are not subject to income tax.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

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

### **§ 28<sup>1</sup>. Mandatory social security contributions**

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

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

(3) A resident natural person has the right to deduct social security taxes and contributions paid in a foreign state during a period of taxation payment of which is mandatory arising from legislation of the foreign state or an international agreement from the income which he or she receives during the period of taxation. A tax or contribution may be deducted from income if the objective of payment was to guarantee pension, health, maternity, unemployment, accident at work or occupational disease insurance to the person.

(4) Taxes and contributions paid on account of income not subject to income tax in Estonia shall not be deducted from income.

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

### **§ 28<sup>2</sup>. Restriction on deductions from taxable income**

(1) The deductions provided for in §§ 25–27 are altogether limited to 1920 euros per taxpayer during a period of taxation, and to not more than 50 per cent of the taxpayer's income taxable in Estonia for the same period of taxation, after the deductions relating to enterprise have been made, taking into account subsections (2) and (3).

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(2) If a resident natural person received at least 75 per cent of his or her taxable income in a foreign state during a period of taxation and part of the income received in the foreign state is exempt from income tax in Estonia, the person can make the deductions provided for in the Chapter from his or her income taxable in Estonia in proportion to its share in his or her taxable income for the period of taxation. The restriction specified in the previous sentence does not apply to the deductions provided for in subsection 28<sup>1</sup>(2). Taxable income includes such income of the person before making the deductions, which is subject to taxation in Estonia or the state where the income was received.

(3) The person specified in subsection (2) may choose the application of § 45 to his or her total income for a period of taxation. In such case, the restriction provided for in subsection (2) does not apply.

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

**§ 28<sup>3</sup>. [Repealed - RT I, 18.11.2010, 1 - entry into force 01.01.2011]**

## **Chapter 5 TAXATION OF INCOME OF NON-RESIDENTS**

### **§ 29. Non-resident's taxable income**

(1) Income tax is charged on income derived by a non-resident natural person from work in Estonia (subsections 13 (1) and (1<sup>1</sup>)) if the payment was made by an Estonian state or local government authority

or resident or a non-resident operating in Estonia as an employer or a non-resident through or on account of its permanent establishment (§ 7) located in Estonia, or if the person has stayed in Estonia for the purpose of employment for at least 183 days over the course of 12 consecutive calendar months. If a non-resident who receives remuneration on the basis of such contract under the law of obligations has been entered in the commercial register in Estonia as a sole proprietor and such remuneration is his or her business income, the income is subject to taxation pursuant to subsection (3).  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

(2) Income tax is charged on emolument paid by a resident legal person to a non-resident member of a management or controlling body (§ 9) or a non-resident through or on account of its permanent establishment located in Estonia to a non-resident member of a management body of the permanent establishment for the performance of his or her functions.  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

(3) Income tax is charged on business income derived by a non-resident in Estonia (§ 14). If the non-resident is a legal person located in a low tax rate territory (§ 10), income tax is charged on all income derived by the non-resident from the provision of services to Estonian residents, irrespective of where the services were provided or used.

(4) Income tax is charged on gains derived by a non-resident from a transfer of property (subsection 15 (1)) if:

- 1) the sold or exchanged immovable is located in Estonia, or
- 2) the movable subject to entry in a register was in an Estonian register prior to the transfer, or
- 3) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]
- 4) the transferred real right or right of claim is related to an immovable or a structure as a movable, which is located in Estonia, or
- 5) the transferred or returned holding is a holding in a company, contractual investment fund or other pool of assets of whose property, at the time of the transfer or return or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the non-resident had a holding of at least 10 per cent at the time of conclusion of the specified transaction.

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

6) gains were derived upon liquidation of a contractual investment fund or other pool of assets on the conditions specified in clause 5) of this subsection.

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

(4<sup>1</sup>) Income tax is not charged on the part of the gains derived from the return of holding specified in clause (4) 5) or liquidation of an investment fund specified in clause 6) of the same subsection if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

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

(5<sup>1</sup>) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

(6) Income tax is charged on income derived by a non-resident from a commercial lease or royalties (§ 16) if:

- 1) the immovable subject to a commercial or residential lease or encumbered with limited real rights is located in Estonia, or
- 2) the property subject to a commercial or residential lease or encumbered with limited real rights is entered or is subject to entry in an Estonian register, or
- 3) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]
- 4) the payer of the consideration specified in subsection 16 (2) or (3) is the Estonian state, a local government, a resident or a non-resident through or on account of its permanent establishment located in Estonia.

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

5) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]

(7) Income tax is charged on interest which a non-resident received in connection with holding in a contractual investment fund or other pool of assets of whose property, at the time of the payment of interest or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the non-resident had a holding of at least 10 per cent at the time of the receipt of interest. Income tax is not charged on interest if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

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

(9) Income tax is charged on all pensions, scholarships and grants, cultural, sports and scientific awards, benefits and gambling winnings paid on the conditions provided for in subsections 19 (2) and (3), and benefits paid on the basis of the Parental Benefit Act which are paid to a non-resident by the Estonian state, a local government, a resident or a non-resident through or on account of its permanent establishment located in Estonia. Income tax is charged on insurance indemnities paid on the conditions provided for in §§ 20–21 to a non-resident by the Estonian Health Insurance Fund, Estonian Unemployment Insurance Fund or a resident insurance company, and on payments made from a pension fund registered in Estonia.  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

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

(11) Tax is charged on the income provided for in this section of a foreign association of persons or pool of assets (excluding contractual investment fund) without the status of a legal person, which pursuant to the law of the state of the incorporation or establishment thereof is not regarded as a legal person for income tax purposes, as income of the shareholders or members of such association or co-owners of the pool of assets in proportion to the sizes of their holdings. If the shareholders or members of an association or the co-owners of a pool of assets are unknown or if their residency is not proved, the income is attributed to the association or the pool of assets, and income tax shall be withheld from and paid on the payments made thereto and the income shall be declared according to the provisions applicable to non-residents. If an association or pool of assets without the status of a legal person is located in a low tax rate territory, income tax shall be withheld according to the provisions of law applicable to legal persons located in low tax rate territories.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

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

(1) Income tax is not charged on income received for the performance of official duties in Estonia by a foreign diplomatic or consular representative, a representative of a special mission or a member of a diplomatic delegation, a member of a representation of an international or intergovernmental organisation or co-operation programme, or a person employed by such representation, who is not a citizen or permanent resident of Estonia.

(2) Persons specified in subsection (1), with the exception of members of representations of co-operation programmes, shall be registered with the Ministry of Foreign Affairs. The procedure for registration shall be established by a regulation of the Minister of Foreign Affairs.

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

(1) Income tax is not charged on the following income of a non-resident:

- 1) accepted estate;
- 2) property returned in the course of ownership reform;
- 3) expropriation payments and compensation paid upon expropriation, and gains from the transfer of immovable property to the state or a local government without expropriation proceedings for the purposes provided for in subsection 3 (1) of the Immovables Expropriation Act if, prior to the transfer transaction, the requirements provided for in subsection 3 (4) of the Immovables Expropriation Act are complied with;  
[RT I 2009, 18, 109 - entry into force 28.03.2009]
- 4) income from sale of movable in personal use;
- 4<sup>1</sup>) gains from transfer of immovable pursuant to conditions provided for subsections 15 (5) and (6);  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]
- 5) [Repealed - RT I, 14.02.2013, 1 - entry into force 01.01.2014]
- 6) [Repealed - RT I 2006, 28, 208 - entry into force 01.01.2007]
- 7) compensation for expenses and daily allowances during assignments abroad which are specified in clauses 13 (3) 1) and 1<sup>1</sup>) under the conditions and within the limits specified in the same clauses;  
[RT I 2009, 18, 109 - entry into force 01.07.2009]
- 8) the compensations specified in clauses 13 (3) 2) and 2<sup>1</sup>) under the conditions and according to the limits specified in the same clauses;
- 9) the income specified in clauses 15 (4) 9)–11).

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

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

(4) Income tax is not charged on royalties (§ 16) paid by a resident company or through or on account of permanent establishment of a resident company of a member state of the European Union or the Swiss Confederation registered in Estonia, if the condition specified in clause 1 and at least one of the conditions set in clauses (2)–(4) have been fulfilled:

- 1) the recipient of royalty is a resident company of another member state of the European Union or the Swiss Confederation either directly or through its permanent establishment registered in another member state of the European Union or the Swiss Confederation;

2) the company receiving the royalty owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company paying the royalty;

3) the company paying the royalty owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company receiving the royalty;

4) one and the same resident company of the European Union or the Swiss Confederation owns at the time of payment and has owned during the period of two years or more immediately preceding the payment at least 25 per cent of the share capital of the company paying the royalty and the company receiving the royalty.

[RT I 2006, 28, 208 - entry into force 01.07.2006 - subsection (4) applied retroactively as of 1 January 2006]

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

### **§ 31<sup>1</sup>. Deductions from income of non-resident natural persons**

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

(2) A natural person who is a resident of a Contracting State and who received at least 75 per cent of his or her taxable income in Estonia during a period of taxation can make the deductions provided for in Chapter 4 from his or her income taxable in Estonia in proportion to its share in his or her taxable income for the period of taxation.

(3) A natural person who is a resident of a Contracting State and who received less than 75 per cent of his or her taxable income in Estonia during a period of taxation can make the deductions provided for in §§ 23 and 23<sup>2</sup> from his or her income taxable in Estonia in proportion to its share in his or her taxable income for the period of taxation.

[RT I, 22.12.2012, 1 - entry into force 01.01.2013]

(4) Taxable income includes such income of the person before making the deductions, which is subject to taxation in the state where the income was received or the person's country of residence. To justify the calculation of the income share, the taxpayer shall submit to the Tax and Customs Board a certificate issued by the tax authority of his or her country of residence. If the above certificate does not include the entire taxable income of the person, a certificate issued by the tax authority of the source state of the income shall also be submitted.

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

## **Chapter 5<sup>1</sup> TAXATION OF INCOME OF CONTRACTUAL INVESTMENT FUNDS**

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

### **§ 31<sup>2</sup>. Gains from transfer of property**

(1) Income tax is charged on gains derived from the transfer of property by a contractual investment fund if:

1) the transferred immovable is located in Estonia or  
2) the transferred real right or right of claim is related to an immovable or a structure as a movable, which is located in Estonia, or  
3) the transferred or returned holding is a holding in a company, contractual investment fund or other pool of assets of whose property, at the time of the transfer or return or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the transferor had a holding of at least 10 per cent at the time of conclusion of the specified transaction.

4) gains were derived on the conditions specified in clause 3) upon liquidation of a company, contractual investment fund or other pool of assets specified in the same clause.

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

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

### **§ 31<sup>3</sup>. Income from rent**

Income tax is charged on the income of a contractual investment fund which is received from the hire or lease of an immovable or a thing constituting the object of a limited real right, which is located in Estonia, or its encumbrance with limited real rights.

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

### **§ 31<sup>4</sup>. Interest**

(1) Income tax is charged on interest which a contractual investment fund received in connection with holding in another contractual investment fund or other pool of assets of whose property, at the time of the payment of interest or during a period within two years prior to that, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the recipient of interest had a holding of at least 10 per cent at the time of the payment of interest.

(2) Income tax is not charged on the interest specified in subsection (1) if the income of the investment fund constituting the basis thereof has been taxed with income tax pursuant to the provisions of this Chapter or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

### **§ 31<sup>5</sup>. Investment funds whose income is not subject to income tax**

Sections 31<sup>2</sup>–31<sup>4</sup> do not apply to:

- 1) pension funds established in Estonia;
- 2) pension funds established in another Contracting State which are subject to financial supervision and the prudential requirements applying to which or the management company thereof are at least as stringent as those established for the pension fund management companies in the Investment Funds Act.

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

### **§ 31<sup>6</sup>. Certification of tax exemption of unit-holders**

The management company of a contractual investment fund established in Estonia is required, at the request of a unit-holder, to provide him or her with a certificate concerning the income constituting the basis for payment made to the unit-holder upon the redemption of units, liquidation of the investment fund or made as interest, which has been taxed with income tax pursuant to the provisions of this Chapter or exempt from income tax pursuant to subsection 31<sup>2</sup>(2), by the fifth day of the calendar month following the making of the specified payment.

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

## **Chapter 6 DEDUCTIONS FROM BUSINESS INCOME**

### **§ 32. Expenses related to business**

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

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

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

(4) A sole proprietor may additionally deduct up to 2877 euros during a period of taxation from his or her income derived from the sale of unprocessed self-produced agricultural products or timber received from an immovable belonging to him or her after the deductions specified in subsection (1) have been made.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(5) For the purposes of subsection (4), cleaning, sorting, cutting, drying, cooling and packaging of agricultural products are not deemed to be processing.

### **§ 33. Limitations on deduction of expenses**

(1) Certified expenses incurred in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners may be deducted in an amount not exceeding 2 per cent of the



taxpayer's business income during a period of taxation after the deductions allowed under subsections 32 (1) and (4) have been made.

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

#### **§ 34. Expenses not deductible from business income**

The following shall not be deducted from business income:

- 1) income tax established by this Act, except for income tax paid on the basis of § 48 of this Act;
- 2) [Repealed - RT I 2000, 58, 377 - entry into force 01.01.2000]
- 3) fines and penalty payments imposed on the basis of law and interest paid on the basis of the Taxation Act;
- 4) the cost of property seized from the taxpayer;
- 5) [Repealed - RT I 2006, 28, 208 - entry into force 01.07.2006]
- 6) the environmental charge paid at an increased rate pursuant to the Environmental Charges Act, and compensation paid for damage caused to the environment or a third party by pollution or through violation of requirements prescribed by law;
- 7) expenses incurred on account of benefits not subject to income tax pursuant to this Act;
- 8) the cost of gifts or donations;
- 9) any loss (§ 37) from the transfer, at a price lower than the market price, of property to a person associated with the taxpayer (§ 8), unless income tax has been paid on such loss pursuant to § 48;
- 10) any loss (§ 37) from the transfer, at a price higher than the market price, of property purchased from a person associated with the taxpayer (§ 8);
- 11) gratuities and bribes;
- 12) payments and contributions paid in Estonia or a foreign state if the objective of payment was to guarantee pension, health, maternity, unemployment, accident at work or occupational disease insurance to the person. [RT I 2006, 28, 208 - entry into force 01.07.2006]

#### **§ 35. Carrying forward of expenses exceeding business income**

(1) If the total amount of the deductions allowed in subsections 32 (1)–(3) exceeds the business income derived by a taxpayer during a period of taxation, the amount by which expenses exceed business income (hereinafter *expenses carried forward*) may be deducted from business income during up to seven subsequent periods of taxation.

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

(3) If a taxpayer incurs expenses to be carried forward during more than one period of taxation, such expenses are recorded in accounting documents on a yearly basis in the order in which they were incurred. Expenses or parts of expenses which have been carried forward for more than seven years shall not be carried forward to subsequent periods of taxation.

[RT I 2000, 102, 667 - entry into force 01.01.2001]

## **Chapter 7**

# **RULES FOR CALCULATION OF TAXABLE INCOME**

#### **§ 36. Calculation of taxable income**

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

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

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

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

(5) Income, deductions from income, and income tax paid or withheld in foreign currency shall be converted into euros on the basis of the European Central Bank exchange rate on the date on which the income was received, the payment was made or the income tax was paid or withheld.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

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

(7) A sole proprietor entered in the commercial register may open one special account with a credit institution which is a resident of a Contracting State or a branch of a non-resident credit institution registered in a Contracting State, and any increase in the amount in the account during a period of taxation is deducted from the business income of the same period and any decrease in the amount in the bank account during a period of taxation is added to the business income of the same period. The increase in the amount in the special account during a period of taxation is deducted from the business income of the same period of taxation if both of the following conditions are met:

- 1) only amounts calculated as business income and benefits and compensations received in connection with business pursuant to law are transferred to the special account within ten working days as of their receipt;
- 2) the increase in the amount in the special account during a period of taxation does not exceed the business income derived by the taxpayer and the amount of benefits and compensations received in connection with business pursuant to law during the period of taxation, after the deductions relating to enterprise and permitted for in subsection 32 (1) have been made.

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

(7<sup>1</sup>) The decrease in the amount in the special account is not added to the business income for a period of taxation upon the transfer of the special account in the case specified in subsection 37 (7).

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

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

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

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

(2) In the case of transfer of property the acquisition cost of which the taxpayer has deducted from the taxpayer's business income, the selling price of the property or the market price of the property received through exchange is deemed to be business income derived by the taxpayer.

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

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

(5) Upon taking property specified in subsection (3) into personal use (either during engagement in business or in the case of termination of engagement in business), the market price of the property minus the difference between the acquisition cost and the depreciation of fixed assets is included in the taxpayer's business income. Upon any future transfer of such property, the amount which pursuant to this subsection is added to business income is deemed to be the acquisition cost of the property.

(6) If the activities of a sole proprietor are suspended pursuant to the provisions of the Commercial Code and the activities of a notary, sworn translator or bailiff are suspended pursuant to the provisions of the Taxation Act for longer than twelve months, the assets specified in subsections (2) and (3) of this section are deemed to have been taken into personal use.

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

(7) If the assets of a sole proprietor which belonged among the assets of an enterprise are transferred or bequeathed to a person who will continue the activities of the enterprise, the assets shall not be deemed to have been taken into personal use. The procedure for application of tax exemption upon transfer of the assets shall be established by a regulation of the Minister of Finance.

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

(8) Upon the transfer of the right to cut standing crop and felled timber, certified expenses relating to forest management shall also be deemed to be expenses related to the transfer and the taxpayer has the right to deduct the expenses from the income received from the transfer of the right to cut standing crop or felled timber during the same period of taxation or three following periods of taxation if the following conditions are met:

- 1) forest management is carried out, as defined in the Forest Act;
- 2) the owner of the forest has submitted a forest notification concerning the forest management activity to the Environmental Board in the case provided for in the Forest Act and the Environmental Board has permitted the activity planned in the forest notification.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(9) The expenses relating to forest management for the purposes of subsection (8) do not include any expenses incurred on account of grant not subject to income tax.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(10) The gains derived from the transfer of the right to cut standing crop and felled timber may be carried forward to up to three following periods of taxation. A taxpayer has the right to reduce the gains carried forward by the expenses specified in subsection (8) which were incurred during this period of taxation.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

### **§ 38. Acquisition cost**

(1) Acquisition cost means all certified expenses which a taxpayer makes in order to obtain, improve or supplement property, including any commissions and fees paid.

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

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

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

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

(5<sup>1</sup>) The acquisition cost of a holding (shares, contributions) acquired by way of a non-monetary contribution shall be equivalent to the acquisition cost of the assets which constituted the non-monetary contribution. If the acquisition cost of the thing or proprietary right which constituted a non-monetary contribution has previously been deducted from the business income of the natural person and income tax has not been charged on it as assets taken into personal use, the acquisition cost of the holding shall be deemed to be zero. The provisions of the previous sentence also apply to membership in non-profit associations if the joining fee or membership fee paid to the association has been deducted from the business income.

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

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

(6) The acquisition cost of securities of the same class which are acquired at different prices and different times shall be calculated by consistently applying one of the following methods:

- 1) FIFO – transfer takes place in the order of purchase or
- 2) the weighted average method – the acquisition cost of one transferred security shall be calculated by dividing the amount of the acquisition costs of securities of the same class existent at the time of transfer by the number of securities of the same class.

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

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

(9) The acquisition cost of the units of an investment fund which are transferred in the course of a switch is deemed to be the acquisition cost of the units acquired upon the switch of the units of an investment fund specified in clause 15 (4) 11) of this Act.  
[RT I 2004, 36, 251 - entry into force 01.05.2004]

### **§ 39. Calculation of loss suffered upon transfer of securities**

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

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

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

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

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

## **Chapter 8 WITHHOLDING OF INCOME TAX**

### **§ 40. Withholding agent for income tax**

(1) A withholding agent for income tax is a resident legal person, state or local government authority, sole proprietor, employer who is a natural person, or non-resident with a permanent establishment or operating as an employer in Estonia, who makes payments subject to income tax pursuant to Chapters 3 or 5 of this Act to a natural person or non-resident.

(2) A withholding agent is required to withhold income tax on payments listed in § 41, pursuant to the rates prescribed in subsection 43 (1). Income tax is withheld upon the making of a payment. Income tax shall not be withheld on the following payments:

- 1) payments made to resident legal persons;
- 2) payments made to non-residents' permanent establishments registered in Estonia;  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]
- 3) payments made to sole proprietors entered in the commercial register or the register of a Contracting State if the payments are the business income of the recipients;  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]
- 4) interest (subsections 17 (1) and (3)) and insurance indemnities (subsection 20 (3)) subject to income tax paid to resident natural persons if the taxpayer has notified a withholding agent for income tax that the interest or insurance indemnity has been received on financial assets acquired for the money in the investment account specified in § 17<sup>2</sup>.  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

(2<sup>1</sup>) [Repealed - RT I 2003, 88, 587 - entry into force 01.01.2004]

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

(3<sup>1</sup>) Income tax shall not be withheld on payments specified in clause 41 (1) if the recipient of the payment performs his or her official duties outside Estonia, and:

1) the payment is made through or on account of a resident legal person's permanent establishment in a foreign state, or

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

2) the withholding agent has a certificate issued by the foreign tax administrator stating that the recipient of the payment is a taxable person in the foreign state with regard to that income.

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

(5) A withholding agent is required to submit a tax return to the Tax and Customs Board by the due date specified in subsection (4). A resident of Estonia and a state or local government agency shall submit the tax return electronically if it includes more than five recipients of payments. The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance. The amount of income tax withheld during a calendar year from the payments made to a resident natural person and specified in the tax return shall not be reduced after 15 February of the year following the calendar year.

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

(5<sup>1</sup>) In case of the declaration of bankruptcy of a taxable person, the tax return specified in subsection (5) shall be submitted separately for the part of the period of taxation preceding the declaration of bankruptcy and following the declaration.

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

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

(6<sup>1</sup>) A withholding agent who during a calendar year has paid for the taxpayer the insurance premiums of supplementary funded pension or amounts for acquisition of units of voluntary pension funds shall provide, at the request of the taxpayer, a certificate regarding the above by 1 December of the calendar year.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

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

#### **§ 41. Payments from which income tax is withheld**

Income tax is withheld from:

1) salaries, wages and other remuneration subject to income tax paid to a resident natural person (subsection 13 (1)), and remuneration paid to members of the management and controlling bodies of a legal person (subsection 13 (2)), taking into account the deductions allowed under § 42;

2) salaries, wages and other remuneration paid to a non-resident (subsection 29 (1)), and remuneration paid to non-resident members of the management and controlling bodies of a legal person (subsection 29 (2)), taking into account the deduction specified in subsection 42 (5);

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

3) remuneration or service fees paid to a natural person on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations (subsection 13 (1<sup>1</sup>), subsection 29 (1));

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

4) interest payment subject to income tax paid to a non-resident or to a resident natural person (subsection 17 (1) and subsection 29 (7));

5) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

6) insurance indemnities, pensions, payments from a pension fund, scholarships and grants, gambling winnings and benefits paid on the basis of the Parental Benefit Act (subsection 19 (2), 20 (1)–(3), § 20<sup>1</sup> and subsections 21 (1) and 29 (9)) which are subject to income tax and paid to a non-resident or to a resident natural person, except for the payments specified in clause 12);

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

7) rent from a commercial or residential lease or payment for encumbering a thing with limited real rights (subsection 16 (1), clauses 29 (6) 1) and 2)), paid to a non-resident or to a resident natural person, and royalties paid to a resident natural person (subsections 16 (2) and (3));

- 7<sup>1</sup>) rent from hire or lease or payment for encumbering a thing with limited real rights (§ 31<sup>3</sup>) paid to a contractual investment fund;  
 [RT I, 14.02.2013, 1 - entry into force 01.01.2014]
- 8) royalties paid to a non-resident (clause 29 (6) 4));
- 9) payments made to a non-resident artist or athlete for activities conducted in Estonia, and payments made to a third person who is a non-resident or a natural person for activities conducted in Estonia by an artist or athlete (subsection 29 (10));
- 10) payments to a non-resident for services provided in Estonia (subsection 29 (3));
- 11) payments to a legal person located in a low tax rate territory (§ 10) for services provided to an Estonian resident (subsection 29 (3));
- 12) payments listed in subsections 21 (2) and (3) which are made to a natural person.
- 13) payments of taxable income made to a resident natural person, which are not specified in the previous clauses, except for income specified in § 15.  
 [RT I, 18.11.2010, 1 - entry into force 01.01.2011]

## **§ 42. Deductions upon withholding of income tax**

(1) On the basis of a single written application of a taxpayer, one-twelfth of the basic exemption provided for in § 23 shall, before calculation of the income tax to be withheld, be deducted in each calendar month from the payments specified in clauses 41 1), 3), 6), 7) and 12) which have been made to the resident natural person.

(1<sup>1</sup>) In the case of a pension paid to a resident natural person by the Estonian state pursuant to an Act and a mandatory funded pension provided for in the Funded Pensions Act, increased basic exemption for pensions (§ 23<sup>2</sup>) in the amount of that pension shall, before calculation of income tax to be withheld, be deducted from the pension, although this deduction shall not exceed one-twelfth of the amount provided for in § 23<sup>2</sup> in each calendar month.

(1<sup>2</sup>) In the case of payment of compensation for an accident at work or occupational disease made to a resident natural person, increased basic exemption for compensation for accidents at work and occupational diseases (§ 23<sup>3</sup>) in the amount of that compensation shall, on the basis of a single written application from a taxpayer, be deducted from the payment before calculation of income tax to be withheld, although this deduction shall not exceed one-twelfth of the amount provided for in § 23<sup>3</sup> in each calendar month.

(2) If a recipient of payments receives taxable income from several withholding agents, the deduction specified in subsection (1) may only be made by one withholding agent chosen by the taxpayer.

(2<sup>1</sup>) Before calculation of the income tax to be withheld, the portion of basic exemption specified in subsections (1) and (1<sup>1</sup>) of this section which has not been used for withholding income tax from a pension paid pursuant to an Act may be deducted from the mandatory funded pension. Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from payments made on the basis of a pension contract provided for in the Funded Pensions Act may be deducted from the payments from mandatory pension fund.  
 [RT I 2008, 48, 269 - entry into force 14.11.2008]

(2<sup>2</sup>) In order to calculate the basic exemption provided for in subsection (2<sup>1</sup>) of this section, the registrar of the Estonian Central Register of Securities, the Social Insurance Board and insurance undertakings entering into pension contracts shall exchange data pursuant to the procedure established by a regulation of the Minister of Finance.  
 [RT I 2008, 48, 269 - entry into force 14.11.2008]

(3) If payments subject to income tax are not made to a taxpayer in each month or if the payments made in some of the months are smaller than one-twelfth of the basic exemption provided for in § 23, 23<sup>2</sup> or 23<sup>3</sup>, the same withholding agent has the right to carry the unused part of the deduction of basic exemption specified in subsection (1), (1<sup>1</sup>) or (1<sup>2</sup>) for such months forward to the subsequent months of the same calendar year. When pension paid by the Estonian state pursuant to Acts and the mandatory funded pension provided for in the Funded Pensions Act are paid to a resident natural person, the basic exemption specified in subsections 42 (1) and (1<sup>1</sup>) can be calculated in total from the beginning of the calendar year.  
 [RT I 2005, 25, 193 - entry into force 01.07.2005 - second sentence of subsection (3) applied retroactively as of 1 January 2005]

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

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

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

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

#### **§ 43. Rates of withheld income tax**

(1) Income tax is withheld from payments specified in § 41 according to the following rates:

1) from payments specified in clauses 1)–7)<sup>1</sup>, 11) and 13) pursuant to subsection 4 (1);  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

2) from payments specified in clauses 8)–10) and 12) – 10 per cent.  
[RT I 2008, 51, 286 - entry into force 01.01.2009]

3) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

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

(3) The requirements for documents specified in subsection (2) shall be established by a regulation of the Minister of Finance.

(4) Income tax withheld in accordance with the rates specified in subsection (1) or in foreign agreements specified in subsection (2) is, for a non-resident recipient, the final income tax on income from Estonian sources as regards payments specified in § 41. This provision does not apply to a non-resident who derives income through a permanent establishment in Estonia (§ 7).  
[RT I 2006, 28, 208 - entry into force 01.01.2007]

## **Chapter 9**

# **DECLARATION OF INCOME AND PAYMENT OF INCOME TAX**

#### **§ 44. Income tax returns**

(1) A resident natural person is required to submit an income tax return to the Tax and Customs Board concerning the income of a period of taxation not later than by 31 March of the year following the period of taxation. It is possible to submit an income tax return through the e-service of the Tax and Customs Board as of 15 February of the year following the period of taxation.  
[RT I, 25.10.2012, 1 - entry into force 01.12.2012]

(1<sup>1</sup>) The Tax and Customs Board shall complete the income tax return concerning the income of a resident natural person during a period of taxation and the deductions made therefrom on the basis of §§ 23, 23<sup>2</sup> and 23<sup>3</sup>, § 28 and subsections 28<sup>1</sup>(1) and (2), and concerning the transfer of the securities specified in subsection 57<sup>1</sup>(5<sup>2</sup>) on the basis of the data at the disposal of the Tax and Customs Board and make the pre-completed tax return available to the taxpayer through the e-service of the Tax and Customs Board and at the service point of the Tax and Customs Board as of 15 February of the year following the period of taxation. If the taxpayer uses the pre-completed tax return, he or she is required to verify the correctness of the data contained in the tax return and submit an amended and supplemented tax return in event of incorrectness or deficiency of the data.  
[RT I, 25.10.2012, 1 - entry into force 01.12.2012]

(1<sup>2</sup>) A natural person who has not been resident during the whole period of taxation shall submit an income tax return concerning only income received during the period when the person was resident and may make deductions allowed under Chapter 4 for the same period of time. Deductions provided for in §§ 23, 23<sup>1</sup>, 23<sup>2</sup> and 23<sup>3</sup> may be made and the limit on deductions specified in § 28<sup>2</sup> shall be taken into account in proportion to the number of months during which the person was resident.

(1<sup>3</sup>) A resident natural person who received income which, pursuant to subsection 13 (4), 18 (1<sup>1</sup>) or an international agreement is exempt from income tax in Estonia is required to declare such income.

(2) Resident taxpayers who were married as at the last day of the period of taxation may submit a joint income tax return taking into account subsections 28<sup>2</sup>(2) and (3). The basic exemption specified in subsection 231 (1) is divided before the calculation of the proportion specified in subsection 28<sup>2</sup>(2) equally between the spouses. If one of the spouses died during the period of taxation or after the period of taxation but before the submission of the income tax return, a joint income tax return may be submitted by the surviving spouse. A joint income tax return may also be submitted if one of the spouses is a resident and the other spouse is a non-resident specified in subsection 31<sup>1</sup>(2) or (3) or if both spouses are residents of a Contracting State and their total income meets the conditions provided for in subsection 31<sup>1</sup>(2) or (3).

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

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

(3<sup>1</sup>) The management company of a contractual investment fund is required to submit pursuant to § 31<sup>2</sup> with regard to the taxable gains an income tax return to the Tax and Customs Board within one month after receiving the gains. If a contractual investment fund has derived income subject to taxation pursuant to § 31<sup>3</sup> or 31<sup>4</sup> from which income tax has not been withheld, the management company is required to submit an income tax return concerning such income to the Tax and Customs Board by 31 March of the year following the calendar year of deriving the income.

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

(4) A non-resident is required to submit an income tax return concerning the gains derived during the calendar year and subject to taxation pursuant to subsections 29 (4) and (5) to the Tax and Customs Board not later than by 31 March of the following year. In the case of transfer of an immovable, the income tax return shall be submitted after receiving the gains. If payments for a transferred immovable are made by instalment, a tax return concerning the agreed transaction price is also submitted within one month after receiving the first instalment.

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

(5) A non-resident who derives business income which is subject to taxation in Estonia (subsection 29 (3)) is required to submit an income tax return concerning business income derived during the period of taxation. The income tax return shall be submitted to the Tax and Customs Board within six months following the period of taxation. If engagement in business is terminated before the end of the period of taxation, the income tax return shall be submitted within two months following the termination of activities.

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

(5<sup>1</sup>) A non-resident who derives income subject to taxation on the basis of subsection 29 (1), (6), (7), (9) or (10) from which income tax has not been withheld on the basis of § 41 is required to submit an income tax return concerning such income derived during the period of taxation to the Tax and Customs Board not later than by 31 March of the year following the period of taxation.

(5<sup>2</sup>) A non-resident specified in subsection 31<sup>1</sup>(2) or (3) submits the income tax return of a resident natural person to use the deductions permitted in the aforementioned subsections.

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

(6) The following persons are not required to submit an income tax return:

1) a resident natural person whose income does not exceed the rate of basic exemption provided for in §§ 23, 23<sup>2</sup> and 23<sup>3</sup> or whose income of the period of taxation is not subject to additional income tax, except in the case specified in subsection (6<sup>1</sup>);

2) persons specified in subsection 43 (4).

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

(6<sup>1</sup>) Sole proprietors, taxpayers specified in subsection 22 (6) or (1<sup>3</sup>) of this section and persons who have transferred securities during the period of taxation who wish to use the right provided for in subsection 39 (3) and natural persons who have made contributions to or payments from an investment account specified in § 17<sup>2</sup> during the period of taxation shall submit an income tax return regardless of the provisions of clause (6) 1).

[RT I 2010, 34, 181 - entry into force 01.01.2011]

(7) The formats of income tax returns and annexes thereto, and the procedure for completion thereof shall be established by a regulation of the Minister of Finance.

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

#### **§ 45. Calculation of income tax paid abroad**

(1) If a resident taxpayer has derived income from abroad during a period of taxation, all income derived from abroad is included in the taxable income of the person and income tax paid or withheld on such income abroad is deducted from the income tax to be paid, in accordance with the conditions specified in subsections (2)–



(6) Income tax is calculated separately for income derived in Estonia and for income derived in each foreign state. Income tax paid in a foreign state on income which is not subject to tax in Estonia shall not be taken into account.

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

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

(4) If a resident natural person has derived taxable income pursuant to subsection 18 (4) or § 22, he or she has the right to deduct a proportional share of the income tax paid or withheld abroad by a foreign legal person, association of persons or pool of assets, which corresponds to the resident's share of profit taxable as income, from the income tax to be paid by him or her.

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

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

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

(8) If a resident natural person has received interest from which income tax has been withheld arising from Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (OJ L 157, 26.06.2003, p. 38–48) or from an agreement concluded by Estonia or the European Union on the basis of that directive, then the withheld income tax may be deducted from the income tax payable on the income of the same period of taxation in Estonia. The part of income tax not deducted shall be returned by the due date provided for in subsection 46 (6).

[RT I 2006, 28, 208 - entry into force 01.07.2006 - subsection (8) applied retroactively as of 1 January 2006]

#### **§ 46. Payment and refund of income tax**

(1) The Tax and Customs Board shall calculate any additional amount of tax due (additional amount due) and issue a written tax notice to this effect to the taxpayer. Spouses who submit a joint income tax return are solidarily liable for payment of any additional amount of tax due and a common tax notice is issued to them. Tax notices are not issued to non-residents.

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

(1<sup>1</sup>) If a taxpayer uses the right provided for in subsection 37 (10), the additional amount due on the gains derived from the transfer of the right to cut standing crop and felled timber is calculated on the basis of an income tax return submitted no later than for the third calendar year following the calendar year of deriving the gains.

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(2) Income tax withheld or paid during a period of taxation on the basis of §§ 41 and 47 is deducted from the total income tax of the period of taxation. Income tax withheld or paid in a foreign state is also deducted to the extent specified in § 45.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(3) Except in the cases specified in subsections (4)–(5), a taxpayer is required to pay any additional amount due which is specified in the tax notice into the bank account of the Tax and Customs Board not later than by 1 July of the calendar year following the period of taxation.

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

(4) A resident natural person who declares business income or gains from the transfer of property is required to pay any additional amount due which is specified in the tax notice into the bank account of the Tax and Customs Board not later than by 1 October of the calendar year following the period of taxation.

(4<sup>1</sup>) A contractual investment fund which derived the gains or income specified in subsection 44 (3<sup>1</sup>) shall pay any additional amount of tax due into the bank account of the Tax and Customs Board within three months after the due date for submitting income tax returns specified in subsection 44 (3<sup>1</sup>).  
[RT I, 14.02.2013, 1 - entry into force 01.01.2014]

(5) A non-resident who derived taxable business income, gains specified in subsection 44 (4) or income specified in subsection 44 (5<sup>1</sup>) shall pay any additional amount of tax due into the bank account of the Tax and Customs Board within three months after the due date for submitting income tax returns specified in subsection 44 (4), (5) or (5<sup>1</sup>). A non-resident who uses the right provided for in subsection 37 (10) shall pay any additional amount due into the bank account of the Tax and Customs Board within three months after the due date for submitting income tax returns based on which the additional amount due is calculated.  
[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

(6) The Tax and Customs Board shall refund the amount of tax overpaid by a natural person to the bank account of the taxpayer or his or her spouse indicated in the tax return or, on the basis of a written application of the taxpayer, to the bank account of a third person, except in the cases prescribed in the Taxation Act. Overpaid amounts of tax shall be refunded not later than by the due date prescribed in subsection (3) or, in the case of taxpayers specified in subsection (4), by the due date specified in subsection (4).  
[RT I 2006, 28, 208 - entry into force 01.01.2007]

#### **§ 47. Advance payments**

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

(2) Advance payments shall be made into the bank account of the Tax and Customs Board in equal amounts by the fifteenth day of the third month of each quarter, starting from the quarter following the due date for submitting the income tax return. Advance payments need not be paid if the quarterly payment does not exceed 64 euros.  
[RT I 2010, 22, 108 - entry into force 01.01.2011]

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

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

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

## **Chapter 10 SPECIAL CASES OF PAYMENT OF INCOME TAX**

#### **§ 48. Income tax on fringe benefits**

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

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

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

(4) Fringe benefits are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to a person specified in subsection (3) in connection with an employment or service relationship, membership in the management or controlling body of a legal person, or a long-term contractual relationship, regardless of the time at which the fringe benefit is granted. Fringe benefits include:

- 1) full or partial covering of housing expenses;

2) the use of a vehicle or other property of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business;  
3) payment of insurance premiums, unless such obligation is prescribed by law;  
4) compensation for official travel expenses and payment of daily allowances, in so far as they exceed the limit provided for in clause 13 (3) 1), <sup>1</sup>2 or <sup>1</sup>3 (clauses 13 (3) 1), <sup>1</sup>2 and <sup>1</sup>3 and 31 (1) 7)) or the limits in force in the place where the work is performed if the work is performed in a foreign state (clause 13 (3) <sup>1</sup>1));

[RT I, 01.06.2013, 1 - entry into force 01.07.2013]

5) compensation for use of a private automobile, in so far as it exceeds the limits provided for in clause 13 (3) 2) (clauses 13 (3) 2) and <sup>1</sup>2) and (1) 8));

[RT I 2009, 18, 109 - entry into force 01.07.2009]

6) loans granted with lower interest than the minimum rate established by the Minister of Finance;

7) transfer free of charge or sale or exchange at a price lower than the market price, of a thing, security, proprietary right or service;

8) purchase of a thing, security, proprietary right or service at a price higher than the market price;

9) waiver of a monetary claim, unless the estimated reasonable costs of collecting the monetary claim exceed the claimed amount;

10) covering of expenses on formal education acquired within the adult education system and informal education for the purposes of § 3 of the Adult Education Act, except for covering of expenses on formal education acquired within the adult education system which are directly related to employment and service relationship and functions of a member of management board of a legal person, director of a branch of a foreign company and manager of another permanent establishment of a non-resident;

[RT I, 08.07.2011, 5 - entry into force 01.01.2012]

11) income received from transfer of share options granted by the employer or acquisition of holding that constitutes the underlying assets of the option, taking into account the provisions of subsection (5<sup>3</sup>).

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

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

(5<sup>1</sup>) Expenses incurred to transport employees between their residence and their place of employment are not classified as fringe benefits if it is impossible to make the journey using public transport with a reasonable expenditure of time and money, or if handicapped employees are unable to use public transport or if use of public transport would cause a material decrease of the persons' ability to move or work.

[RT I 2006, 28, 208 - entry into force 01.07.2006]

(5<sup>2</sup>) Expenses incurred by a foreign mission of the Republic of Estonia in connection with the participation of a diplomat in a diplomatic reception, meeting or other event organised for the purpose of foreign relations are not classified as fringe benefits.

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

(5<sup>3</sup>) Fringe benefits do not include the granting of share options. If the underlying assets of a share option are the holding in the employer or a company that belongs to the same group as the employer, the acquisition of the holding that constitutes the underlying assets of the share option is not classified as fringe benefits, if the holding is acquired no earlier than three years as of the granting of the share option. An employee is required to notify the employer of the transfer of the share option.

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

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

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

(7) In general, the price of a fringe benefit shall be determined on the basis of the market price of the goods or services provided as a fringe benefit. The minimum rate specified in clause (4) 6) shall not be higher than twice the interest rate applicable to the main refinancing operations of the European Central Bank. The procedure for determining the price of a fringe benefit shall be established by a regulation of the Minister of Finance.

(8) The maximum price of a fringe benefit for the use of an automobile of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business is 256 euros per month for each automobile used for the activities specified. The price of such fringe benefit shall be determined according to the use of the automobile as a fringe benefit and on the basis of the records maintained

pursuant to the procedure established by the Minister of Finance. If no records are maintained, the maximum price shall be taken as the basis for taxation.

[RT I 2010, 22, 108 - entry into force 01.01.2011]

(9) Income tax is not charged on fringe benefits granted to an employee in connection with work in a foreign state if the conditions provided for in subsection 13 (4) are met.

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

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

(1) Resident legal persons, except persons included in the list specified in subsection 11 (1), shall pay income tax on gifts and donations on which income tax has not been withheld on the basis of § 41 or not been paid on the basis of § 48, taking into consideration the specifications specified in subsections (2) and (4). Income tax is not charged on goods transferred or services provided for the purposes of advertising which value excluding value added tax is up to 10 euros. Gifts also include prizes of commercial lotteries with the prize fund of up to 10,000 euros regardless of the limit provided for in the previous sentence.

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

(2) Income tax is not charged on gifts and donations made during a calendar year to persons included in the list specified in subsection 11 (1) or persons specified in subsection 11 (10) in an amount not exceeding one of the following limit values:

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

1) 3 per cent of the amount of the payments subject to social tax pursuant to clauses 2 (1) 1)–4) and 6) of the Social Tax Act (hereinafter *individually registered social tax*) made by the taxpayer during the same calendar year;

2) 10 per cent of the profits for the last financial year of a taxpayer which ended as of 1 January of a calendar year, calculated pursuant to the legislation regulating accounting.

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

(4) Income tax is not charged on payments by persons included in the list specified in subsection 11 (1) made in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners. In the case of other resident legal persons, income tax is not charged on such payments in the amount of up to 32 euros per calendar month. In addition, if such legal person is making payments subject to individually registered social tax, the legal person may make, in a calendar month, payments exempt from income tax in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners in the amount of up to 2 per cent of the total amount of the payments subject to individually registered social tax made by the legal person during the same calendar month.

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

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

(6) Persons included in the list specified in subsection 11 (1) shall pay income tax on all gifts and donations on which income tax has not been withheld on the basis of § 41 or not been paid on the basis of § 48, except the following gifts and donations made in pursuance of the objectives set out in their articles of association:

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

1) gifts and donations made to persons included in the list specified in subsection 11 (1) and specified in subsection 11 (10);

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

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

3) material assistance granted to a natural person for subsistence, including financial assistance to the extent of the amount of average monthly expenses of a member of a household per calendar month according to the latest information disseminated by the Statistical Office;

[RT I 2006, 28, 208 - entry into force 01.07.2006]

4) souvenirs presented to participants in a permanent youth camp or youth project camp in the amount of up to 32 euros per participant in camp or project;

[RT I 2010, 44, 262 - entry into force 01.09.2010]

5) souvenirs presented at a sports event to the participants in the event, in the amount of up to 32 euros per participant in event;

[RT I 2010, 22, 108 - entry into force 01.01.2011]

6) goods transferred or services provided for the purposes of advertising which value excluding value added tax is up to 10 euros.

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

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

## § 50. Income tax on dividends and other profit distributions

(1) A resident company (including a general or limited partnership) shall pay income tax on profit distributed as dividends or other profit distributions upon payment thereof in monetary or non-monetary form. Income tax is not charged on profit distributed by way of a bonus issue.

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

(1<sup>1</sup>) The income tax provided for in subsection (1) is not charged on dividends if:

1) the resident company paying the dividend has derived the dividend which is the basis for the payment from a resident company of a Contracting State or the Swiss Confederation subject to income tax (except for companies located within a low tax rate territory) and at least 10 per cent of such company's shares or votes belonged to the company at the time of deriving the dividend;

[RT I 2008, 51, 286 - entry into force 01.01.2009]

2) the dividend is paid out of profit attributed to a resident company's permanent establishment located in a Contracting State or Swiss Confederation;

3) the company paying the dividend has derived the dividend which is the basis for payment from a company of a foreign state not specified in clause (1) (except for a company located within a low tax rate territory) and at the time of deriving the dividend, the company owned at least 10 per cent of the shares or votes of such company, and income tax has been withheld from the dividend or income tax has been charged on the share of profit which is the basis thereof;

[RT I 2008, 51, 286 - entry into force 01.01.2009]

4) the dividend is paid out of the profit attributed to foreign permanent establishment of a resident company and income tax has been charged on such profit;

5) the dividend is paid on account of the portion of payments specified in subsection (2<sup>1</sup>).

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(1<sup>2</sup>) In the cases specified in clauses (1<sup>1</sup>) 3) and 4), only the income tax subject to payment pursuant to law or an international agreement shall be taken into account.

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

(2) A resident company shall pay income tax on the portion of payments made from the equity upon reduction of the share capital or contributions, upon redemption or return of shares or contributions (hereinafter *holding*) or in other cases, and on the portion of the paid liquidation distributions which exceed the monetary and non-monetary contributions paid into the equity of the company.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(2<sup>1</sup>) Taking account of the percentage of holding provided for in subsection (1<sup>1</sup>) and subsection (1<sup>2</sup>), income tax is not charged on payments specified in subsection (2) the bases for which are the dividends specified in subsection (1<sup>1</sup>) or the portion of the payments specified in subsection (2) which are received by the company if the dividends or portion of the payments are or the share of profit which is the basis of the dividends or portion of the payments has been taxed with income tax. In the case of several recipients of a payment specified in subsection (2), tax exemption is applied to the received portion of payment proportionally to the portion of the payment which has been taxed, when making the payment.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(2<sup>2</sup>) A resident company which is deleted from the register without liquidation shall pay income tax on the share of the equity which exceeds the monetary and non-monetary contributions paid into the equity. This subsection does not apply if the assets of the company deleted from the register are continuously used in economic activities in Estonia. If the economic activities are continued through another resident company, tax on the specified share of equity shall be charged pursuant to §§ 48–52. If the company maintains a permanent establishment in Estonia, tax on the specified share of the equity shall be charged pursuant to § 53.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(2<sup>3</sup>) If an enterprise belonging to a permanent establishment of a non-resident is transferred to a resident company, the property brought into Estonia for the purposes of the permanent establishment before the transfer of the enterprise is also deemed to be monetary and non-monetary contributions paid into the equity of the company.

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

(2<sup>4</sup>) Income tax is not charged on payments specified in subsections (1) and (2) if the income constituting the basis thereof has been received upon the redemption of units of a contractual investment fund or liquidation of a contractual investment fund or as interest from a fund and it has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

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

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

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

(5) Subsection (4) shall not apply to difference between the transfer price and the market value of transaction if a legal person has paid income tax on the difference or income tax has been withheld from the difference pursuant to § 41.

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

(6) The methods for determining the market value of transactions specified in subsection (4) shall be established by a regulation of the Minister of Finance.

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

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

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

(8) The requirements for the information specified in subsection (7) shall be established by the Minister of Finance.

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

(9) If the taxpayer so demands, the payer specified in subsection 50 (2) is required to issue a certificate regarding payments specified in subsection 50 (2) which are made during a calendar month by the fifth day of the following calendar month. The certificate shall set out the total amount of the payment and the portion of the payment which or the share of profit constituting the basis for which has been taxed with income tax. The format of the certificate and the procedure for completing the certificate shall be established by a regulation of the Minister of Finance.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

## **§ 51. Income tax on expenses not related to business**

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

(2) For the purposes of subsection (1), expenses not related to business are:

1) expenses or payments specified in clauses 34 3)–6) and 11);

[RT I 2003, 88, 587 - entry into force 01.01.2004]

2) enrolment and membership fees paid to non-profit associations, unless participation in such associations is directly related to the business of the taxpayer;

3) payments concerning which the taxpayer does not have a source document in compliance with the requirements prescribed in legislation regulating accounting;

4) expenses incurred or payments made in order to purchase services not related to the business of the taxpayer;

5) expenses incurred or payments made in order to fulfil obligations not related to the business of the taxpayer.

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

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

(5) Expenses specified in clauses 13 (3) 6)–10) are not deemed to be expenses not related to business.

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

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

(2) For the purposes of subsection (1), payments not related to business are the following:

1) acquisition of property not related to business;

2) acquisition of securities issued by a legal person located in a low tax rate territory (§ 10) unless such securities meet the requirements specified in subsection 257 (1) of the Investment Funds Act;

3) acquisition of a holding in a legal person located in a low tax rate territory;

4) payment of a fine for delay or a contractual penalty, or extra-judicial compensation for damage, to a legal person located in a low tax rate territory;

5) grant of a loan or making of an advance payment to a legal person located in a low tax rate territory or acquisition of a right of claim against a legal person located in a low tax rate territory in any other manner.

(3) Resident credit institutions shall pay income tax on the following payments and losses unless income tax has been withheld on such payments on the basis of § 41 or paid pursuant to §§ 48–51:

1) payments specified in clauses 2 (1) and (2);  
2) payments specified in clause (2) 4), unless such payments are made to a credit or financial institution which according to the law of its home country meets the requirements for institutions equal to Estonian credit or financial institutions;

3) losses sustained by a credit institution when it transfers a right of claim or waives the collection of a right of claim (including loans granted and advance payments made) acquired against a legal person located in a low tax rate territory.

[RT I 2004, 45, 319 - entry into force 27.05.2004]

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

(1) A non-resident legal person which has a permanent establishment in Estonia (§ 7) shall pay income tax pursuant to §§ 48–52, taking into consideration the specifications stipulated in this section.

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

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

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

(4) On the basis of § 50, income tax is imposed on profit attributed to permanent establishment which has been taken out of the permanent establishment during a period of taxation in monetary or non-monetary form.

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

(4<sup>1</sup>) The income tax provided for in subsection (4) is not charged on profit taken out of the permanent establishment, the basis for which is the dividend derived through or on account of the permanent establishment, provided that at the time the dividend was derived, the recipient of the dividend owned at least 10 per cent of the shares or votes of the company paying the dividend, and if:

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

1) the dividend was derived from a resident company of a Contracting State or the Swiss Confederation subject to income tax (except for companies located within a low tax rate territory);

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

2) the dividend was derived from a company of a foreign state not specified in clause (1) (except for a company located within a low tax rate territory) and income tax has been withheld from the dividend or income tax has been charged on the share of profit which is the basis thereof.

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

(4<sup>2</sup>) In the case specified in clause (4<sup>1</sup>) 2), only the income tax subject to payment pursuant to law or an international agreement shall be taken into account.

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

(4<sup>3</sup>) If a resident company is deleted from the commercial register without liquidation and the economic activities of the company are continued in Estonia through the permanent establishment, the profit attributed to the permanent establishment shall also include for the purposes of subsection (4) the share of the equity of the company deleted from the commercial register which exceeds the monetary and non-monetary contributions paid into the equity.

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

(4<sup>4</sup>) Subsection (4) does not apply in the case of transfer of an enterprise belonging to the permanent establishment to another company in the form of non-monetary contribution, or in the course of merger, division or transformation if economic activities are continued in Estonia through such enterprise. If the enterprise is acquired by a non-resident company, the profit of its permanent establishment shall also include the non-taxed profit attributed to the permanent establishment of the non-resident which transferred the enterprise.

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

(4<sup>5</sup>) [Repealed - RT I, 18.11.2010, 1 - entry into force 01.01.2011]

(4<sup>6</sup>) Subsections 50 (4)–(8) also apply to transactions concluded through or on account of the permanent establishment of a non-resident.

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

(4<sup>7</sup>) Taking account of the percentage of holding provided for in subsection (4<sup>1</sup>) and subsection (4<sup>2</sup>), the income tax provided for in subsection (4) is not charged on profit taken out of the permanent establishment, the basis for which is the portion of the payments specified in subsection 50 (2<sup>1</sup>) which is received through or on account of the permanent establishment of a non-resident.

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

(4<sup>8</sup>) The income tax provided for in subsection (4) is not charged on profit taken out of the permanent establishment if the basis for the profit is the income derived through or on account of the permanent establishment upon the redemption of units of a contractual investment fund or liquidation of a contractual investment fund or as interest from a fund, which has been taxed with income tax pursuant to the provisions of Chapter 5<sup>1</sup> or exempt from income tax pursuant to subsection 31<sup>2</sup>(2).

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

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

#### **§ 54. Declaration and payment of income tax**

(1) A person or authority which grants fringe benefits taxable on the basis of § 48 is required to submit a tax return to the Tax and Customs Board by the tenth day of the calendar month following the period of taxation regarding the fringe benefits granted during the calendar month.

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

(2) Resident legal persons and non-residents specified in § 53 are required to submit a tax return regarding the expenses and payments specified in §§ 49–53 concerning the previous calendar month to the Tax and Customs Board by the tenth day of the calendar month following the period of taxation. A person specified in the previous sentence who is a registered person liable to value added tax as defined in the Value Added Tax Act, except for persons liable to value added tax with limited liability as specified in § 21 of the Value Added Tax Act, is required to submit a tax return regardless of the obligation to pay income tax during that period of taxation.

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

(3) The format of the tax return specified in subsections (1) and (2) and of the annexes thereto, and the procedure for completion thereof shall be established by a regulation of the Minister of Finance.

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

(5) If a resident company or a non-resident through or on account of its permanent establishment located in Estonia has received income specified in subsection 50 (1) or (2) from a non-resident company and the income fails to meet the requirements specified in subsection 50 (1<sup>1</sup>) or (2<sup>1</sup>), or has received income not specified in subsection 50 (1) or (2) in a foreign state, the recipient of income may deduct the income tax paid or withheld from such income abroad from the income tax payable on the basis of subsection 50 (1) or (2) or subsection 53 (4). The income tax of a foreign state may be deducted only in the amount which it is mandatory to pay pursuant to the law of the state or an international agreement. Income tax paid in each state shall be recorded separately. Income tax paid in a foreign state on the income which was the basis of the payment not taxable according to subsections 50 (1<sup>1</sup>) or (1<sup>2</sup>) or 53 (4<sup>1</sup>) or (4<sup>7</sup>) shall not be taken into account.

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

(5<sup>1</sup>) [Repealed - RT I 2005, 25, 193 - entry into force 01.07.2005- applied retroactively as of 1 January 2005]

(5<sup>2</sup>) [Repealed - RT I 2005, 25, 193 - entry into force 01.07.2005- applied retroactively as of 1 January 2005]

(5<sup>3</sup>) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

(5<sup>4</sup>) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

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

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

## **Chapter 11**



# NOTIFICATION REQUIREMENT

## § 55. Submission of annual reports

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

(2) A non-resident legal person which has a permanent establishment in Estonia (§ 7) is required to submit a signed copy of the annual report of its permanent establishment to the Tax and Customs Board within six months following the end of the financial year.

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

## § 56. Notification of payments made to shareholders and profit taken out of permanent establishment of non-resident

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

(1) Upon reduction of dividends paid and other profit distributions, liquidation distributions, share capital or contributions and upon redemption or return of shares or contributions or in other cases, a resident company is required to submit a tax return to the Tax and Customs Board concerning the amount and the recipients of payments made from equity during the period of taxation. A non-resident legal person which has a permanent establishment in Estonia is required to submit a tax return to the Tax and Customs Board concerning the profit taken out of the permanent establishment during a period of taxation in monetary or non-monetary form. The tax return shall also be submitted concerning the received dividends specified in subsection 50 (1<sup>1</sup>) or subsection 53 (4<sup>1</sup>) and the amount of payments and payers specified in subsection 50 (2<sup>1</sup>) or subsection 53 (4<sup>7</sup>).

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

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

(2<sup>1</sup>) [Repealed - RT I 2008, 51, 286 - entry into force 01.01.2009]

(3) A tax return specified in subsection (1) shall be submitted by the tenth day of the calendar month following the making of the payment. The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

## § 56<sup>1</sup>. Notification of compensation for use of personal automobile

A resident legal person, state agency or local government agency, employer who is a sole proprietor, or a non-resident who has a permanent establishment in Estonia or who is acting as an employer in Estonia who has made, during a calendar year, the payments specified in clauses (3) 2) or 2<sup>1</sup>) to a natural person is required to submit a tax return concerning such payments by 10 April of the year following the calendar year to the Tax and Customs Board. The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

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

## § 57. Notification of register entries

(1) The land registries and registration departments of courts are required to submit to the Tax and Customs Board within one month after making a corresponding registry entry a tax return concerning the following:

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

1) transactions by which a foreign legal person or a foreign citizen or stateless person without a residence permit in Estonia has transferred immovable property, limited real rights or a movable entered in a register or has assigned the ranking of a limited real right;

2) transactions by which an immovable or a movable entered in a register is encumbered with a limited real right in favour of a foreign legal person or a foreign citizen or stateless person without a residence permit in Estonia.

(2) The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

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

## § 57<sup>1</sup>. Notification requirement relating to tax incentive

(1) Resident credit and financial institutions and branches of non-resident credit institutions entered in the Estonian commercial register may submit declarations to the Tax and Customs Board concerning the interest

paid by natural persons during a calendar year on loans one aim of which is acquisition of housing (including construction of housing).

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

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

[RT I, 02.07.2013, 1 - entry into force 01.09.2013]

(3) Persons included in the list specified in subsection 11 (1) are required to submit declarations to the Tax and Customs Board concerning the gifts and donations received during a calendar year and concerning the use of such gifts, donations and other income. A religious association submits the declaration specified in the previous sentence exclusively in respect to use of its income.

[RT I, 18.11.2010, 1 - entry into force 01.01.2012]

(4) An insurance undertaking is required to submit a declaration to the Tax and Customs Board concerning the portion of insurance premiums the purpose of paying which was to pay an insured sum as a pension and which are received during a calendar year under insurance contracts for a supplementary funded pension which meet the conditions of § 63 of the Funded Pensions Act. The declaration shall not display the insurance premiums specified in subsection 63 (5<sup>2</sup>) and subsection 65 (3) of the Funded Pensions Act.

[RT I, 18.02.2011, 1 - entry into force 01.01.2012]

(5) A management company of a voluntary pension fund is required to submit to the Tax and Customs Board a declaration concerning the amounts paid to acquire the units of the voluntary pension fund managed by the company during a calendar year. The declaration shall display neither the amounts for which the units of the pension fund were acquired in the course of switching the units nor the contributions specified in subsection 63 (5<sup>2</sup>) of the Funded Pensions Act.

[RT I, 29.03.2012, 1 - entry into force 30.03.2012]

(5<sup>1</sup>) The Social Insurance Board shall submit the names and personal identification codes of the persons receiving the child support specified in subsection 23<sup>1</sup>(3) as at 31 December and the names and personal identification codes of their children to the Tax and Customs Board.

[RT I 2008, 51, 283 - entry into force 01.01.2009]

(5<sup>2</sup>) The registrar of the Estonian Central Register of Securities shall submit the following information concerning resident natural persons who transferred securities during the period of taxation to the Tax and Customs Board:

- 1) given name, surname and personal identification code;
- 2) name of issuer of securities;
- 3) type and ISIN code of securities;
- 4) amount of securities;
- 5) selling price;
- 6) date of transfer.

(5<sup>3</sup>) Resident credit or financial institutions, branches of non-resident credit institutions entered in the Estonian commercial register and insurance undertakings are required to submit to the Tax and Customs Board a declaration concerning the interest and insurance indemnities specified in clause 40 (2) 4) and paid to natural persons, from which income tax has not been withheld.

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

(6) The declarations and information specified in subsections (1)–(5<sup>3</sup>) shall be submitted by 1 February of the year following the given calendar year. The declarations concerning the use of gifts, donations and other income specified in subsection (3) shall be submitted by 1 July of the year following the given calendar year. The format of the declarations and the procedure for submission of the declarations shall be established by a regulation of the Minister of Finance.

[RT I, 18.11.2010, 1 - entry into force 01.01.2011 [Provisions of § 572 apply to interest paid as of the same date - RT I 2005, 36, 277]]

## **§ 572. Duty to give notice of the interest**

(1) A resident legal person, an association of persons or pool of assets established in Estonia without the status of a legal person (hereinafter *association*), a non-resident having a permanent establishment in Estonia, an Estonian state or local government authority or a sole proprietor (hereinafter *the interest payer*) who has during a calendar year paid interest referred to in subsection 17 (1) or subsection (3<sup>2</sup>) of this section to a natural person residing in other member state of the European Union, is required to submit a declaration (hereinafter *the interest declaration*) concerning the payment of interests to the Tax and Customs Board. The following information shall be set out in the interest declaration:

- 1) name, state of residence and address in the state of residence of the recipient of the interest;

- 2) number or code used to identify the recipient of the interest in the register of taxable persons of the state of residence, or in case such number or code is not indicated on the document proving the identity or residency of the person, the date and place of birth of the recipient of the interest;
- 3) data on the residency of the recipient, if the recipient has submitted to the interest payer a document proving his/her residency.
- 4) the name or title, address and personal identification code or registry code of the interest payer;
- 5) the number of account in an Estonian credit institution where the money, for which interest is paid, is deposited, or in case other debt obligations, the type of obligation for which interest is paid;
- 6) the amount of the interest paid.

(2) The interest payer shall submit the interest declaration also in the case if he/she has paid interest for the benefit of a natural person residing in another member state of the European Union to an association founded in the other member state. In that case the name, country of location and address of the recipient of the payment and the total amount of the interest paid shall be stated in the interest declaration. An interest declaration shall not be submitted if the recipient of the payment certifies that:

- 1) the recipient is a legal personality, except for *avoinyhtiö* or *kommandiittiyhtiö* founded in Finland and *handelsbolag* or *kommanditbolag* founded in Sweden;
- 2) the taxation of the recipient's profit shall be pursuant to the provisions for the taxation of profit of companies;
- 3) the recipient is the UCITS within the meaning of § 4 of the Investment Funds Act;
- 4) the recipient is deemed to be the UCITS and the corresponding certificate has been issued by a competent authority of the country of its location.

(3) For the purposes of this section, an interest payer is a person, institution or association who paid the interest directly to the actual beneficiary (hereinafter *the beneficiary*). If the person who made the payment has a reasonable doubt that the natural person to who receives the payment is not the actual beneficiary, the person who made the payment shall take measures to identify the actual beneficiary. If it is impossible to identify the beneficiary with a reasonable expenditure of time and money, the recipient of payment shall be considered the beneficiary. The recipient of the payment is not deemed to be the beneficiary if the recipient proves to meet at least one of the following conditions:

- 1) the recipient itself is the interest payer;
- 2) the recipient is acting in the name of the association or legal person specified in the first sentence of subsection (2) or clauses (2) 1)–3);
- 3) the recipient is a representative of the beneficiary and submits the data specified in clauses (1) 1) and 2) concerning the beneficiary to the interest payer.

(3<sup>1</sup>) If the recipient of the payment is operating in the name of the association specified in the first sentence of subsection (2), the recipient shall communicate the name, home country, address and the amount of interest paid to the interest payer and the interest payer shall set out such data in the interest declaration.

(3<sup>2</sup>) In addition to the amounts specified in subsection 17 (1), the following is also deemed to be interest within the meaning of this section:

- 1) amounts accrued for the time of repurchase, retrieval or redemption of the debt obligation;
- 2) payment made out of interest payments derived from an association specified in subsection (2) 3) or 4) or directly from an investment fund established in a third country, or through the association specified in the first sentence of subsection (2);
- 3) payment derived from the repurchase, retrieval or redemption of shares in an association specified in clauses (2) 3) or 4) or an investment fund established in a third country if, at the time of transfer of the participating interest in the assets such association or investment fund, more than 40 per cent has been invested in debt obligations either directly or through an association specified in clauses (2) 3) or 4) or an investment fund established in a third country.

(3<sup>3</sup>) The rate specified in clause (3<sup>2</sup>) 3) shall be determined on the basis on the fund rules or articles of association of the fund or if this is not possible, based on the actual composition of the assets. If the interest payer possesses no such information, the rate shall be presumed to be 40 per cent

(4) The interest payer shall verify the data referred to in subsection 1 on the basis of valid identity document issued by a foreign state and, where appropriate, on the basis of document proving the residency. If the document does not bear any information about the address of the recipient of interest in the state of residence, it will be ascertained on the basis of other data available to the interest payer. The state of residence of the recipient of interest shall be the state of issuance of the identity document or a territory with an independent tax jurisdiction in a foreign state, except in case the person presents a document proving the residency of any other state or territory.

(5) The interest declaration shall be submitted by 10 April of the year following the year of payment of the interest. The format of the declarations and the procedure for completing the forms shall be established by a regulation of the Minister of Finance.

(6) The Tax and Customs Board shall send the information submitted by interest declarations to the tax authority of the recipient's country of residence, or if this is not known, to the recipient's state of residence or the country of location of the association specified in subsection (2) by 30 June of the year following the year of payment of the interest.

(7) Subsections (1)–(6) also apply to interest paid to a natural person residing within a territory with an independent tax jurisdiction of a member state or to an association specified in subsection (2) established within such territory if an agreement on exchange of information on interests between such territory and Estonia so prescribes. The agreements for the exchange of information on interests shall be published on the website of the Tax and Customs Board.

(8) [Repealed - RT I, 14.02.2013, 1 - entry into force 01.01.2014]

## **Chapter 12**

### **IMPLEMENTING PROVISIONS**

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

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

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

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

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

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

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

**§ 60. Specifications for taxation of dividends**

(1) A company, the income tax paid by whom pursuant to subsection 32 (2) of the Income Tax Act in force before the entry into force of this Act has not been fully deducted on the basis of an income tax return submitted with regard to the last period of taxation which ended before the entry into force of this Act from the income tax payable on the basis of the same Act, may deduct the overpaid amount of income tax from the income tax payable on the basis of subsection 50 (1) or (2). If the overpaid amount of income tax exceeds the income tax payable during a period of taxation on the basis of subsection 50 (1) or (2), the remaining part of the overpaid amount, which has been reduced on the basis of the right of deduction transferred to another resident company pursuant to subsection (3), may be carried forward to subsequent periods of taxation.  
[RT I 2008, 51, 286 - entry into force 01.01.2009]

(2) If a resident company pays dividends from the net profit of financial years which ended during the years 1994–1999, the company may deduct the part of income tax paid during the years 1994–1999 on the part of the profit which corresponds to the dividends from income tax payable on the basis of subsection 50 (1), but not more than by the amount of income tax payable during the period of taxation on the basis of subsection 50 (1). The income tax deductible is determined such that the total amount of income tax of the company, calculated on taxable income and adjusted by incentives in the income tax returns submitted for the periods of taxation of the years 1994–1999, is divided by the total amount of the lines “net profit of the accounting year” in the balance sheets of the company’s annual reports of the years 1994–1999, from which the size of bonus issues carried out in the years 1994–1999 on account of the net profit of the same years is deducted, and the resulting amount is multiplied by the amount of the dividends paid.

(3) [Repealed - RT I 2001, 91, 544 - entry into force 01.01.2003]

(4) [Repealed - RT I 2001, 91, 544 - entry into force 01.01.2003]

(5) [Repealed - RT I 2001, 91, 544 - entry into force 01.01.2003]

(6) A company to which the right to deduct income tax provided for in subsections (1) and (2) has been transferred by another resident company before 1 January 2003 may, in addition to the income tax specified in subsection (2), also deduct the transferred income tax from the income tax payable pursuant to subsection 50 (1), but the deduction is limited to the total amount of income tax payable pursuant to subsection 50 (1) during

the period of taxation. The remaining amount of transferred income tax resulting from such deduction may be deducted from the income tax payable pursuant to subsection 50 (1) during subsequent periods of taxation.

(7) [Repealed - RT I 2001, 91, 544 - entry into force 01.01.2003]

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

#### **§ 61. Other implementing provisions**

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

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

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

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

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

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

(7) Amounts paid on the basis of a unit linked life insurance contract entered into before 1 January 2001 are not subject to taxation.

[RT I 2010, 34, 181 - entry into force 01.01.2011]

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

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

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

(10) The income tax rate of 10 per cent is applicable to payments made by an insurance undertaking to a policyholder on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policyholder has attained 55 years of age or becomes totally and permanently incapacitated for work or upon the liquidation of the insurance undertaking.

(11) Income tax is not charged on a pension paid to a policyholder periodically under an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policyholder has attained 55 years of age or after his or her permanent and total incapacity for work has been verified and on the condition that the insurance contract prescribes that corresponding payments are made in equal or increasing amounts at least once every three months until the death of the policyholder.

(12) The income tax rate provided for in the subsection 4 (1) of this Act is applicable to insurance indemnities paid in the event of death on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, regardless of the provisions of subsection 20 (5) and 21 (5).

[RT I 2005, 25, 193 - entry into force 01.07.2005 - reference to subsection 4 (1) of this Act provided for in subsection (12) applied retroactively as of 1 January 2005]

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

(13<sup>1</sup>) [Repealed - RT I, 29.03.2012, 1 - entry into force 01.01.2013]

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

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

(16) Subsection 28 (1<sup>1</sup>) does not apply to contracts for a supplementary funded pension entered into before 1 May 2002.

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

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

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

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

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

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

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

(24) If the contractual relationship has started before 1 January 2004, the information concerning the recipient of interest specified in subsection 57<sup>2</sup>(1) may be limited to the name, state of residence and address in the state of residence of the recipient of interest. The information is verified on the basis of data available to the interest payer.

[RT I 2005, 36, 277 - entry into force 01.01.2006 - provisions of subsection (24) apply to interest paid as of the same date.]

(25) Pursuant to subsection 50 (1) or (2) or subsection 53 (4), the amount of income tax to be deducted pursuant to subsection 54 (5) shall not exceed the amount which forms 21/79 of the amount of the payment made by the non-resident correspondingly to the date on which the tax liability arises.

[RT I 2009, 59, 391 - entry into force 01.01.2010]

(26) Subsections 50 (1<sup>1</sup>), 53 (4<sup>1</sup>) and 54 (5) are applicable to the payments made on account of dividends received since 1 January 2005.

[RT I 2005, 25, 193 - entry into force 01.07.2005 - subsection (26) applied retroactively as of 1 January 2005]

(27) If resident company or a non-resident through its permanent establishment registered in Estonia has received dividends from resident company before 1 January 2000 or in the year 2003 or 2004, and the recipient of the dividends owns, at the time of payment of the dividends, at least 20 per cent of the shares or votes of the payer of the dividends, the recipient of the dividends may deduct from the income tax payable pursuant to subsection 50 (1) or (2) or subsection 53 (4) an amount that forms 21/79 of the dividends received from resident company, correspondingly to the date on which the tax liability arises pursuant to subsection 50 (1) or (2) or subsection 53 (4):

[RT I 2009, 59, 391 - entry into force 01.01.2010]

(28) If a resident company or a non-resident through its permanent establishment registered in Estonia has received dividends from a non-resident company before 1 January 2005, the recipient of dividends may deduct the income tax withheld from such dividends abroad from the income tax payable on the basis of subsection 50 (1) or (2) or 53 (4). If the resident company or non-resident who has received dividends owns, at the time of payment of the dividends, at least 20 per cent of the shares or votes of the non-resident company which paid the dividends, the recipient of the dividends may deduct also the income tax paid on the profit abroad which was the basis for the dividends in addition to the income tax withheld from the dividends from the income tax payable on the basis of subsection 50 (1) or (2) or 53 (4). The income tax of a foreign state may be deducted only in the amount which it is mandatory to pay pursuant to the law of the state or an international agreement. Income tax paid in each state shall be recorded separately.

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

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

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

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

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

(32) Subsection 50 (2<sup>1</sup>) and 53 (4<sup>7</sup>) apply to payments specified in these subsections which have been received as of 1 January 2009.

[RT I 2008, 51, 286 - entry into force 01.01.2009]

(33) Subsection 50 (1<sup>1</sup>) or 53 (4<sup>1</sup>) and subsections 54 (5)–(5<sup>4</sup>) of the Income Tax Act in force until 1 January 2009 apply to income received by a resident company or a non-resident through a permanent establishment registered in Estonia before the specified date.  
[RT I 2008, 51, 286 - entry into force 01.01.2009]

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

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

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

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

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

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

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

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

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

(43) If tax was imposed on a share option granted to an employee before 1 January 2011 as fringe benefit upon granting the option, the income tax paid may be deducted from the income tax payable pursuant to clause 48 (4) 11) upon the transfer of the option or acquisition of the holding that constitutes the underlying assets of the option.  
[RT I, 18.11.2010, 1 - entry into force 01.01.2011]

## **§ 62. Entry into force of Act**

This Act enters into force on 1 January 2000.

## **Chapter 13**

### **AMENDMENT OF LEGISLATION CURRENTLY IN FORCE**

§ 63.–§ 64.[Omitted from this text.]

<sup>1</sup>Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (OJ L 157, 26.06.2003, p. 38–48), amended by Council Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129–136); Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157, 26.06.2003, p. 49–54), amended by Council Directive 2006/98/EC (OJ L 363, 20.12.2006, p. 129–136). Council Directive 2009/133/EC on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34–46); Council Directive 2011/96/EU on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 345, 29.12.2011, p. 8–16). [RT I, 29.03.2012, 1 - entry into force 30.03.2012]