

# Taxation Act<sup>1</sup>

Passed 20 February 2002

[RT I 2002, 26, 150](#)

entered into force pursuant to § 170

## Amended by the following Acts:

Passed	Published	Entry into force
12.06.2002	<a href="#">RT I 2002, 57, 358</a>	01.09.2002
19.06.2002	<a href="#">RT I 2002, 63, 387</a>	01.09.2002
19.11.2002	<a href="#">RT I 2002, 99, 581</a>	10.12.2002
18.12.2002	<a href="#">RT I 2002, 110, 660</a>	31.12.2002
11.12.2002	<a href="#">RT I 2002, 111, 662</a>	01.01.2003
04.12.2002	<a href="#">RT I 2003, 2, 17</a>	01.04.2003
11.06.2003	<a href="#">RT I 2003, 48, 341</a>	07.07.2003
22.10.2003	<a href="#">RT I 2003, 71, 472</a>	01.01.2004
10.12.2003	<a href="#">RT I 2003, 82, 554</a>	01.05.2004
17.12.2003	<a href="#">RT I 2003, 88, 591</a>	01.01.2004
17.12.2003	<a href="#">RT I 2004, 2, 7</a>	05.02.2004
13.04.2004	<a href="#">RT I 2004, 28, 188</a>	01.05.2004
14.04.2004	<a href="#">RT I 2004, 28, 189</a>	01.05.2004
14.04.2004	<a href="#">RT I 2004, 30, 208</a>	01.05.2004
20.05.2004	<a href="#">RT I 2004, 45, 319</a>	27.05.2004
28.06.2004	<a href="#">RT I 2004, 56, 403</a>	01.03.2005
18.11.2004	<a href="#">RT I 2004, 84, 568</a>	01.01.2005
23.11.2004	<a href="#">RT I 2004, 84, 569</a>	01.01.2005
17.02.2005	<a href="#">RT I 2005, 13, 66</a>	09.03.2005
20.04.2005	<a href="#">RT I 2005, 25, 193</a>	01.07.2005
28.09.2005	<a href="#">RT I 2005, 54, 430</a>	01.01.2006

12.10.2005	<a href="#">RT I 2005, 57, 451</a>	18.11.2005
07.12.2005	<a href="#">RT I 2005, 68, 528</a>	01.01.2006
10.05.2006	<a href="#">RT I 2006, 25, 186</a>	01.07.2006
27.09.2006	<a href="#">RT I 2006, 43, 325</a>	01.12.2006
24.01.2007	<a href="#">RT I 2007, 12, 66</a>	01.01.2008
24.01.2007	<a href="#">RT I 2007, 13, 69</a>	15.03.2007
24.01.2007	<a href="#">RT I 2007, 15, 76</a>	01.05.2007
25.01.2007	<a href="#">RT I 2007, 16, 77</a>	01.01.2008
15.02.2007	<a href="#">RT I 2007, 23, 121</a>	16.03.2007
15.02.2007	<a href="#">RT I 2007, 23, 121</a>	01.07.2007
15.02.2007	<a href="#">RT I 2007, 23, 121</a>	01.01.2008
14.06.2007	<a href="#">RT I 2007, 44, 316</a>	14.07.2007
19.12.2007	<a href="#">RT I 2008, 3, 21</a>	28.01.2008
04.06.2008	<a href="#">RT I 2008, 27, 177</a>	10.07.2008
04.06.2008	<a href="#">RT I 2008, 27, 177</a>	01.01.2009
04.06.2008	<a href="#">RT I 2008, 27, 177</a>	01.01.2010
04.12.2008	<a href="#">RT I 2008, 58, 323</a>	01.01.2009
11.12.2008	<a href="#">RT I 2008, 60, 331</a>	01.01.2009
28.01.2009	<a href="#">RT I 2009, 11, 67</a>	01.05.2009
11.03.2009	<a href="#">RT I 2009, 19, 114</a>	06.04.2009
22.04.2009	<a href="#">RT I 2009, 24, 146</a>	01.06.2009
11.11.2009	<a href="#">RT I 2009, 56, 376</a>	01.01.2010
26.11.2009	<a href="#">RT I 2009, 62, 405</a>	01.01.2010
21.04.2010	<a href="#">RT I 2010, 20, 102</a>	01.07.2010

22.04.2010	<a href="#">RT I 2010, 22, 108</a>	01.01.2011, entry into force on the date provided for in the Decision of the Council of the European Union regarding the abrogation of the derogation established in respect of the Republic of Estonia on the grounds provided 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).
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17.06.2010	<a href="#">RT I 2010, 38, 231</a>	01.07.2010
10.06.2010	<a href="#">RT I 2010, 41, 241</a>	01.08.2010
23.09.2010	<a href="#">RT I 2010, 72, 544</a>	01.01.2012
20.10.2010	<a href="#">RT I, 18.11.2010, 1</a>	01.01.2011, partially 01.01.2012
17.11.2010	<a href="#">RT I, 06.12.2010, 1</a>	05.04.2011
25.11.2010	<a href="#">RT I, 10.12.2010, 1</a>	01.04.2011
25.11.2010	<a href="#">RT I, 10.12.2010, 4</a>	01.01.2011
27.01.2011	<a href="#">RT I, 23.02.2011, 3</a>	01.01.2012
16.02.2011	<a href="#">RT I, 14.03.2011, 1</a>	01.01.2012
17.02.2011	<a href="#">RT I, 14.03.2011, 3</a>	24.03.2011
22.02.2011	<a href="#">RT I, 14.03.2011, 4</a>	01.04.2011
17.02.2011	<a href="#">RT I, 21.03.2011, 2</a>	01.01.2012 date of entry into force amended 01.01.2013 [RT I, 22.12.2011,3]
23.11.2011	<a href="#">RT I, 13.12.2011, 1</a>	01.01.2012, partially 01.01.2013
08.12.2011	<a href="#">RT I, 22.12.2011, 3</a>	23.12.2011

## **Chapter 1**

### **GENERAL PROVISIONS**

#### **Division 1**

#### **Definitions Used in Act**

##### **§ 1. Scope of application of Act**

- (1) This Act specifies the rights, obligations and liability of tax authorities and taxable persons, the procedure for tax proceedings and the procedure for the resolution of tax disputes.
- (2) The provisions of this Act apply to all state taxes unless specific rules are prescribed in an Act concerning a tax.
- (3) The provisions of this Act apply to the duties payable upon import or export of goods unless otherwise provided for in the customs regulations for the purposes of the Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ L 302, 19.10.1992, pp. 1-50).

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

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

(5) If this Act or an Act concerning a tax is contrary to an treaty ratified by the Riigikogu<sup>3</sup>, the provisions of the treaty apply in the event of taxation.

[[RT I 2004, 28, 188](#) - entry into force 01.05.2004]

## **§ 2. Definition of tax**

Tax is a single or periodic financial obligation which is imposed on taxpayers by an Act or a rural municipality or city council regulation issued pursuant to an Act for the performance of the public law functions of the state or local governments or to obtain revenue required therefor and which is subject to performance pursuant to the procedure, in the amount and within the terms prescribed by an Act or a regulation, without direct compensation to taxpayers therefor.

## **§ 3. Tax system**

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

(2) The following are the state taxes:

- 1) income tax;
- 2) social tax;
- 3) land tax;
- 4) gambling tax;
- 5) value added tax;
- 6) customs duty;
- 7) excise duties;
- 8) heavy goods vehicle tax.

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

(4) The provisions of this Act concerning taxes also apply to contributions to funded pensions and unemployment insurance premiums unless otherwise provided by the Funded Pensions Act as well as to pollution charges, water abstraction charge and the mineral resources extraction charge unless otherwise provided in the Environmental Fees Act.

[[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

## **§ 4. Acts concerning taxes**

(1) An Act concerning a tax is an Act which provides for a specific tax.

(2) Taxpayers are required to pay only such state and local taxes as are prescribed by law at the rates and pursuant to the procedure provided for in Acts concerning taxes and in rural municipality or city council regulations.

- (3) The following shall be provided for in an Act concerning a tax:
- 1) the name of the tax;
  - 2) the object of taxation;
  - 3) the tax rate;
  - 4) the taxpayers;
  - 5) the recipient of or place of receipt of the tax;
  - 6) the due date or term for payment of the tax, and the period of taxation in the case of periodic taxes;
  - 7) the procedure for calculation and payment of the tax and supplementary obligations accompanying the tax;
  - 8) tax incentives that are available.

## **§ 5. Tax authorities**

- (1) The tax authority for state taxes is the Tax and Customs Board.
- (2) The tax authorities for local taxes are rural municipality and city governments or other rural municipality or city administrative agencies as provided in a tax regulation.
- (3) [Repealed - [RT I 2010, 72, 544](#) - entry into force 01.01.2012]
- (4) Rural municipalities and cities may enter into a contract under public law among themselves by which the duties of the tax authority for local taxes of the same type established in the rural municipalities and cities which are party to the agreement are transferred to an administrative agency of one rural municipality or city which is party to the agreement.

[\[RT I 2005, 57, 451](#) - entry into force 18.11.2005]

## **§ 6. Taxable person**

- (1) The following are taxable persons:
- 1) taxpayers;
  - 2) withholding agents;
  - 3) other persons responsible for the tax liability of a taxpayer or withholding agent pursuant to law or a contract.
- (2) A taxpayer is a natural or legal person, or a state, rural municipality or city agency, who is required to pay tax under the conditions and pursuant to the procedure provided by law and to perform other monetary and non-monetary obligations imposed on the person in connection with the tax liability.
- (3) A withholding agent is a natural or legal person, or a state, rural municipality or city agency, who is required to withhold the amount of tax payable by other person and transfer such amount to the bank account designated therefor under the conditions and pursuant to the

procedure provided by law and to perform other monetary and non-monetary obligations imposed on the person in connection with the obligation to withhold.

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

(4) The law may prescribe cases where:

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

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

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

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

## **§ 7. Passive legal capacity and active legal capacity of taxable persons**

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

(2) The obligations, arising from this Act or an Act concerning a tax, of minors or other natural persons with restricted active legal capacity shall be performed in the name thereof by the legal representatives of such persons. Minors of 15-18 years of age whose active legal capacity has been extended shall perform obligations provided for in this Act or an Act concerning a tax independently if such obligations arise from transactions which the minor may enter into personally.

(3) The rights and obligations of state, rural municipality and city agencies and taxable persons specified in subsections 6 (4) and (6) of this Act as taxpayers or withholding agents shall be exercised by the heads of such agencies or other authorised persons within the limits of the competence provided by the statutes of the agency, the partnership agreement or other legislation regulating the activities of the taxable person.

## **§ 8. Obligations of legal representative and administrator of assets**

(1) The legal representative of a legal or natural person is required to ensure that the principal's monetary and non-monetary obligations arising from this Act or an Act concerning a tax are performed within the set term and in full. Monetary obligations shall be performed out of the assets of the principal.

(2) The manager of a civil law partnership or an association of persons without the status of a legal person or the administrator of a pool of assets without the status of a legal person is required to ensure that the monetary and non-monetary obligations which are related to the assets of the association or pool of assets and which arise from this Act or an Act concerning

a tax are performed within the set term and in full. Monetary obligations shall be performed out of the administered assets.

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

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

(5) The obligations provided for in subsections (1) and (2) of this section apply to executors of wills, administrators of estates, bailiffs, compulsory administrators of immovables and other persons on whom the obligation to administer the assets of a taxable person has been imposed pursuant to law.

[\[RT I 2010, 38, 231\]](#) - entry into force 01.07.2010]

## **§ 8<sup>1</sup>. Tax representative of non-resident**

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

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

(3) A tax representative shall submit an application to the tax authority for state taxes to be issued with an activity licence of a tax representative wherein the following details are indicated concerning the tax representative:

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

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

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

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

(7) The tax authority shall publish a list of tax representatives on its website.

[RT I 2003, 82, 554 - entry into force 01.05.2004]

## **§ 9. Residence, seat, place of business and permanent establishment**

(1) The terms "residence" and "seat" are used in this Act within the meaning of the General Part of the Civil Code Act.

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

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

## **Division 2 Principal Obligations of Tax Authority**

### **§ 10. Duties of tax authority**

(1) A tax authority shall monitor compliance with this Act and with Acts concerning taxes within the limits of the competence granted to the tax authority by law.

(2) The duties of a tax authority are:

1) to verify the correctness of the calculation and payment of taxes and to monitor the payment of taxes and the application of tax incentives in the amount and pursuant to the procedure provided by law;

2) to calculate and make an assessment of tax and interest due in the cases provided by law and to return overpaid amounts and amounts to be compensated for;

3) to collect tax arrears;

4) to impose coercive measures and punishments permitted by law on persons who violate an Act concerning a tax.



(3) A tax authority shall conduct proceedings in a straightforward and efficient manner without undue delay, avoiding superfluous costs and inconveniences, in compliance with the general principles of administrative proceedings and ensuring that the rights of participants in the proceedings are protected.

## **§ 11. Principle of investigation**

(1) When verifying the correctness of the payment of taxes and making an assessment of tax, a tax authority is required to take into consideration all facts relevant to the matter, including facts which increase and facts which decrease the tax liability.

(2) A tax authority shall decide on the need to perform acts in order to verify the correctness of the payment of a tax and on the type and extent of the acts and shall collect evidence which is necessary to make a decision in the matter. When ascertaining facts relevant from the point of view of taxation, a tax authority is not only restricted to the requests and evidence submitted by participants in the proceedings.

## **§ 12. Right of discretion**

If a tax authority is authorised by law to consider taking a measure or to choose between different measures, the tax authority shall exercise the right of discretion within the limits of its authorisation and in accordance with the general principles of justice, taking into account the relevant facts and weighing up legitimate interests.

## **§ 13. Hearing opinion of taxable person**

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

(2) The right specified in subsection (1) of this section need not be ensured for a taxable person:

1) if prompt action is required to prevent damage arising from delay or to protect the public interests, or

2) if the tax authority does not deviate from the information provided by the taxable person in an application, request or explanation and there is no need for additional information, or

3) if the resolution is not made against the taxable person, or

4) if notification which is necessary to enable opinions or objections to be submitted does not enable the purpose of the administrative act to be achieved, or

5) in other cases provided by law.

## **§ 14. Providing information to taxable person**

(1) At the request of a taxable person, a tax authority shall provide information concerning taxes to be paid by the taxable person, the procedure for the calculation of amounts of tax and the bases for making an assessment thereof and explanations concerning the completion of tax returns and the submission of challenges or requests.

(2) If necessary, a tax authority shall explain the rights and obligations of a taxable person in tax proceedings to the taxable person.

(3) Taxable persons have the right to access information concerning themselves which is collected by tax authorities and to copy or make extracts of such information. A tax authority has the right to refuse to disclose information if disclosure thereof would hinder the ascertainment of the truth in criminal proceedings.

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

(5) Taxable persons and other interested persons or agencies have the right to request a certificate concerning the absence of tax arrears from a tax authority. The tax authority is required to issue a certificate concerning the absence of tax arrears if the tax arrears of the taxable person in terms of all taxes administered by the same tax authority do not exceed 15 euros or if the tax arrears are being paid in instalments. A certificate concerning the absence of tax arrears shall not be issued if the taxable person has failed to comply with the obligation to submit a tax return on the due date for fulfilment of the request and the tax authority has not assessed the amount of tax.

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

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

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

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

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

(1) The Ministry of Finance and tax authority for state tax have the right to provide explanations and instructions in order to explain and publicise this Act and Acts concerning taxes for the purpose of ensuring the uniform application of the Acts.

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

(3) The explanations and instructions specified in subsection (1) of this section shall be published on the website of the provider of the explanations and instructions or they shall be

published as a periodic printed publication. Publication thereof shall be ensured by the provider of explanations and instructions.

[[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

### **§ 15<sup>1</sup>. Processing of the personal identification code**

Tax administrator shall, for the performance of his/her duties, have the right to process the personal identification code without the consent of the data subject.

[[RT I 2003, 88, 591](#) - entry into force 01.01.2004]

### **§ 16. Compensation for damage**

Damage unlawfully caused to a taxable person or third party by a tax authority shall be compensated for pursuant to the provisions of the State Liability Act.

## **Division 3 Register of Taxable Persons**

### **§ 17. Register of taxable persons**

(1) The register of taxable persons (hereinafter register) is a state register as defined in the Databases Act which is established by the Government of the Republic and maintained in order to ensure the performance of functions imposed on tax authorities by law.

[[RT I 2007, 12, 66](#) - entry into force 01.01.2008]

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

- 1) taxable persons;
- 2) persons who are insurable on the basis of the Social Tax Act;
- 3) persons who are insured or who pay or withhold unemployment insurance premiums pursuant to the Unemployment Insurance Act;
- 4) obligated persons, persons making contributions and withholding agents for contributions as defined in the Funded Pensions Act;
- 5) tax representatives;
- 6) non-residents in connection with the submission of a claim for refund.

[[RT I 2009, 56, 376](#) - entry into force 01.01.2010]

7) on the basis of the Environmental Fees Act the persons who pay pollution charges, water abstraction charge and mineral resources extraction charge.

[[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

(2<sup>1</sup>) In the register of taxable persons, a separate record shall be kept concerning the financial rights and obligations of each taxable person arising from this Act or an Act concerning a tax, and concerning the performance the rights and obligations by each taxable person.

- (3) The chief processor of the register is the Tax and Customs Board.
- (4) Information shall be entered in and obtained from the register pursuant to the procedure provided for in the statutes of the register which are approved by the Government of the Republic and in accordance with the provisions of this Division, §§ 27-30 and the Social Tax Act.

## **§ 18. Registration requirement**

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

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

- 1) legal persons who are not to be entered in the commercial register, the non-profit associations and foundations register or the register of religious associations;
- 2) state, rural municipality or city agencies which are not to be entered in the state register of state and local government agencies;
- 3) [Repealed - [RT I 2008, 27, 177](#) - entry into force 01.01.2009]
- 4) non-resident legal persons, sole proprietors, associations of persons or pools of assets which are commencing economic activities in Estonia through a permanent establishment which is not entered in the commercial register as a branch;

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

5) notaries, sworn translators and bailiffs.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

(1<sup>1</sup>) The following persons are required to register themselves in the regional structural unit of the Tax and Customs Board within ten days as of the date on which the tax liability arises:

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

- 1) non-resident employers, including sole proprietors, foreign missions, other foreign agencies, international organisations and their representatives if not earlier registered in the register of taxable persons or other register specified in subsection (1) of this section;
- 2) partnerships, communities and other associations of persons not having the status of a legal person.

(2) A regional structural unit the Tax and Customs Board shall issue a certificate concerning registration wherein information specified in subsection 19 (1), 21 (1) or (3) or § 21<sup>1</sup> or § 22 of this Act shall be indicated.

[\[RT I 2008, 27, 177\]](#) - entry into force 01.01.2009]

## **§ 19. Registration of legal person and agency**

(1) In order to be registered, a legal person or agency specified in clause 18 (1) 1) or 2) of this Act shall submit an application to the regional structural unit of the Tax and Customs Board and the following shall be set out in the application:

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

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

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

(2) A copy of the articles of association or partnership agreement of the legal person or another legal act regulating the activities of the legal person shall be appended to the application. Legal persons in public law shall include a reference to the place of publication of the Act which is the basis for their activities. State, rural municipality and city agencies shall add a copy of their statutes or other legal act regulating their activities.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 20. Sole proprietor**

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

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

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

(3) The obligations provided for in Acts concerning taxes also apply to sole proprietors who have not been entered in the commercial register. Unless otherwise provided by an Act concerning a tax, the rights provided for therein extend to such persons as of their entry in the commercial register.

[\[RT I 2008, 27, 177\]](#) - entry into force 01.01.2010]

(4) A sole proprietor who does not engage in enterprise within the meaning of § 14 of the Income Tax Act may be deleted from the commercial register on the proposal of a tax authority. Before making a proposal to the registrar of the commercial register, the tax authority shall set a term for proving of engagement in enterprise

[\[RT I 2008, 27, 177\]](#) - entry into force 01.01.2010]

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

## **§ 20<sup>1</sup>. Registration, amendment of register data and deletion from register of notary, sworn translator and bailiff**

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

(1) A notary, sworn translator or bailiff shall be registered in the regional structural unit of the Tax and Customs Board, the registry data thereof shall be amended and they shall be

deleted from the register on the basis of a personal application of a person. The certified transcript of the directive of the Minister of Justice by which the abovementioned person is appointed to office, his or her office is suspended or he or she is released from office shall be added to the application. The application shall specify from which date the entry into register is desired.

[\[RT I, 14.03.2011, 3\]](#) - entry into force 24.03.2011]

(2) The application and the transcript of the directive specified in subsection (1) of this section shall be forwarded to the regional structural unit of the Tax and Customs Board within twenty days from the issue of the directive..

[\[RT I, 14.03.2011, 3\]](#) - entry into force 24.03.2011]

## **§ 21. Registration of permanent establishment**

(1) In order for the permanent establishment of a non-resident legal person and a sole proprietor specified in clause 18 (1) 4) of this Act to be registered, an application shall be submitted to the regional structural unit of the Tax and Customs Board and the following shall be set out in the application:

- 1) the name and address of the non-resident legal person;
- 2) the place of registration and the registration number or another code enabling identification, if such information exists;
- 3) the area of activity, place of business and postal address in Estonia of the permanent establishment;
- 4) the number of the bank account opened for the permanent establishment and the name of the credit institution in which the bank account is held;
- 5) the given name and surname of the legal person responsible for the permanent establishment, and his or her personal identification code (or, in the absence of a personal identification code, date of birth) and residence.

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

(1<sup>1</sup>) If a non-resident legal person referred to in clause 18 (1) 4) of this Act is not a resident of a member state of the European Union or such a state with whom Estonia has concluded a treaty enabling the Tax and Customs Board to get the necessary information from the tax authority of that state, the legal person shall, in addition to the information specified in subsection (1) of this section, note in the application also the name and registry code or personal identification code, (or in the absence of the personal identity code the date of birth) of each shareholder or member of the company.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

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

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

- 1) a copy of the certificate of registration, an extract from the register or other documents certifying the existence of the legal person;
  - 2) a document certifying the authorisation of the person responsible for the permanent establishment;
  - 3) a copy of the articles of association or partnership agreement of the legal person, certified according to the laws of the home country, or another document regulating the activities of the legal person if submission of such documents upon registration of a legal person is required in the home country of the legal person;
  - 4) a specimen signature of the person responsible for the permanent establishment which is notarised or officially certified by a tax authority;
  - 5) if a tax representative has been designated, the written agreement between the tax representative and the non-resident.
- (3) In order for the permanent establishment of a foreign association of persons or a pool of assets without the status of a legal person specified in clause 18 (1) 4) of this Act to be registered, an application shall be submitted to the regional structural unit of the Tax and Customs Board and the following shall be set out in the application:

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

- 1) the name and address of the association of persons or pool of assets, if such information exists;
  - 2) a number or registry code enabling the association of persons or pool of assets to be identified, if such information exists;
  - 3) the names and addresses of the members of the association of persons or the co-owners of the pool of assets, except in the case specified in clause 4) of this subsection;
  - 4) the names and addresses of members with management rights, the manager or the administrator of assets if not all the persons specified in clause 3) of this subsection are involved in the management of the association or administration of the pool of assets;
  - 5) the area of activity, place of business and postal address in Estonia of the permanent establishment;
  - 6) the number of the bank account opened for the permanent establishment and the name of the credit institution in which the bank account is held;
  - 7) the given name and surname of the person responsible for the permanent establishment, and his or her personal identification code (or, in the absence of a personal identification code, date of birth) and residence.
- (4) The following shall be appended to an application specified in subsection (3) of this section:

- 1) a copy of the document which is the basis for the activities of the association of persons or pool of assets without the status of a legal person;
- 2) a specimen signature of the person responsible for the permanent establishment which is notarised or officially certified by a tax authority;
- 3) a document certifying the authorisation of the person responsible;
- 4) if a tax representative has been designated, the written agreement between the tax representative and the non-resident.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 21<sup>1</sup>. Registration of partnership, community and other association of persons not having the status of a legal person**

(1) In order to register a partnership, community or other association of persons not having the status of a legal person specified in clause 18 (1<sup>1</sup>) 2) of this Act, an application is submitted to the regional structural unit of the Tax and Customs Board which sets out the following information concerning the partnership, community or other association of persons not having the status of a legal person:

- 1) the name and address, if such information exists;
- 2) a number or registry code enabling identification, if such information exists;
- 3) the names and addresses of the members or co-owners, except in the case specified in clause 4) of this subsection;
- 4) the names and addresses of members with management rights, the manager or the administrator of assets if not all the persons specified in clause 3) of this subsection are involved in the management of the association;
- 5) the area or areas of activity, place of business and the address;
- 6) the given name and surname of the responsible person and his or her personal identification code (or, in the absence of a personal identification code, date of birth) and residence.

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

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

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 22. Registration of non-resident employers**

(1) In order to register a non-resident employer specified in clause 18 (1<sup>1</sup>) 1) of this Act, an application is submitted to the regional structural unit of the Tax and Customs Board which sets out the following information:

- 1) the name of the non-resident employer;



- 2) the postal address of the employer in the home country, if any;
- 3) the postal address of the employer in Estonia, if any;
- 4) the name and postal address of the person representing the employer;
- 5) the signature of the employer or a person authorised by the employer.

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

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

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

### **§ 23. Giving notification of changes in information**

(1) Persons specified in §§ 18, 21<sup>1</sup> and 22 of this Act are required to notify the regional structural unit of the Tax and Customs Board of the termination of their activities, liquidation of their permanent establishment and changes in the information specified in §§ 19–21 and §§ 21<sup>1</sup> and 22 within five working days.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

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

(3) A sole proprietor shall notify the registrar of the commercial register of the suspension of the activities of his or her enterprise, the seasonal and temporary activities of his or her enterprise pursuant to subsection 3 (3) of the Commercial Code. In the cases specified above, a person is deemed to be a sole proprietor for taxation purposes only during the period he or she is engaged in the activities.

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

### **§ 24. Making of register entry**

(1) Persons specified in §§ 18 and 22 of this Act shall be entered in the register as on the date of submission of an application or as on a future date indicated in the application. A person specified in subsection 18 (1<sup>1</sup>) may be registered in the register also retroactively by up to ten working days as of the date of the submission of the application.

(2) Register entries concerning the termination of activities, liquidation of the permanent establishment and changes in other register information regarding persons specified in §§ 18 and 22 of this Act shall be made as on the date specified by the person in the application. If the date specified in the application arrived earlier than five working days previously, the register entry shall be made as on the date of giving notification of the change in the information.

[\[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

## **§ 25. Refusal to make register entry**

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

1) to draw the attention of the applicant to the deficiencies in the application or documents and to set a term for the deficiencies to be eliminated, or

2) to draw the attention of the applicant to the deficiencies in the application or documents and to return the documents submitted for registration.

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

[\[RT I 2003, 88, 591](#) - entry into force 01.01.2004]

## **Division 4 Tax Secrecy**

### **§ 26. Protection of tax secrecy**

(1) The tax authorities and officials and other staff thereof are required to maintain the confidentiality of information concerning taxable persons, including all media (decisions, acts, notices and other documents) concerning the taxable persons, information concerning the existence of media, business secrets and information subject to banking secrecy, which is obtained by the authorities, officials or other staff in the course of verifying the correctness of taxes paid, making an assessment of taxes, collecting tax arrears, conducting proceedings concerning violations of tax law or performing of other official duties (hereinafter tax secrecy). The obligation to maintain tax secrecy continues after the termination of a service relationship.

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

(2<sup>1</sup>) The employees of an agency within the area of government of the Ministry of Finance, who are engaged in the maintenance and development of the information and communication systems of the tax authority, may have access to the tax secrecy.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(3) Unless otherwise provided by law, the officials and other public servants employed by the agencies which receive information concerning tax secrecy pursuant to §§ 28–30 of this Act or in the performance of their official duties and persons performing public law functions are required to maintain the confidentiality of any information concerning taxable persons which became known to them concerning the taxable person. The obligation to maintain tax secrecy continues after the termination of a service relationship.

[\[RT I 2004, 84, 569](#) - entry into force 01.01.2005]

## § 27. Public information

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

1) the date on which a taxable person who is registered with the Tax and Customs Board pursuant to the provisions of §§ 18–22 of this Act is entered in or deleted from the register, the area of activity and place of business, in the case of the persons specified in subsections 18 (1) and (1<sup>1</sup>), information concerning the responsible person and the information concerning the commencement, suspension and termination of the professional activities of a notary, sworn translator or bailiff;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

2) the date on which a person liable to value added tax or an excise warehousekeeper is entered in or deleted from the register, and the registration number of the person or warehousekeeper;

3) information concerning the residency of a taxpayer;

4) the size of tax arrears;

5) the size of tax arrears to be paid in instalments, the security provided for tax arrears to be paid in instalments and the duration of the schedule for payment of tax arrears;

[\[RT I 2010, 20, 102\]](#) - entry into force 01.07.2010]

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

7) information concerning the income of a non-profit association or foundation entered in the list of non-profit associations and foundations, including the gifts and donations made to such persons, and information concerning the use of the gifts and donations;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

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

9) [Repealed - [RT I, 18.11.2010, 1](#) - entry into force 01.01.2012]

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

11) information about environmental usage by the persons who pay environmental charges.

[[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

(2) In the case of tax arrears assessed by a tax authority, the tax arrears may be made public after the date for the performance of the administrative act has arrived and the enforcement of the administrative act has not been suspended. If the administrative act is contested, a corresponding notation shall be made in the publication notice of the tax arrears at the request of the taxable person or without the request in case the tax authority has become aware of the filing of the action in another manner.

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

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

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

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

(3) The Tax and Customs Board may disclose information to a rural municipality or city government concerning taxpayers of whose income tax a part is transferred to the corresponding rural municipality or city. The following information may be disclosed:

1) the given name, surname and personal identification code (or in the absence of a personal identification code, the date of birth) of a taxpayer;

2) declared taxable income;

3) [Repealed - [RT I 2005, 25, 193](#) - entry into force 01.07.2005]

4) the name and personal identification code or registry code of the withholding agent, and the income tax withheld from the taxpayer.

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

[[RT I 2003, 88, 591](#) - entry into force 01.01.2004]

## **§ 29. Disclosure of information to state, rural municipality and city agencies and to persons performing public law functions**

A tax authority may disclose information subject to tax secrecy:

1) to preliminary investigators and prosecutors for the purposes of preventing and detecting criminal offences, apprehending criminal offenders, investigating or hearing matters subject to criminal proceedings, preparing the court hearing of matters subject to criminal proceedings, conducting security checks and performing other duties provided for in the Security Authorities Act

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

- 3) to courts for the purposes of preparing the hearing of and hearing criminal, civil and administrative matters or misdemeanours, and making decisions;
- 4) to bailiffs if the information is necessary for the performance of enforcement actions;
- 4<sup>1</sup>) to the Riigikogu committee to the extent which is necessary for the performance of the functions imposed on the committee by law or by a resolution of the Riigikogu;
- 5) to the Chancellor of Justice for the performance of functions provided for in the Chancellor of Justice Act;
- 6) to the Minister of Finance in order to estimate tax revenues and plan measures ensuring that taxes are received, and in order to exercise supervisory control over the legality and purposefulness of the activities of the tax authority;
- 7) to the Ministry of Finance for the performance of functions provided for in Chapter 6 of the Competition Act;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

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

[\[RT I 2008, 3, 21\]](#) - entry into force 28.01.2008]

- 9) to the State Audit Office for the performance of functions provided for in the State Audit Office Act;
- 10) to the Ministry of Finances for the verification of the qualifications of an applicant or tenderer pursuant to the Public Procurement Act;

[\[RT I 2010, 20, 102\]](#) - entry into force 01.07.2010]

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

[\[RT I 2010, 20, 102\]](#) - entry into force 01.07.2010]

- 12) to the Social Insurance Board for the award of pensions, benefits and allowances provided for in the Social Welfare Act, the State Pension Insurance Act, the State Family Benefits Act and the Victim Support Act and for the implementation of EU legislation coordinating social insurance;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

- 13) to a rural municipality or city government in connection with the award of a benefit or provision of other material assistance to a natural person;
- 14) to the health insurance fund concerning a payer of social tax, an insured person or a person applying for insurance cover or for the verification of the validity of the insurance cover;

15) [Repealed - [RT I 2009, 11, 67](#) - entry into force 01.05.2009]

15<sup>1</sup>) to the Estonian Unemployment Insurance Fund for the performance of the functions provided for in the Labour Market Services and Benefits Act in connection with the award of labour market benefits and the provision of labour market services and for the award of benefits on the basis of the Unemployment Insurance Act;

[\[RT I 2009, 11, 67](#) - entry into force 01.05.2009]

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

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

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

19) [Repealed - [RT I 2009, 11, 67](#) - entry into force 01.05.2009]

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

21) to a depositary of declarations of economic interests and persons authorised to verify the declarations for the verification of the correctness of data submitted in a declaration of economic interests in the case of suspicion of corruption;

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

23) to a legal person in private law for the performance of duties related to the delivery of land tax notices;

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

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

26) to the Police and Border Guard Board for the performance of the functions provided for in the Aliens Act;

[\[RT I 2009, 62, 405](#) - entry into force 01.01.2010]

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

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

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

30) to the Agricultural Registers and Information Board, information concerning the payment of social tax by the number of employees and sums paid for each month for the purpose of monitoring the conformity of grant of support and the use of the support for the intended purpose and performing the duties provided for in the European Union Common Agricultural Policy Implementation Act;

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

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

[\[RT I, 10.12.2010, 1](#) - entry into force 01.04.2011]

33) to the Environmental Board for the performance of functions provided in the Environmental Charges Act.

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

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

[\[RT I, 14.03.2011, 1](#) - entry into force 01.01.2012]

35) to a notary if this is necessary to fulfil the functions provided for by the Law of Succession Act.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

36) to an interim trustee or a trustee in bankruptcy to the extent that is necessary to fulfil the functions provided for in the Bankruptcy Act.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

### **§ 30. Disclosure of information by way of international professional assistance**

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

[\[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

1) to a competent authority of a foreign state pursuant to the procedure prescribed by a treaty.

2) to the authorities of the European Union and the Member States thereof that are competent to exchange information relating to taxable persons pursuant to the procedure prescribed in the legislation of the European Union;

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **Chapter 2**

# **TAX CLAIMS AND LIABILITIES**

## **Division 1**

### **General Provisions**

#### **§ 31. Financial claims and obligations arising from Acts concerning taxes**

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

- 1) the obligation of a taxpayer to pay tax (tax liability);
- 2) the obligation of a withholding agent to withhold tax and to pay the withheld amount of tax (obligation to withhold);
- 3) the right of a person to be refunded amounts of tax paid which exceed the amounts of tax prescribed by law or other excess payments pursuant to § 33 of this Act (claim for refund);
- 4) the obligation of a third party to pay the tax arrears of a taxpayer or withholding agent (tax liability of third party);
- 5) the obligation of a taxable person to pay interest or a penalty payment or to reimburse the costs of substitutive enforcement (accessory obligation).

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

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

- 1) upon payment or set-off (§ 105);

[\[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

- 2) upon fulfilment of a claim for refund (§ 106);

3) [Repealed - [RT I 2008, 58, 323](#) - entry into force 01.01.2009]

- 4) upon expiry (subsection 33 (4), § 132);

[\[RT I, 13.12.2011, 1](#) – entry into force 01.01.2012]



- 5) upon forgiveness of tax arrears (§ 114);
- 6) in other cases provided by law.

### **§ 32. Tax arrears**

For the purposes of this Act, tax arrears are any amounts of tax which a taxable person has failed to pay by the due date, interest calculated on tax not paid by the due date, or the amount of tax deriving from customs debt unpaid by the due date and the interest calculated thereon.

### **§ 33. Claim for refund**

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

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(1<sup>1</sup>) If the creation of a claim for refund is verified without the application for fulfilment of the claim for refund (subsection 106 (1)), the provisions of subsections 106 (2), (2<sup>1</sup>), (3) and (7) and § 107 apply.

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

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

- 1) taxable persons who, pursuant to a liability decision, have paid a greater amount of tax than prescribed by law;
- 2) taxable persons who have paid more interest, penalty payments, costs of substitutive enforcement or other procedural expenses to a tax authority than prescribed by law;
- 3) persons who have the right arising from law to be compensated for an amount of tax or costs or to have an amount of tax or costs refunded to them by a tax authority.

(3) Claims for refund shall be fulfilled pursuant to § 106 and §107 of this Act.

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

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

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(5) A tax authority shall be notified of a claim for refund in a tax return or in any other written document or a document submitted in a format which can be reproduced in writing.

[\[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

### **§ 34. Pledging and seizure of claim for refund**

(1) A claim for refund may be subject to seizure or subject to a claim for payment in the course of enforcement proceedings similarly to a financial claim.

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

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

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

[\[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

## **Division 2 Transfer of Claims and Obligations**

### **§ 35. Legal succession**

If the transfer of rights and obligations from one person to another pursuant to legal succession is prescribed by law, all claims and obligations specified in subsection 31 (1) of this Act, except the obligation to pay a penalty payment, also transfer to the legal successor.

### **§ 36. Transfer of tax liabilities by way of succession**

(1) The claims and obligations specified in subsection 31 (1) of this Act, except the obligation to pay a penalty payment, transfer from a bequeather to the successor pursuant to the procedure provided for in the Law of Succession Act.

(2) The obligations arising from this Act or an Act concerning a tax shall be performed by the executor of the will or the administrator of the estate from the funds of the estate.

[\[RT I 2010, 38, 231\]](#) - entry into force 01.07.2010]

(3) The tax authority shall submit an application to the notary, if necessary, concerning the initiation of the succession procedure. If, within six months after the opening of the succession, a successor is not known and no other person is entitled to administer the estate, the tax authority shall submit to the court an application concerning the implementation of the estate management measures. The tax authority may submit the application before six months have passed if there is good reason.

[\[RT I 2010, 38, 231\]](#) - entry into force 01.07.2010]

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

In the event of transfer of ownership or possession of an enterprise or a part thereof, the claims and obligations specified in subsection 31 (1) of this Act, except the obligation to pay a penalty payment, which are related to the enterprise or to the organisationally independent part thereof transfer to the transferee or recipient of possession pursuant to the provisions of the Law of Obligations Act.

[\[RT I 2003, 71, 472\]](#) - entry into force 01.01.2004]

## **Division 3 Liability of Third Party for Tax Liability of Other Person**

### **§ 38. Liability of person who transfers enterprise or part thereof**

A person who transfers an enterprise or a part thereof and the transferee are solidarily liable for the payment of tax arrears pursuant to the provisions of the Law of Obligations Act.

[\[RT I 2003, 71, 472\]](#) - entry into force 01.01.2004]

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

(1) A partner of a general partnership and a general partner of a limited partnership are liable for payment of the tax arrears of the general partnership or limited partnership pursuant to §§ 101 and 102 of the Commercial Code.

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

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

### **§ 40. Liability of legal representative, administrator of assets and tax representative**

(1) If a legal representative, manager or administrator of assets violates the obligations specified in § 8 of this Act intentionally or due to gross negligence, the legal representative,

manager or administrator of assets and the taxable person shall be solidarily liable for the tax arrears incurred as a result thereof.

(2) A tax representative and the taxable person shall be solidarily liable for tax arrears incurred as a result of failure to perform the obligations provided for in § 8<sup>1</sup> of this Act.

(3) If several persons are liable pursuant to subsection (1) of this section, they shall be solidarily liable for the performance of the obligations.

[RT I 2003, 82, 554 - entry into force 01.05.2004]

#### **§ 41. Liability for tax arrears incurred as result of violations of tax law**

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

(2) If several persons are liable pursuant to subsection (1) of this section, they shall be solidarily liable for the performance of the obligations.

(3) Liability specified in subsection (1) of this section does not expire upon termination of the tax liability but, after termination of the tax liability, the tax arrears shall be collected by way of filing a civil action.

#### **§ 42. Contractual liability**

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

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

(3) Tax arrears shall be collected from a person specified in subsection (1) of this section by way of filing an action pursuant to civil procedure.

## **Chapter 3**

### **GENERAL PROVISIONS OF TAX PROCEEDINGS**

#### **§ 43. Participants in proceedings**

The following are participants in tax proceedings:

1) a taxable person applying for an administrative act to be issued or a measure to be taken (applicant);

2) the person at whom the administrative act or measure is directed (addressee);

- 3) another person whose rights are affected by the administrative act or measure (third party);
- 4) the administrative authority which, according to an Act or regulation, is required to submit its opinion regarding or its approval for legislation to be issued or for a measure to be taken to the administrative authority which hears the matter.

**§ 44. [Repealed - [RT I 2003, 88, 591](#) - entry into force 01.01.2004]**

**§ 45. Application of Administrative Procedure Act**

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

[\[RT I 2004, 28, 188](#) - entry into force 01.05.2004]

**§ 46. Administrative acts of tax authority**

- (1) A tax authority issues orders, decisions and other administrative acts for the performance of functions imposed on the tax authority by law. The administrative acts of a tax authority shall be issued, amended and repealed pursuant to the provisions of the Administrative Procedure Act unless otherwise prescribed by this Act or an Act concerning a tax.
- (2) Administrative acts which restrict the rights of the addressee of the administrative act or impose obligations on the addressee shall be in writing and be reasoned. Written administrative acts shall be delivered pursuant to the provisions of Chapter 4 of this Act.
- (3) An administrative act specified in subsection (2) of this section shall set out:
  - 1) the name and address of the tax authority;
  - 2) the given name, surname and position of the official who prepared the administrative act;
  - 3) the date of issue of the administrative act;
  - 4) the name and address of the addressee of the administrative act;
  - 5) the factual and legal basis for the issue of the administrative act;
  - 6) the precept issued by the administrative act or the decision of the issuer of the administrative act;
  - 7) the term for compliance with the administrative act;
  - 8) other information provided by law.
- (4) An administrative act specified in subsection (2) of this section shall contain a reference to the opportunities, term, procedure and place for challenging the administrative act and to the sanctions imposed for and other consequences of failure to comply with the administrative act, including the possible obligation to pay a penalty payment or to reimburse the costs of substitutive enforcement.

(5) An administrative act of a tax authority shall be signed by the head or deputy head of the tax authority or an official authorised by the head of the tax authority. An electronic administrative act shall be signed in the manner established by a regulation of the Minister of Finance pursuant to subsection 54 (3) of this Act.

(6) Upon signature by an authorised person, the number and date of the document granting the right of signature and the place where the document can be reviewed shall be indicated next to the signature. Documents granting the right of signature shall be published on the website of the tax authority.

(7) A request to issue an administrative act or take a measure shall be granted or a decision to deny the request shall be communicated within thirty days as of the date of receipt of the request unless a different term is provided by law.

#### **§ 47. Language of proceedings and interpreter or translator**

(1) Tax authorities and taxable persons shall communicate in Estonian unless they agree otherwise. Foreign languages shall be used in tax proceedings pursuant to the procedure provided for in the Language Act.

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

- 1) a participant in the proceedings;
- 2) the tax authority at the request of a participant in the proceedings;
- 3) the tax authority without a request from a participant in the proceedings if the tax authority deems it necessary.

(3) The person who requests the involvement of an interpreter or translator by a tax authority shall bear the costs of the involvement of the interpreter or translator unless otherwise provided by an Act or regulation or unless the tax authority resolves otherwise. The tax authority shall submit a claim for the reimbursement of costs in a corresponding order, set a term for reimbursement and issue a warning stating that, in the event of failure to reimburse the costs by the due date, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

#### **§ 48. Representative**

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

(2) A representative may participate in all procedural acts in the name of the principal unless the personal participation of the principal is required pursuant to law or due to the nature of the act.

(3) A representative shall present a document certifying his or her authorisation at the request of a tax authority and in the cases provided by law.

(4) A participant in proceedings has the right to appear for procedural acts together with a representative. In such case, a document certifying authorisation need not be presented. The testimony and requests of the representative shall be deemed to have been given or submitted

by the participant in proceedings unless the participant in proceedings objects immediately to such testimony and requests.

## **§ 49. Removal**

(1) An official of a tax authority shall not conduct proceedings in a matter if:

- 1) he or she is a participant in the proceedings or is acting as a representative of a participant in the proceedings;
- 2) he or she is a relative (parent, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild), a relative by marriage (spouse's parent, child, adoptive parent, adopted child, brother, sister, grandparent or grandchild) or a family member of a participant in the proceedings or of a representative of a participant in the proceedings;
- 3) he or she has a personal interest in the resolution of the matter or if other circumstances give reason to doubt his or her impartiality.

(2) If circumstances specified in subsection (1) of this section become evident or if a participant in proceedings submits an application for removal on the grounds listed in that subsection, an official of a tax authority is required to give notification thereof to the official who has the right to appoint him or her to office or to head of the regional structural unit of the Tax and Customs Board who shall decide on the necessity of the removal within three working days as of the submission of the application for removal.

(3) An administrative authority which is required to submit an opinion regarding or approval for an administrative act to be issued or a measure to be taken to a tax authority is not deemed to be a participant in proceedings specified in subsection (1) of this section.

(4) A person shall not be removed if he or she cannot be substituted.

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

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

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

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

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

(4) A term for proceedings shall not be restored if more than one year has passed from the original due date prescribed for performance of the procedural act.

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

(6) A tax authority may make the restoration or extension of a term for proceedings contingent on the provision of security. Security shall be provided and accepted pursuant to §§ 120-127 of this Act.

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

## **§ 51. International professional assistance**

[Repealed - [RT I, 13.12.2011,1](#) - entry into force 01.01.2012]

### **Chapter 3<sup>1</sup>**

## **INTERNATIONAL PROFESSIONAL ASSISTANCE**

**[\[RT I, 13.12.2011,1](#) - entry into force 01.01.2012]**

### **§ 51<sup>1</sup>. International professional assistance**

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

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

(3) International professional assistance is applied for and provided on the basis of a treaty and pursuant to the procedure and to the extent provided for in the legislation of Estonia and the European Union.

(4) The competence of an authority providing professional assistance and the rights and obligations of the parties to the proceeding shall be determined by the domestic law.

(5) The Tax and Customs Board may refuse to provide international professional assistance if:

- 1) the requested information is impossible to acquire;
- 2) forwarding the requested information would damage the business, production or professional secrecy of a taxable person;
- 3) forwarding the requested information would pose a threat to the security of the state of Estonia or damage public order;
- 4) the total amount of the claims in the request shall remain below 1,500 euros.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]



## **§ 51<sup>2</sup>. Exchange of information by way of international professional assistance**

(1) The Tax and Customs Board exchanges information with a competent authority of a foreign state concerning the taxes and duties and the related accessory liabilities, financial penalties and benefits (hereinafter collectable duties) provided for in Article 2 of Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.03.2010, pp.1-12), collected by a state, local government or other administrative authority.

(2) The Tax and Customs Board may regularly, without a separate request, exchange information that is available to it and collected in the proceedings with regard to the residents of a foreign state with a competent authority of a foreign state concerning the following income:

- 1) income from employment and remuneration and service fee paid on the basis of a contracting agreement, authorisation agreement or other contract under the law of obligations;
- 2) remuneration paid to a member of a management or controlling body of a legal person;
- 3) the sum insured and insurance indemnity paid under the life assurance contract;
- 4) pension paid;
- 5) income from immovable property;
- 6) other income.

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

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **§ 51<sup>3</sup>. Recovery by way of international professional assistance**

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

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

(3) On the basis of a request of a competent authority of a foreign state with regard to precautionary measures the Tax and Customs Board is entitled to carry out enforcement proceedings pursuant to the procedure provided for in § 136<sup>1</sup> of this Act.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **§ 51<sup>4</sup>. Compulsory enforcement by way of international professional assistance**

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

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

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

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

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

1) relevant information for identification of the initial uniform instrument permitting enforcement, description of a claim, including the nature of the claim, the period of time covered by the claim, all the dates essential to the enforcement and the amount of the claim and its various components (the principal amount to be paid, interests);

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

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

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

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

(8) The Tax and Customs Board shall transfer the amounts recovered relating to the claim of a foreign state and the interests to a competent authority of a foreign state that lodged an application for recovery.

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

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

### **§ 51<sup>5</sup>. Involvement of official of foreign state in tax proceeding**

(1) Officials of a competent authority of a foreign state may be involved in tax proceedings if, relating to the tax proceedings, it is necessary to verify the tax liability that has arisen or is arising in a foreign state and the foreign state shall ensure the protection of tax secrecy. With the consent of a competent authority of a foreign state an official of the Tax and Customs Board may participate in the tax proceedings carried out by a competent authority of a foreign state.

(2) An official of a competent authority of a foreign state who is engaged in the tax proceeding is entitled to participate in all the proceedings provided for by this Act, examine the documents collected and make copies and extracts thereof in the tax proceedings being conducted

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

### **§ 51<sup>6</sup>. Reimbursement of costs of international professional assistance**

(1) The costs of the provision of professional assistance shall, in general, be borne by the provider of international professional assistance.

(2) If rendering international professional assistance is related to very large costs or organised crime, the Tax and Customs Board may agree with the competent authority of a foreign state that lodged the request with regard to the indemnification of the costs of professional assistance.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **Chapter 4 DELIVERY OF DOCUMENTS**

### **§ 52. Delivery of documents**

(1) Documents, including administrative acts, summonses and notices, shall be delivered against a signature, delivered by post or electronically or published in a periodical publication. A tax authority may choose the manner of delivery unless a mandatory manner of delivery is provided by law.

(2) If a document is addressed to several persons, the document shall be delivered to all addressees unless the addressees have requested that the tax authority deliver the document to only one of the addressees or have granted their consent thereto. A document addressed to spouses may be delivered to one of the spouses unless delivery of the document to both spouses has been requested from the tax authority.

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

(4) Documents addressed to persons with restricted active legal capacity shall be delivered to their legal representatives.

### **§ 53. Delivery against signature**

(1) Upon delivery by a tax authority, a document shall be delivered to a participant in proceedings against his or her signature on a notice on which the time of delivery of the document, if necessary the specific time, shall also be indicated.

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

(3) Upon delivery of a document to a representative of a participant in proceedings, the document is deemed to have been delivered also to his or her principal. A document is also deemed to have been delivered if it is delivered against a signature to a family member of at least 10 years of age who lives together with the participant in proceedings.

(4) If a participant in proceedings or a person specified in subsection (3) of this section refuses to accept a document, the person who delivers the document shall make a notation on the document and certify it with his or her signature. A document bearing a notation shall be returned to the tax authority and deemed to have been delivered to the participant in proceedings.

### **§ 54. Delivery by post and by electronic means**

(1) A document shall be delivered to a natural person residing in Estonia at his or her residential address entered in the population register or at the address of which he or she has informed the tax authority. If a natural person fails to give notice of a change to his or her

address, the tax authority has the right to send a document to the last address known to the tax authority.

(2) A document shall be sent to a legal person or agency at the address entered in the register. Persons or agencies who are not entered in the register shall receive documents at the address of which they have informed the tax authority.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

(3) At the request of a participant in proceedings, a document shall be sent to an email address indicated by the participant. The Minister of Finance shall, by a regulation, establish requirements for the format of and signature for documents submitted to a tax authority for state taxes by electronic means and other requirements for electronic communication in tax proceedings.

(4) If a document is delivered electronically, the addressee has the right, if necessary to request that the document be delivered on paper at a later date.

(5) A document shall be delivered to a taxable person residing or located in a foreign state by registered post at the address of which the taxable person has informed the tax authority or by electronic means in cases provided by law. If the residence or seat of the person is not known, the document shall be delivered to the person through a competent administrative agency of the foreign state. If a taxable person residing or located in a foreign state has a permanent establishment or a representative in Estonia, documents shall be delivered to the address of the permanent establishment or to the representative.

[\[RT I 2009, 56, 376\]](#) - entry into force 01.01.2010]

(6) A document sent to a legal person or agency by ordinary mail at the address entered in the register shall be deemed to have been delivered after five days have passed since the document was sent within Estonia and after thirty days have passed since the document was sent abroad. A document sent to a legal person or agency by registered mail at the address entered in the register shall be deemed to have been delivered when the postal service provider has delivered it at the abovementioned address or has left a notice concerning the arrival of the registered mail.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

## **§ 55. Delivery through periodical publication**

If there is no information concerning the address of a participant in proceedings, or if the participant in proceedings does not reside or is not located at the address entered in the register or known to a tax authority and his or her actual whereabouts are unknown, and if it is not possible to deliver a document in any other manner, the tax authority may publish the resolution contained in the document in the official publication *Ametlikud Teadaanded*<sup>4</sup>. The

resolution contained in the document is deemed to have been delivered after ten days as of the publication thereof.

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

## **Chapter 5**

### **OBLIGATION OF TAXABLE PERSON TO CO-OPERATE IN TAX PROCEEDINGS**

#### **§ 56. Obligation of taxable person to co-operate**

- (1) A taxable person is required to notify a tax authority of all facts known to the taxable person which are or may be relevant for taxation purposes.
  
- (2) A taxable person shall keep records of facts relevant for taxation purposes, provide explanations, submit returns and other evidence and preserve such returns and evidence for the term prescribed by law. If a mandatory type of evidence is provided by law, a taxable person may only use such type of evidence as proof.
  
- (3) A taxable person shall not prevent a tax authority from performing procedural acts.

#### **§ 57. Obligation to keep accounts and to keep records**

- (1) A taxable person shall keep accounts in the cases and pursuant to the procedure provided for in the Accounting Act.
  
- (2) An Act concerning a tax may prescribe cases where:
  - 1) in addition to keeping accounts, a taxable person must keep records of facts relevant for taxation purposes (hereinafter accounting for taxation purposes);
  - 2) a taxable person who is not required to keep accounts according to the Accounting Act must keep accounts.
  
- (3) The keeping of accounts and accounting for taxation purposes shall be organised in a manner which enables an overview to be obtained within a reasonable period of time of the conduct of transactions and of facts relevant for taxation purposes, including revenue, expenditure, assets and liabilities.
  
- (4) If accounting records or accounting records for taxation purposes are not in Estonian, a tax authority may demand that the relevant documents be translated into Estonian. If little-known abbreviations, symbols or keywords are used in the accounting records or accounting records for taxation purposes or if other circumstances render it difficult to understand the documents, the taxable person is required to submit a list of the abbreviations, symbols and keywords and provide additional explanations if necessary.
  
- (5) Accounting records for taxation purposes shall not be amended in a manner which renders it impossible to determine the original content of the document or the time of amendment thereof.

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

(6<sup>1</sup>) The requirements for the conversion of the documents preserved in electronic form into electronic databases allowing access to legible information shall be established by the regulation of the Minister of Finances.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(7) If a taxable person is required to keep accounts or accounts for taxation purposes pursuant to the procedure provided by legislation of a foreign state due to conducting economic activities in the foreign state and if, as a result of the economic activities conducted in the foreign state, a tax liability arises in Estonia and accounts or other records have been kept in accordance with the requirements established by the legislation of the state concerned, the results thereof shall be taken into consideration upon taxation.

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

[\[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

## **§ 58. Obligation to preserve documents**

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

# **Chapter 6 EVIDENCE**

## **§ 59. Collection of evidence**

(1) Evidence in tax proceedings is any information collected with regard to the matter, including information, documents and things obtained from taxable persons, third parties and state, local government and city agencies, facts established by observation and expert opinions. A tax authority shall decide, according to the functions imposed on the tax authority by law and the right of discretion, which evidence needs to be collected in a particular matter.

(2) A tax authority has the right to examine any documents relating to the economic or professional activities of a taxable person or to the payment of taxes by a taxable person, and to take inventory or control measurements of goods, materials, other assets, work performed and services provided. The examination is divided into:

- 1) the examination of individual cases (§§ 60–72);
- 2) general examination or tax audit (§§ 73–81).
- (3) For the purposes of determining the amount of duty, checking the correct payment of duties or the prevention of offences, the tax authority uses all the rights granted by law for implementation of the customs rules. The tax authority who has good reason to suspect a violation of an Act concerning tax is entitled to use all the rights granted by law for the implementation of the customs rules upon determining the amount of duty, checking the correct payment of duties or preventing offences relating to trade between the Member States of the European Union, international postal consignments and persons moving from one Member State to another.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **§ 60. Requesting information from taxable persons**

- (1) A tax authority is entitled to obtain oral and written information from a taxable person or a representative thereof in order to ascertain facts relevant to tax proceedings. If necessary, a tax authority may require a taxable person or a representative thereof to appear at the offices of the tax authority at the time designated by the tax authority in order to provide information.
- (2) In order to summon a person to an administrative agency, the tax authority shall issue a written order which complies with the requirements specified in § 46 of this Act and which sets out the place where and time at which the taxable person is required to appear, together with an explanation as to why the person has been summoned. If necessary, a written order shall also be issued in other cases where information is requested.
- (3) If the authorised representative of a taxable person fails to provide information or provides information which is contradictory or insufficient, the tax authority has the right to contact the taxable person in order to obtain the information.
- (4) Oral explanations shall be recorded in the minutes and signed by the person who gives the explanations. If the person refuses to sign, a notation shall be made in the minutes to this effect. If necessary, the tax authority shall explain the rights and obligations of the taxable person to the taxable person and a notation concerning the explanation shall be made in the minutes.
- (5) Any documents submitted in electronic form to a tax authority for state taxes shall comply with the requirements established by a regulation of the Minister of Finance issued on the basis of subsection 54 (3) of this Act. If a document is submitted in electronic form, the tax authority has the right, if necessary, to request that the document be submitted on paper at a later date.
- (6) A person specified in subsection (1) of this section may, pursuant to § 50, apply for extension of the term granted for the performance of an obligation stated in an order.

## **§ 61. Requesting information from third parties**

- (1) A tax authority has the right to request information from third parties, including credit institutions, in order to ascertain facts relevant to tax proceedings. The abovementioned persons are required to submit information unless they have the right to refuse to disclose evidence or information pursuant to law. If necessary, a tax authority may require that a third



party appear at the offices of the tax authority at the time designated by the tax authority in order to provide information.

(2) Prior to requesting information from a third party, the tax authority shall approach the taxable person for information unless the tax authority has no information concerning the residence or seat of the taxable person or if the taxable person cannot be reached at the address known to the tax authority or hinders facts relevant for the purposes of tax proceedings from being ascertained, and in the case provided for in clause 72 (5) 6) of this Act.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.07.2007]

(3) In order to request information from a third party, the tax authority shall issue an order in compliance with the requirements specified in § 46 of this Act which also sets out the name or other details enabling identification of the taxable person in connection with whose tax matter information is being collected and the reason for contacting the third party. If the person is required to appear at the offices of the tax authority to give testimony, the time and place of appearance shall also be indicated in the order. A person may, pursuant to § 50 of this Act, apply for extension of the term granted for the performance of an obligation stated in an order.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

(4) Oral explanations shall be recorded in the minutes pursuant to the provisions of subsection 60 (4) of this Act.

## **§ 62. Submission of things and documents**

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

(2) In order to ascertain facts relevant to tax proceedings, a tax authority has the right to request that the taxable person present cash. Cash shall be presented at the location thereof.

(3) Documents and things specified in subsection (1) of this section shall be submitted or presented in the offices of the tax authority, unless:

1) the addressee of the administrative act has granted consent to the examination and inspection of the things and documents at their location, or

2) the tax authority requires the addressee of the administrative act to submit the documents by post if this does not cause excessive expense to the addressee of the administrative act, or

3) it is impossible to convey the documents or things to the offices of the tax authority or doing so would cause excessive inconvenience or expense to the addressee of the administrative act.

4) the tax authority requires the addressee of the administrative act to submit documents preserved in electronic form electronically.

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

- 1) if the request is addressed to a third party, or
  - 2) if the addressee or a representative of the addressee is summoned to the offices of the tax authority to perform the obligation, or
  - 3) if the taxable person has failed to comply with an earlier request, or
  - 4) in other cases when deemed necessary by the tax authority.
- (5) A person may, pursuant to § 50 of this Act, apply for extension of the term granted for the performance of an obligation stated in an order.
- (6) The provisions of subsection 61 (3) of this Act apply to the issue of an order specified in clause (4) 1) of this section. The provisions of subsection 60 (5) of this Act extend to the electronic submission of documents to a tax authority pursuant to this section.

[\[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

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

- (1) A tax authority has the right to request information relevant to tax proceedings, including the submission of documents and presentation of things, from a state, local government or city agency. The abovementioned agencies are required to comply with the request of a tax authority unless they have the right to refuse to disclose evidence or information pursuant to law.
- (2) A tax authority for state taxes has the right to obtain, without charge, information from the chief or authorised processor of a state database which identifies persons (given name and surname or business name, personal identification code or registry code, or, in the absence of a personal identification code, the date of birth) who concluded transactions relevant to taxation during the period indicated in the request and also information concerning the transactions concluded by such persons.
- (3) Agencies specified in subsection (1) of this section are required to notify the tax authority of any circumstances which render it impossible to comply with a request for information or for submission of things or documents or due to which it is necessary to extend the term for compliance with a request. Terms shall be extended pursuant to § 50 of this Act.
- (4) State, rural municipality and city agencies are required to submit returns and other documents to the tax authorities by electronic means. The Minister of Finance shall establish the list of returns and documents to be submitted by state, rural municipality and city agencies by electronic means.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

### **§ 64. Right to refuse to provide information or submit evidence**

- (1) The right to refuse to perform an obligation specified in §§ 60-63 of this Act to provide information or submit evidence exists:
- 1) for advocates in respect of circumstances which become known to them in connection with the provision of legal assistance;
  - 2) for doctors, notaries, patent agents and ministers of religion in respect of information which becomes known to them in connection with their professional activities;

- 3) for agencies which organise state statistical surveys and officials who conduct such surveys in respect of information which becomes known to them in connection with a survey;
- 4) for auditors and persons engaged in the professional activities of an auditor, pursuant to the provisions of the Authorised Public Accountants Act;
- 5) for spouses, direct blood relatives, sisters or brothers of taxable persons, descendants of sisters or brothers of taxable persons, and direct blood relatives or sisters or brothers of spouses of taxable persons, unless such persons are required to provide information in the given matter and submit documents in connection with their own tax liability;
- 6) for persons in respect of questions to which giving an answer would mean that the persons would incriminate themselves or a person specified in clause 5) of this subsection in an offence;
- 7) if the provision of information or submission of evidence would violate the confidentiality of messages sent or received by post, telegraph, telephone or other commonly used means or the confidentiality of a state secret.

[RT I 2007, 16, 77 - entry into force 01.01.2008]

- (2) Persons who assist persons specified in clauses (1) 1) –4) of this section in their professional activities also have the right to refuse to disclose information in respect of facts which become known to them in the performance of their duties.
- (3) If persons specified in clause (1) 5) of this section are requested to give testimony or to submit or present documents or evidence, such persons shall be notified in writing or orally of their right to refuse to perform the obligation. If oral notification is given, a signature shall be obtained from the person.

## **§ 65. Making copies of documents and removal of documents and things**

- (1) A tax authority may make copies and extracts of documents submitted thereto by a participant in proceedings and officially certify the accuracy thereof. Documents shall be officially certified pursuant to the provisions of the Administrative Procedure Act.
- (2) A tax authority may remove documents and things submitted thereto if:
  - 1) the documents or things are necessary to resolve a tax matter and the tax authority has reason to believe that such evidence may not be available later, or
  - 2) it is necessary in order to make extracts or copies of the documents, or
  - 3) the documents and things refer to a possible offence.
- (3) A report shall be prepared concerning the removal of documents stating the names of the documents, the number of documents and, in the event of files being removed, the number of pages. A report shall be prepared concerning the removal of things stating a description of the removed things and the number of removed things. The report shall be signed by the person who prepared the report and persons who participated in the act. If a participant in proceedings refuses to sign the report, the person who prepares the report shall make a corresponding notation in the report. A report shall be prepared in duplicate and one of the original copies shall be given to the participant in proceedings whose things or documents were removed.

(4) Documents shall not be removed in the cases provided for in clauses (2) 1) and 2) of this section if the participant in proceedings objects to their removal and bears the costs of making copies or extracts of the documents. The accuracy of copies and extracts shall be certified pursuant to the provisions of subsection (1) of this section and the participant in proceedings shall sign beside the notation concerning certification. If the number of certified copies or extracts is large, a report shall be prepared in which a list of the documents of which copies or extracts were made shall be set out. The report shall be signed by an official of the tax authority and the participant in proceedings.

## **§ 66. Reimbursement of expenses to third party**

(1) Documented travel expenses and accommodation expenses incurred and average wages which are not received due to performance of the obligations provided for in §§ 61 and 62 of this Act by a third party outside the residence thereof shall, at the request of the third party, be reimbursed thereto. A tax authority shall, on the basis of an invoice submitted thereto, pay for the making of copies or extracts in the amount of up to 0.20 euros per page of paper starting from the twenty-first page.

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

(2) A tax authority has the right to claim amounts paid to a third party for the reimbursement of costs from a taxable person if the taxable person:

- 1) fails to comply with an order of the tax authority requesting the submission of information, things or documents in the same matter, or
- 2) cannot be reached at the residence or seat of the taxable person or at any other address of which the tax authority has been informed, or
- 3) evades the proceedings, or
- 4) hinders the process of ascertaining facts relevant for the purposes of tax proceedings in another manner.

(3) A tax authority does not have the right to request the reimbursement of expenses of a third party from a taxable person if the tax authority contacted the third party without giving the taxable person the opportunity to submit information, except in the cases specified in clauses (2) 2)–4) of this section.

(4) A tax authority shall, in an order, submit a claim for the reimbursement of expenses to a taxable person, set a term for reimbursement and issue a warning stating that, in the event of failure to reimburse the expenses by the due date, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(5) Expenses specified in the first sentence of subsection (1) of this section shall be reimbursed in the amount and pursuant to the procedure established by a regulation of the Government of the Republic.

## **§ 67. Penalty payment for failure to submit information, things or documents**

(1) When setting a term for the performance of obligations provided for in §§ 60–62 of this Act, a tax authority may issue a warning (§ 136) stating that a penalty payment may be imposed for failure to perform an obligation within the term. A tax authority may also issue a warning concerning the imposition of penalty payment to a taxable person who fails to

perform an obligation to submit reports or other documents arising from an Act concerning a tax.

(2) If a person fails to perform an obligation imposed on the person by an administrative act by the due date stated in a warning, the person shall pay the penalty payment specified in the warning. The tax authority shall, in an order, submit a claim for payment of a penalty payment to an obligated person, set a term for payment and issue a warning stating that, in the event of failure to pay the penalty payment within the specified term, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(3) A penalty payment to enforce the performance of the same obligation shall not exceed 640 euros the first time and 2,000 euros the second time. Penalty payments imposed to enforce the performance of the same obligation shall not exceed 2,640 euros in total.

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

### **§ 68. Involvement of experts**

(1) A tax authority may, on its own initiative or at the request of a taxable person, involve an expert in proceedings. The participants in the proceedings shall be informed of the name of the expert before the expert is involved unless it is necessary to conduct expedited proceedings in the matter.

(2) If grounds provided for in § 49 of this Act become evident, the expert is required to remove himself or herself. A participant in proceedings may request the removal of the expert on the same grounds. A request shall be submitted within five working days as of the date of becoming aware of the identity of the expert. Thereafter, removal is permitted only if it is proven that it was not possible to submit the request on time. The tax authority shall make a decision regarding removal within five working days as of the date on which a request for the removal of an expert is submitted by a participant in proceedings or by the expert himself or herself.

(3) An expert shall present his or her opinion in writing. If deemed necessary by the tax authority, the expert may be asked to be present during the procedural acts and, in such case, the expert may give his or her opinion orally. An oral opinion shall be recorded in the report of the procedural act and signed by the expert. Participants in proceedings have the right to submit questions to an expert.

(4) An expert has the right to examine the materials which are necessary for the performance of his or her tasks and to make proposals for amendment of the materials. The expert is required to maintain the confidentiality of information subject to tax secrecy which becomes known to him or her in connection with the performance of his or her duties (§ 26). The obligation to maintain tax secrecy shall be explained to the expert and the explanation shall be confirmed by his or her signature.

### **§ 69. Reimbursement of expenses relating to expert assessment**

(1) Documented travel and accommodation expenses incurred by an expert as a result of performing his or her obligations outside his or her residence shall be reimbursed to the expert at his or her request and remuneration shall be paid for the expert assessment carried out.

(2) The costs of an expert assessment carried out on the initiative of a tax authority shall be borne by the tax authority.

(3) The costs of an expert assessment carried out on the initiative of a participant in proceedings and at the expense of a tax authority shall be borne by the person on whose initiative the expert is involved. The tax authority shall, in an order, submit a claim for the reimbursement of expenses to a taxable person, set a term for reimbursement and issue a warning stating that, in the event of failure to reimburse the expenses within the specified term, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(4) Expenses specified in subsection (1) of this section shall be reimbursed in the amount and pursuant to the procedure established by a regulation of the Government of the Republic.

## **§ 70. Meters and preventive measures**

(1) In order to make an assessment of tax to be paid, to verify the correctness of tax payments or to prevent an offence, a tax authority has the right to request that a taxable person:

- 1) install meters on receptacles, storage facilities or equipment;
- 2) seal receptacles, storage facilities and equipment, and gambling inventory if gambling is being organised;
- 3) close off territories or parts thereof;
- 4) install equipment, including a cash register, enabling cash transactions to be monitored.

(2) The installation of meters or equipment specified in clauses (1) 1) or 4) of this section may be demanded if a taxable person has failed to comply with an obligation to install a corresponding meter or equipment imposed on the taxable person by law.

(3) A tax authority may appoint an official who, during a term set by the tax authority, has the right to be present at the place of business of a taxable person during general working time or the working time of the enterprise for the purpose of monitoring the use of a meter or equipment.

(4) Orders for the installation of meters or equipment enabling cash transactions to be monitored, for monitoring the use of meters or such equipment or for the application of preventive measures shall be prepared in writing.

(5) A preventive measure shall be removed not later than on the working day following the day on which the reason for application of the preventive measure is removed or ceases to exist.

(6) A tax authority is required to compensate for any direct damage caused as a result of the activities provided for in clause (1) 2) or 3) of this section if no offence on the part of the taxpayer is ascertained or if a preventive measure is not removed within the term prescribed in subsection (5) of this section.

## **§ 71. Substitutive enforcement**

(1) When setting a term for the performance of an obligation provided for in § 70 of this Act, a tax authority may issue a warning (§ 136) stating that substitutive enforcement will be applied in the event of failure to perform the obligation by the due date. The person shall also be informed in the warning of the estimated size of the costs of substitutive enforcement and

reference shall be made to the provisions on the basis of which the costs of substitutive enforcement will be collected.

(2) If a taxable person fails to perform an obligation provided for in subsection 70 (1) of this Act within the set term or if performance of the obligation is necessary in order to prevent an offence, a tax authority shall perform the necessary act itself or use the assistance of a third party or a state, rural municipality or city agency to do so. The costs of the act shall be borne by the person who failed to perform the obligation if a corresponding written warning had been delivered to the person. The tax authority shall, in an order, submit a claim for the reimbursement of costs to the person, set a term for reimbursement and issue a warning stating that, in the event of failure to reimburse the costs within the specified term, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(3) At the request of a person with regard to whom a coercive measure is applied, the official executing substitutive enforcement shall present his or her identification and enforcement order. A third party shall present the enforcement order issued thereto by a tax authority in order to carry out substitutive enforcement.

(4) The person or agency carrying out substitutive enforcement shall prepare a written report concerning the act.

## **§ 72. Inspection and other procedural acts**

(1) Officials of tax authorities have the right, in order to conduct inspections, to have access to plots of land, buildings and premises where the business or professional activities of a taxable person are carried out. In the course of an inspection, officials of tax authorities do not have the right to conduct searches, open locked spaces or storage rooms or enter a dwelling against the will of the persons residing therein even if the business or professional activities of a person are carried out therein.

(2) Officials of tax authorities have the right to inspect property owned or possessed by persons not engaged in business or professional activities, including immovables, buildings, ships, vehicles and other movable property, provided that the inspection does not involve entry into or a search of the dwelling or premises of the person against the person's will.

(3) Advance notice of the conduct of an inspection specified in subsections (1) and (2) of this section shall be given within a period of time which enables the taxable person to form an opinion on the planned act. In urgent cases or if advance notice may endanger the attainment of the purpose of the inspection, advance notice of the conduct of an inspection need not be given. Advance notice of the conduct of an inspection also need not be given if the tax authority is unable to ascertain the residence or seat of the owner or possessor of the property. In order to conduct an inspection a written order which, among other things, sets out the purpose of the inspection, shall be presented to the taxable person or a representative thereof. If no written order is presented in order to conduct an inspection, the taxable person has the right to request that the taxable person be subsequently informed in writing of the grounds for the inspection.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(4) An inspection specified in subsection (1) of this section shall be conducted during the working time of the enterprise or during general working time. Minutes shall be taken of the course of an inspection and the facts established by the inspection.

(5) In order to conduct an inspection, an official of a tax authority has the right to:

- 1) involve specialists and experts;
- 2) make extracts or copies of documents pursuant to the procedure provided for in § 65 of this Act;
- 3) take photographs of or record in another manner the inspected territory or things;
- 4) take inventory or control measurements of goods, materials and other property and prepare plans or sketch maps of inspected territories or buildings;
- 5) remove documents and things pursuant to the provisions of § 65 of this Act;
- 6) request information concerning the economic or professional activities of the taxable person to a limited extent for inspection purposes from persons on the plot of land or in the buildings or on the premises which are being inspected. The testimony shall be recorded pursuant to the procedure provided for in subsection 60 (4) of this Act.

[\[RT I 2007, 23, 121](#) - entry into force 01.07.2007]

(6) Officials of tax authorities have the right to take samples from the fuel tanks and elsewhere in the fuel system of motor vehicles to ascertain whether fuel used as motor fuel is fiscally marked. The results of the procedural act shall be recorded.

(7) The tax authorities have the right to involve specialists in inspections and other procedural acts if the assistance of a person who has specific expertise is required to conduct the inspections or procedural acts. A notation concerning the involvement of a specialist shall be made in the report of the procedural act. The provisions of subsection 68 (4) of this Act apply to specialists.

## **Chapter 7**

### **TAX AUDIT**

#### **§ 73. Objective and scope of tax audit**

- (1) The objective of a tax audit is to ascertain all the facts relating to the tax liability subject to audit, including both facts which increase and facts which reduce the tax liability.
- (2) A tax audit may cover one or several taxes or one or several periods of taxation or be restricted to the ascertainment of specific facts.
- (3) In the course of a tax audit, facts relating to the tax liabilities of other persons may be ascertained if the person subject to the audit is required to withhold tax on payments made to such persons.
- (4) A tax audit of a natural person may only be conducted if the natural person operates as a sole proprietor or is a withholding agent.
- (5) The provisions of this Chapter do not apply to verification of the correctness of the payment of taxes carried out immediately after the acceptance of a customs declaration.

[\[RT I 2003, 71, 472](#) - entry into force 01.01.2004]



## **§ 74. Competence**

(1) A tax audit shall be conducted by the tax authority competent to conduct proceedings in the particular tax matter.

(2) If it is necessary to substitute the controller, the Director General of the Tax and Customs Board or the head of the regional structural unit may appoint another official of the Tax and Customs Board to the position of controller.

(3) [Repealed - [RT I 2003, 88, 591](#) - entry into force 01.01.2004]

(4) [Repealed - - [RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **§ 75. Advance notice of tax audit**

(1) A tax authority shall give notice of a tax audit and set out the scope of the tax audit (subsection 73 (2)) in a letter which shall be delivered to the taxable person not later than seven days prior to the beginning of the tax audit. If advance notification would endanger the objective of the tax audit, the letter of notification shall not be delivered prior to the beginning of the tax audit.

(2) The objective of a tax audit is deemed to be endangered if the tax authority has reason to believe that, if the taxable person receives advance notice of the tax audit, the taxable person will prevent access to documents or things relating to the business or economic activities of the taxable person or destroy, falsify, counterfeit or damage in another manner the documents or things.

(3) In addition to the provisions of § 46 of this Act, a letter specified in subsection (1) of this section shall set out the tax and period of taxation subject to the audit, the term for the audit and the name of the official conducting the tax audit. The scope of and the term for the audit may be changed later by a letter, if necessary. The reasons for the extension of the term of the audit or for another change burdening the taxable person shall be provided in the letter. Subsection (1) of this section shall apply in the case of making a change burdening the taxable person.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

## **§ 76. Commencement of tax audit**

(1) At the beginning of a tax audit, the tax auditor shall present his or her identification and the letter of notification if the letter was not delivered earlier.

(2) At the beginning of a tax audit, the date on and time at which the tax audit commences shall be documented in writing.

(3) A tax authority has the right to postpone the beginning of a tax audit with good reason if the taxable person submits a reasoned request to that effect. The tax authority shall decide whether a request is reasoned or not.

## **§ 77. Time and place of tax audit**

(1) A tax audit shall be conducted during general working time or the working time of the enterprise in a workroom or at a workplace the use of which is granted to the tax auditor by the taxable person for the duration of the tax audit.

(2) If it is not possible for the taxable person to grant the use of a workroom or workplace to the tax auditor, documents may be submitted and things presented in the dwelling of the taxable person or at the offices of the tax authority.

### **§ 78. Rights and obligations of taxable person during tax audit**

(1) During a tax audit, the taxable person has the right to be informed of the facts hitherto ascertained and the possible relevance of the facts in terms of taxation.

(2) The taxable person has the right to apply for the removal of the tax auditor on the grounds provided for in § 49 of this Act.

(3) The taxable person is required:

1) to ensure that the tax auditor has access to information relating to the tax liability subject to the audit;

2) to submit relevant documents and things to the tax auditor for examination and, if necessary, give explanations concerning such documents and things;

3) if possible, to ensure, without charge, an appropriate workroom or workplace for the tax auditor to conduct the tax audit.

4) to introduce to the tax auditor the information systems related to accounting systems and accounting.

[\[RT I 2005, 25, 193](#) - entry into force 01.07.2005]

### **§ 79. Collection of explanations, examination and removal of documents and things, and other acts**

(1) The tax auditor has the right to obtain explanations from the taxable person or a person designated by the taxable person in the course of a tax audit. If the taxable person or a person designated by the taxable person refuses to provide explanations or evades a tax audit, the tax auditor may question other employees of the taxable person who are present. The explanations shall, if necessary, be recorded in a report.

(2) The tax auditor has the right to carry out inspections, involve experts and specialists, make extracts and copies of the examined documents and perform other acts provided for in Chapter 6 of this Act, taking account of the specifications provided for in this Chapter. Acts may be performed on the basis of oral orders, except in the cases provided for in §§ 70 and 71 of this Act.

(3) The taxable person or a representative or employee of the taxable person shall be involved in any inspection carried out in the course of a tax audit pursuant to subsection 72 (1) of this Act. The provisions of subsection 72 (3) of this Act do not apply to the conduct of an inspection. If a specialist is involved, the taxable person shall be informed of the name of the specialist and the grounds for his or her involvement.

(4) The tax auditor has the right to remove documents or things relevant to the matter if elements of an offence become evident during the inspection or by agreement with the taxable person.

## **§ 80. Closing interview**

(1) At the end of a tax audit, the tax auditor shall conduct an interview with the taxable person or a representative of the taxable person. An interview is not conducted at the end of a tax audit in the case specified in subsection 81 (3) of this Act or if the taxable person or a representative of the taxable person refuses to participate in an interview or if no facts altering the tax liability are discovered as a result of the tax audit.

(2) In the course of an interview, the taxable person shall be informed of the results of the tax audit, disputable facts shall be discussed with the taxable person and he or she shall be given the opportunity to provide explanations regarding such facts. At the request of the taxable person, the tax auditor shall explain how the facts ascertained in the course of the tax audit may affect the tax liability of the taxable person. The interview may be combined with the examination of the audit report. Officials of the tax authority who did not participate in the tax audit may be involved in an interview, along with experts and specialists. Explanations given in the course of an interview shall be recorded in the minutes if necessary.

(3) If elements of a misdemeanour or a criminal offence become evident in the course of a tax audit, the tax authority shall inform the taxable person thereof and explain that the offence will be heard and the facts necessary therefor will be ascertained in the course of separate proceedings.

## **§ 81. Audit report**

(1) At the end of a tax audit, the tax auditor shall prepare an audit report setting out all the factual information and legal facts ascertained in the course of the tax audit and relevant for taxation purposes. If an expert or specialist is involved in the tax audit, their participation shall be indicated in the audit report.

(2) The taxable person or a representative of the taxable person has the right to examine the audit report and, if the taxable person or representative does not agree with the facts stated therein, to request that his or her dissenting opinion be added to the audit report. A notation concerning the addition of a dissenting opinion shall be made at the end of the audit report.

(3) The audit report shall not be examined and an interview shall not be conducted prior to delivery of the administrative act issued as a result of the tax audit, if examination would hinder the truth from being ascertained in criminal proceedings or tax from being collected.

(4) The audit report shall not be examined if no facts altering the tax liability are discovered as a result of the tax audit. A corresponding written notice shall be delivered to the taxable person. The notice shall be considered to be equivalent to a notice of assessment (§ 95) issued as a result of a tax audit and the provisions of §§ 101–103 of this Act apply to the amendment or repeal thereof.

# Chapter 7<sup>1</sup>

## COVERT INVESTIGATION AND SECRET CO-OPERATION

**[RT I, 21.03.2011, 2 - entry into force 01.01.2013]**

### **§ 81<sup>1</sup>. Collection of information for deciding on granting access of person to surveillance information and employment in service**

(1) Upon the written consent of the person the Tax and Customs Board may collect personal information about him or her by means of the covert investigation specified in subsection 126<sup>3</sup> (1) of the Code of Criminal Procedure if this is necessary for deciding on granting the access of a person to the surveillance information or on deciding the employment in service at Tax and Customs Board.

(2) The person specified in subsection (1) of this Act shall be notified about the conduct of covert investigation with regard to him or her after the decision has been made and, at the request of the person, the information gathered by means of covert investigation shall be presented to him or her.

**[RT I, 21.03.2011, 2 - entry into force 01.01.2013]**

### **§ 81<sup>2</sup>. Secret co-operation and covert measures**

(1) In order to ensure the conduct of covert investigation or gather information the Tax and Customs Board is entitled to involve persons in secret co-operation and use undercover agents, as well as use covert measures under the conditions provided for in the Police and Border Guard Act.

(2) The head of the Tax and Customs Board or an official authorised for that purpose by the head of the Tax and Customs Board shall give a written permission for involvement of a person.

(3) The head of Tax and Customs Board shall issue a written permission for the use of undercover agents.

(4) The document necessary for performance of covert measures shall be issued and the necessary amendment in the database or register shall be made by an administrative body or legal person whose competence involves the issue of such document or making amendments in the database or register on the basis of the reasoned request of the head of the Tax and Customs Board or an official authorised by the head of the Tax and Customs Board.

**[RT I, 21.03.2011, 2 - entry into force 01.01.2013]**

## Chapter 8

# TAX RETURNS AND MAKING ASSESSMENT OF TAX

### Division 1 General Provisions

### **§ 82. Use of information submitted by taxable persons as proof**

Upon verification of the performance of the tax liabilities of a taxable person and upon making an assessment of tax, a tax authority shall proceed primarily from tax returns (subsection 85 (1)) submitted by the taxable person, the accounts kept by the taxable person and other records kept by the taxable person concerning the activities of the taxable person. If a tax authority has doubts concerning the accuracy of information submitted by a taxable person, the tax authority shall collect supplementary evidence.

### **§ 83. Taking account of void transactions upon taxation**

- (1) Transactions which are contrary to law or good morals shall be taxed in the same manner as lawful transactions. The consequences of unlawful activities shall result in the creation of the same tax liabilities as would arise as a result of lawful activities with similar economic content.
- (2) A transaction or act which is contrary to law or good morals may result in an increase in tax liability, if an increase is prescribed by law.
- (3) The fact of a transaction being void shall not be taken into account upon taxation if the parties do not return that which was received as a result of the transaction or do not restore the situation prior to the conclusion of the transaction in another manner.
- (4) Ostensible transactions shall not be taken into account upon taxation. If an ostensible transaction is entered into in order to conceal another transaction, the provisions concerning the concealed transaction apply upon taxation.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

### **§ 84. Transactions and acts performed for purposes of tax evasion**

If it is evident from the content of a transaction or act that the transaction or act is performed for the purposes of tax evasion, conditions that correspond to the actual economic content of the transaction or act apply upon taxation.

## **Division 2 Tax Return**

### **§ 85. Tax return**

- (1) A tax return (hereinafter return) is taken to mean an income tax return, value added tax return, excise duty return, customs declaration, social tax return, gambling tax return, annual tax report or other document for the calculation of tax which is to be submitted to a tax authority pursuant to an obligation to submit the document arising from law.
- (2) Documents the submission of which is prescribed by law or a regulation shall be appended to a return.
- (3) A tax authority has the right to issue reminders regarding the submission of returns and orders for the submission of returns.
- (4) A person who submits a return is required to submit information which is correct to the knowledge of the person and to certify the correctness of the information in writing.

## **§ 86. Submission and receipt of returns**

(1) Returns shall be sent by post, on electronic data media or using electronic means of data communication or shall be delivered at the offices of a tax authority or at another place designated by a tax authority. A person may choose the manner of submitting a return unless otherwise provided by law.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(2) Cases where a certificate concerning the receipt of a return is to be issued or a notation concerning the receipt of a return is to be made on the return may be prescribed by law or a regulation.

## **§ 87. Signing of return**

(1) A return shall be signed by the taxable person or the legal or authorised representative of the taxable person. A return shall be signed on behalf of a person with restricted active legal capacity by the legal representative or guardian of the person.

(2) An authorised representative of a natural person may sign a return in the cases provided for in the customs rules and if the person is unable to sign the return due to illness or trip abroad. The tax authority may request that the authorised representative prove that the taxable person is unable to perform the obligations of the taxable person due to one of the abovementioned reasons. The tax authority may request that the taxable person sign the return after the hindering circumstances cease to exist.

(3) If a return in writing is signed by an authorised representative, a document certifying authorisation shall also be submitted to the tax authority unless it has been submitted earlier.

(4) If a return is submitted using electronic means of data communication, the electronic signature shall be given in such a manner as to enable the identity of the person who submitted the return and the time when the signature was given to be determined. An electronic signature shall be given in the manner provided by the Digital Signatures Act or established by a regulation of the Minister of Finance pursuant to subsection 54 (3) of this Act.

[\[RT I 2004, 28, 188](#) - entry into force 01.05.2004]

## **§ 88. Calculation of amount of tax**

(1) A taxable person shall calculate the amount of tax payable on the basis of a return. A tax authority has the right to verify the amount calculated by a taxable person and, if necessary, make an assessment of tax within the term specified in § 98 of this Act.

(2) If so prescribed by law or a regulation, a tax authority shall calculate the amount of tax payable on the basis of a return and send the person a tax notice concerning the payable amount. A tax notice is an administrative act which is in compliance with the requirements provided for in § 46 of this Act and which is sent to a taxable person not later than thirty days before the due date for the payment of tax. A tax notice is not issued if the amount of tax is less than 10 euros. A tax authority may also issue a tax notice concerning an amount of tax calculated on the basis of a return submitted after the due date for the submission of the return if the amount of tax is calculated based on the information set out in the return.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

3) The provisions of §§ 101–104 of this Act apply to the amendment and repeal of tax notices specified in subsection (2) of this section, taking account of the specifications provided for in subsections (4) –(6) of this section.

(4) A tax notice specified in subsection (2) of this section may be amended or repealed, either to increase or reduce tax liability, during the limitation period for making an assessment of tax without taking account of the restrictions provided for in §§ 101–104 of this Act.

(5) Calculation errors discovered in a tax return or tax notice may be corrected before expiry of the term for challenging the tax notice or if the term for filing a challenge is restored. The abovementioned restriction does not apply if the tax notice can be amended or repealed on other grounds.

(6) If a tax notice is amended or repealed due to facts reducing the tax liability, the tax authority shall issue a new tax notice or make a decision concerning the repeal of the tax notice. In order to amend a tax notice due to facts increasing the tax liability, the tax authority shall repeal the tax notice and issue a notice of assessment (§ 95).

### **§ 89. Amendment of return**

(1) If, before expiry of the limitation period for making an assessment of tax amount (§ 98), a taxable person finds that, due to mistakes or the insufficiency of the information in the return submitted by the taxable person or on behalf of the taxable person, the amount of tax declared is less than the amount of tax payable pursuant to an Act concerning a tax the taxable person shall immediately notify the tax authority thereof in writing unless otherwise provided for in an Act concerning a tax or the customs rules.

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

(2) The obligation specified in subsection (1) of this section also extends to legal successors and administrators of estates of taxable persons.

(3) A taxable person who uses goods or services for purposes other than that due to which the goods or services were subject to a tax incentive or tax exemption is required to notify a tax authority thereof immediately and, pursuant to the provisions of subsection (1) of this section, declare the amount of tax which would have been payable had the tax incentive or tax exemption not been applied.

[[RT I 2004, 28, 188](#) - entry into force 01.05.2004]

### **§ 90. Deficiencies in return**

(1) If a return does not meet the requirements established by law or a regulation, the tax authority shall draw the attention of the person who submitted the return to the deficiencies and, if necessary, set a term for the taxable person to eliminate the deficiencies.

(2) If the deficiencies are not eliminated during the term set by the tax authority, the return shall be deemed not to have been submitted.

(3) Deficiencies in customs declarations shall be eliminated pursuant to the procedure provided for in the customs rules.

[\[RT I 2004, 28, 188](#) - entry into force 01.05.2004]

## **§ 91. Penalty payment for failure to submit return or corrections thereto**

(1) If a return is not submitted by the due date prescribed by law, the tax authority may set a term for the submission of the return and issue a warning (§ 136) stating that a penalty payment may be imposed for failure to submit the return within the term set by the tax authority.

(2) A penalty payment may also be imposed if a person has been reminded of the obligation to submit a return before the due date for the submission thereof, and if a taxable person fails to eliminate deficiencies from a tax return within the term set pursuant to subsection 90 (1) of this Act and the tax authority issued a written warning concerning the imposition of a penalty payment when setting the term for the elimination of the deficiencies.

(3) If a person fails to perform an obligation imposed on the person by an administrative act by the due date stated in a warning, the person shall pay the penalty payment specified in the warning. The tax authority shall, in an order, submit a claim for payment of the penalty payment to the person, set a term for payment and issue a warning stating that, in the event of failure to pay the penalty payment within the term, the claim will be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(4) If a tax authority sets a term for submission of the same return or for the elimination of deficiencies in the same return, the penalty payment shall not exceed 1,300 euros the first time and 2,000 euros the second time. Penalty payments imposed by a tax authority to enforce submission of the same return or corrections to the same return shall not exceed 3,300 euros in total.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

## **Division 2<sup>1</sup> Binding Preliminary Decision**

**[\[RT I 2007, 23, 121](#) - entry into force 01.01.2008]**

### **§ 91<sup>1</sup>. Binding preliminary decision**

By a binding preliminary decision (hereinafter preliminary decision), the Tax and Customs Board provides, on the application of a taxable person, a binding assessment of taxation of an act or set of acts (hereinafter in this Division act) to be performed in the future.

[\[RT I 2007, 23, 121](#) - entry into force 01.01.2008]

### **§ 91<sup>2</sup>. Refusal to provide preliminary decision**

(1) A tax authority has the right to refuse to make a preliminary decision if:

- 1) application of legal provisions regulating the taxation of the act is explicit under objective circumstances;
- 2) the act is hypothetical;
- 3) the act is aimed at tax evasion.



(2) The procedure provided for in this Division does not apply to determination of the value of transactions concluded between the associated persons specified in subsection 14 (7) and subsection 50 (4) of the Income Tax Act.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(3) The tax authority shall notify the applicant of the refusal to make a preliminary decision and shall return the application within 15 calendar days as of the date of receipt of the application.

[\[RT I 2007, 23, 121](#) - entry into force 01.01.2008]

### **§ 91<sup>3</sup>. Formal requirements for preliminary decision**

(1) The requirements established with regard to administrative acts and provided for in § 46 of this Act apply to preliminary decisions, taking into account the specifications provided for preliminary decisions in this Division. A preliminary decision may be amended in order to correct obvious spelling mistakes or calculation errors therein.

(2) A preliminary decision shall be formalised in writing and it shall include:

- 1) data concerning the taxable person who may rely on the preliminary decision;
- 2) a list of the documents which are the basis for the preliminary decision;
- 3) a reference to the legal provisions with regard to application of which the preliminary decision is made;
- 4) assessment of taxation of the act described in the application;
- 5) a confirmation of the binding force of the preliminary decision and the term of validity of the binding force.

[\[RT I 2007, 23, 121](#) - entry into force 01.01.2008]

### **§ 91<sup>4</sup>. Binding force of preliminary decision**

(1) A preliminary decision is binding for a tax authority if:

- 1) the act was performed during the term specified in the preliminary decision;
- 2) the performed act conforms to the description provided in the preliminary decision in all circumstances significant in terms of taxation;
- 3) the legal provisions relevant for taxation purposes have not been substantially amended before performance of the act.

(2) A preliminary decision which was made by fraudulent means or threats or by influencing the tax authority in any other unlawful manner is not binding for the tax authority. A tax authority shall declare a preliminary decision that was made by fraudulent means or threats or by influencing the tax authority in any other unlawful manner invalid.

(3) A taxable person is required to immediately notify the Tax and Customs Board of performance of an act described in the preliminary decision.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>5</sup>. Application for preliminary decision**

(1) An application for a preliminary decision shall be submitted in writing to the Tax and Customs Board. An application shall include an exhaustive description of the planned act and analysis of the circumstances significant in terms of taxation, as well as an assessment of the applicant concerning the legal basis for the taxation of the act.

(2) In addition to the information specified in subsection (1) of this section, an application shall set out at least the following data:

- 1) the name of the body with which the application is filed;
- 2) the name, personal identification code or registry code, postal address and other contact details of the applicant;
- 3) confirmation of the applicant that no grounds for the suspension of the processing relating to the application as specified in subsection 91<sup>9</sup> (1) of this Act exist to his or her knowledge;
- 4) a list of documents and drafts of the documents relevant for performance of the act described in the application and existing at the time of submission of the application;
- 5) the planned time for performance of the act.

(3) At the request of the tax authority, the applicant shall submit all documents, as well as drafts of the documents, relevant for the performance of the planned act.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>6</sup>. State fee**

The applicant shall pay state fee for review of an application for a preliminary decision pursuant to the rate provided for in the State Fees Act.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>7</sup>. Deficiencies in application for preliminary decision**

(1) If the application does not meet the requirements provided for in subsections 91<sup>5</sup> (1) and (2) of this Act, the documents of the act are not sufficient for provision of a preliminary decision or the applicant has not paid the state fee, the tax authority shall set a term of up to fifteen days for elimination of deficiencies for the applicant. A tax authority shall notify the applicant of the deficiencies in the application within fifteen calendar days as of receipt of the application.

(2) In order to clarify the content of a planned act, a tax authority may require the applicant to appear at the offices of the tax authority in order to provide explanations.

(3) If the deficiencies are not eliminated by the due date, the tax authority shall refuse to review the application and return it to the applicant.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>8</sup>. Withdrawal of application**

(1) The applicant has the right to withdraw the application before the making of a preliminary decision. A notice of withdrawal of an application shall be in writing.

(2) The withdrawal of a challenge does not preclude submission of a new application concerning taxation of the same act.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>9</sup>. Suspension of processing**

(1) A tax authority may suspend the processing of an application for preliminary decision if an act relating to the application or a similar act is being reviewed by way of challenge procedure or is being heard in a court at the time of submission of the application and the expected decision is of crucial importance in terms of taxation, or, if tax proceedings are being conducted in a matter relating to the application, until entry into force of the corresponding decision or termination of the proceedings.

(2) The tax authority shall notify the applicant of the suspension of processing within seven calendar days as of the date of suspension of processing.

(3) The tax authority shall resume processing and review the application after the circumstances impeding performance of a procedural act cease to exist. In such case, the application is deemed to be submitted on the date on which the decision enters into force or processing is terminated.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>10</sup>. Term for making of preliminary decision**

(1) A tax authority shall make a preliminary decision within sixty calendar days as of the date of receipt of an application or elimination of the deficiencies in an application.

(2) A tax authority may extend the term for making a preliminary decision by a written decision by thirty calendar days under significant circumstances.

[\[RT I 2007, 23, 121\]](#) - entry into force 01.01.2008]

### **§ 91<sup>11</sup>. Right of recourse**

(1) Upon refusal to review the application, the applicant has the right to file a challenge to the tax authority pursuant to § 137 of this Act or to file an action with an administrative court under the conditions and pursuant to the procedure provided by the Code of Administrative Court Procedure.

(2) There is no right of recourse upon disagreement with the assessment provided by the tax authority in the preliminary decision.

[[RT I 2007, 23, 121](#) - entry into force 01.01.2008]

### **§ 91<sup>12</sup>. Disclosure of summary of preliminary decision**

(1) The tax authority shall disclose the summary of a preliminary decision on taxation of the acts of general importance and of the acts repeatedly described in applications on its website.

(2) When disclosing the summary of a preliminary decision, a tax authority shall take guidance from the obligation to maintain tax secrecy provided for in § 26 of this Act and shall not disclose data which enable identification of persons involved in the act.

(3) An applicant may set out in the application which information he or she would not reasonably desire to be disclosed.

[[RT I 2007, 23, 121](#) - entry into force 01.01.2008]

## **Division 3 Notice of Assessment and Liability Decision**

### **§ 92. Assessment of tax by tax authority**

(1) A tax authority shall make an assessment of tax payable:

1) if a return is not submitted by the due date prescribed by law, unless otherwise provided by law;

2) if a taxable person has submitted false information in a return resulting in the amount of tax indicated by the taxable person in the return or the amount of tax calculated by the tax authority on the basis of the information in the return being less than the amount of tax which should be paid pursuant to an Act concerning a tax;

3) if a taxable person has submitted false information resulting in the amount of tax to be refunded as calculated by the taxable person or on the basis of the information submitted by the taxable person being more than the amount to be refunded pursuant to an Act concerning a tax;

4) in other cases prescribed by law or a regulation.

(2) The provisions of subsection (1) of this section also apply if an Act concerning a tax prescribes the payment of tax by way of purchasing revenue stamps and a tax authority establishes that the amount of tax paid differs from the amount of tax payable pursuant to law.

(3) Upon making an assessment of tax payable, a tax authority shall take into consideration all the facts relevant to the particular tax matter which the tax authority deems to be reliable.

(4) Upon making an assessment of tax, a tax authority is not required to take into consideration facts reducing the tax liability which have not been declared by the taxable person by the due date for the submission of the tax return if the tax authority is not aware of such facts without an expression of intention on the part of the taxable person.

### **§ 93. Assessment of tax with resolute condition**

- (1) If no tax audit has been conducted in a tax matter, the tax authority may make an assessment of tax on the condition that the notice of assessment may be amended or repealed as a result of further inspection or if more evidence is submitted (hereinafter resolute condition).
- (2) The tax authority shall determine the period of validity of the condition in the notice of assessment and set out the grounds for the conditional assessment of tax.
- (3) During the period of validity of the condition, the restrictions provided for in Division 4 of this Chapter do not apply to the amendment and repeal of the notice of assessment.
- (4) A taxable person may apply for the amendment or repeal of a notice of assessment during the period of validity of the condition.
- (5) A resolute condition may be revoked by a written decision at any time. A resolute condition shall also be revoked if no facts altering the tax liability are discovered in a tax matter as a result of a tax audit. If a condition has not been revoked earlier, its validity shall expire upon expiry of the limitation period for making an assessment of tax.

### **§ 94. Assessment of tax by estimation**

- (1) A tax authority may, by way of estimation, establish facts which are the basis for making an assessment of tax payable. Estimation is permitted if the written evidence which is necessary to make an assessment of tax is incomplete, insufficient or unreliable or has been destroyed or is missing and if it is not possible to establish the facts on which the tax liability is based by means of any other evidence. Estimation is also permitted if the expenditure of a taxpayer who is a natural person exceeds his or her declared income and if the taxpayer fails to provide evidence proving that the expenditure has been incurred out of income which was taxed earlier or which is not subject to tax or out of loans taken.
- (2) Estimation shall be based on the information collected in a matter, as well as on the business indicators and expenditure of the taxable person and comparisons with information ascertained in other similar tax matters. The methods of estimation and evidence used for estimation shall be set out in a notice of assessment.
- (3) Upon estimation, economic benefits related to property shall be deemed to be in the ownership of the owner of the property. Economic benefits are things, monetarily appraisable rights and income or gains derived from a thing. If a person has actual control over the property of another person and enjoys the economic benefits related to the property in a manner which precludes the owner of the property from enjoying the benefits, the economic benefits shall be deemed to be in the ownership of the possessor for the purposes of making an assessment of tax.
- (4) Economic benefits shall not be deemed to be in the ownership of the possessor if the person who possesses proprietary rights which are in his or her name or a thing which is used by him or her as a broker, representative, pledgee, lessee, commercial lessee or usufructuary submits evidence concerning the ownership of the property and the identity of the owner. If the possessor of the property fails to submit reliable evidence, such rights or things shall be deemed to be owned by the possessor for the purposes of making an assessment of tax.

## **§ 95. Notice of assessment**

- (1) A tax authority shall prepare a notice of assessment in order to make an assessment of tax.
- (2) A notice of assessment is an administrative act which is in compliance with the requirements provided for in § 46 of this Act. The notice of assessment shall clarify the method by which assessment of the tax payable is to be made. If none of the evidence submitted by a taxable person is taken into consideration upon making an assessment of tax or if only some of the evidence is taken into consideration, the reasons therefor must be set out in the notice of assessment.
- (3) If several taxable persons are solidarily liable for the payment of an amount of tax, the tax authority has the right to issue a joint notice of assessment to such persons.
- (4) A tax authority may submit a claim for the performance of an accessory obligation to a taxable person in a notice of assessment. A claim may be submitted in a joint notice of assessment even if the claim is not directed against all the taxable persons. In such case, the person against whom the claim is submitted shall be indicated in the administrative act.
- (5) A notice of assessment shall be delivered to the taxable person pursuant to the procedure provided for in Chapter 4 of this Act not later than thirty days before the due date for payment of the amount of tax, unless otherwise provided by law. A notice of assessment by which the amount of duty related to the incurrence of a customs debt is determined shall be delivered to the taxable person not later than ten days before the due date for payment of the amount of duty. The notice of assessment may contain a warning concerning the initiation of compulsory execution in the event of failure to perform the obligation.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

- (6) The provisions concerning notices of assessment also apply to administrative acts issued for the application of tax incentives or tax exemptions unless otherwise provided by law.

## **§ 96. Liability decision**

- (1) In order to collect tax arrears from a third party who is liable for the performance of obligations of a taxpayer or withholding agent pursuant to law, a tax authority shall make a liability decision.
- (2) The provisions of subsections 95 (2) –(5) of this Act apply to liability decisions, taking account of the specifications provided for in this section.
- (3) In a liability decision, the basis for the application of liability and the methods of calculating the amount of tax shall be indicated and a term for payment of the amount of tax and for the performance of accessory obligations, which shall not be less than thirty days as of the date of delivery of the decision, shall be set. If an amount of tax is assessed by a notice of assessment which has not been delivered to the addressee of a liability decision, a copy of the notice of assessment shall be appended to the liability decision and the methods of calculating the amount of tax is not indicated in the liability decision.
- (4) A liability decision may contain a warning concerning the initiation of compulsory execution in the event of failure to perform the obligation. A copy of a liability decision shall be sent to a taxable person whose tax a third party is obligated to pay.

(5) Unless otherwise provided by law, a liability decision obligating a person to pay an amount of tax may be made within the limitation period for making an assessment of tax (§ 98). Liability decisions concerning persons specified in §§ 38–40 of this Act may be made only after collection is commenced in the manner provided for in clause 130 (1) 6) of this Act with respect to a taxpayer or withholding agent and if, as a result thereof, the tax arrears have not been collected within three months, or after the taxpayer or withholding agent is declared bankrupt.

(6) A liability decision is not made if:

- 1) no tax arrears have been incurred;
- 2) the limitation period for the collection of the tax arrears has expired;
- 3) the tax arrears have been forgiven.

### **§ 97. Rounding of amounts**

Amounts of tax payable, amounts of claims for refund and amounts arising from accessory obligations shall be rounded to the nearest cent unless otherwise provided by an Act concerning a tax or the customs rules.

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

### **§ 98. Limitation period for making assessment of tax**

(1) The limitation period for making an assessment of tax is three years. In the event of intentional failure to pay or withhold an amount of tax, the limitation period for making an assessment of tax is six years. A limitation period begins to run on the due date for the submission of the tax return which was not submitted or which contained information which caused an amount of tax to be calculated incorrectly.

(2) In the case of tax liabilities which do not involve an obligation provided by law to submit tax returns, the limitation period for making an assessment of tax is one year. If an amount of tax is not assessed or is assessed incorrectly due to a taxable person failing to perform or performing unsatisfactorily the obligations imposed thereon by law, the limitation period for making an assessment of tax is four years. A limitation period begins to run on 1 January of the year following the year during which the tax liability arises.

(3) Acts concerning taxes may prescribe shorter limitation periods than those provided for in subsections (1) and (2) of this section.

(4) After the expiry of a limitation period, a notice of assessment shall not be issued or amended in the matter concerned and any notice of assessment issued earlier in the tax matter earlier shall not be repealed. A notice of assessment is made during the limitation period if it is given to a postal service provider before expiry of the limitation period.

[[RT I 2007, 23, 121](#) - entry into force 16.03.2007]

### **§ 99. Suspension of limitation period**

(1) The limitation period for making an assessment of tax is suspended:

- 1) if it is not possible to make an assessment of the tax due to *force majeure* within the last six months of the limitation period, until the circumstances which prevent the assessment of tax from being to made cease to exist;
- 2) for the time a notice of assessment is being challenged until the final decision made in the matter enters into force;
- 3) from the date the tax audit commences until the date of delivery of the notice of assessment on the basis of the results of the tax audit or, if no facts altering the tax liability are discovered as a result of the tax audit, until the date of delivery of the corresponding written notice;

[[RT I 2007, 23, 121](#) - entry into force 01.07.2007]

- 4) as of the preparation of a misdemeanour report until the date on which the decision made in the matter enters into force or the date on which proceedings in the matter are terminated;
- 5) as of the date on which criminal proceedings commence until the entry into force of a court judgment or the date on which the criminal proceedings are terminated;
- 6) for one year as of the date of submission of a tax return which has not been submitted or amendment of the submitted tax return if a taxable person submits or amends the tax return less than a year before the expiry of the limitation period for making an assessment of tax.

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(2) If a taxable person has requested that the commencement of a tax audit be postponed, the limitation period for making an assessment of tax is suspended as of the date on which the tax audit would have commenced according to the initial letter of notification. In the case specified in clause (1) 3) of this section, the limitation period expires not later than on 31 December of the year during which the closing interview of the tax audit is conducted or the last tax audit activities are performed if the limitation period specified in § 98 of this Act expires or expired during the same year.

#### **§ 100. Non-assessment and non-collection of amounts of tax**

(1) An amount of tax is not assessed and a notice of assessment is not issued if the amount of tax is less than 10 euros unless otherwise provided by an Act concerning a tax or the customs rules.

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

(2) A tax authority has the right not to assess or collect an amount of tax if the tax authority has ascertained that the expenses related to making an assessment of and collecting the amount of tax exceed the amount of tax or that collection of the amount of tax is hopeless due to the insolvency of the taxable person and the tax authority does not consider it expedient to submit a bankruptcy petition.

## **Division 4 Amendment and Repeal of Notices of Assessment**



## **§ 101. Amendment and repeal of notices of assessment**

- (1) A notice of assessment may be amended or repealed:
  - 1) with the consent or at the request of a taxable person, or
  - 2) if the notice of assessment is prepared by an administrative authority which is not competent to prepare a notice in the matter, or
  - 3) if preparation of the notice of assessment was achieved by fraudulent means or threats or by using other illegal means, or
  - 4) in order to correct obvious spelling mistakes or calculation errors in the administrative act, or
  - 5) in other cases provided by law, except in the cases provided for in Division 4 of Chapter 4 of the Administrative Procedure Act.
- (2) In the case specified in clause (1) 1) of this section, a notice of assessment may be amended or repealed in order to reduce a tax liability only if the application for amendment or repeal of the notice of assessment is submitted within the term prescribed for challenging the notice of assessment or if a term which has expired is restored.
- (3) The provisions of subsection (1) of this section also apply to administrative acts by which the preparation, amendment or repeal of a notice of assessment is refused.
- (4) The provisions of § 58 of the Administrative Procedure Act apply to violations of procedural requirements and requirements for formal validity which could not have affected the content of a notice of assessment.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 102. Amendment and repeal of notice of assessment if new facts or evidence become evident**

- (1) A notice of assessment shall be amended or repealed due to new facts or evidence becoming evident:
  - 1) in order to increase a tax liability, or
  - 2) in order to reduce a tax liability if the situation that the new facts or evidence became known later was not caused by the intention of the taxable person or by negligence on the part thereof.
- (2) If facts reducing a tax liability become evident at the same time as new facts or evidence resulting in the preparation or amendment of a notice of assessment which increases a tax liability, such facts shall be taken into consideration upon taxation.
- (3) A notice of assessment which is prepared or amended as a result of a tax audit and the repeal of which can no longer be applied for in challenge proceedings or administrative court proceedings may be amended or repealed due to new facts or evidence becoming evident only if such facts or evidence are ascertained in connection with:
  - 1) a misdemeanour provided for in §§ 153<sup>1</sup>, 153<sup>2</sup> and 154 of this Act, which is committed intentionally and concerning which a judgment has entered into force;

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

- 2) a criminal offence concerning which criminal proceedings have been commenced;
- (4) In making a decision to amend or repeal a notice of assessment on the bases provided for in clause (3) 1) of this section, a tax authority shall take into consideration whether the public interest that the amount of outstanding tax be assessed and collected outweighs the person's certainty that the administrative act remains in force, as well as the gravity of the misdemeanour and other circumstances due to which a piece of evidence or fact was not discovered in the course of the audit, including violation of investigation methods by the tax authority.

[\[RT I 2003, 71, 472](#) - entry into force 01.01.2004]

### **§ 103. Amendment or repeal of notice of assessment on other grounds**

- (1) A notice of assessment shall be amended or repealed:
  - 1) due to the amendment or repeal of the preliminary administrative act based on which the notice of assessment was prepared, or due to the issue of a new preliminary administrative act in the matter, or
  - 2) due to an event with retroactive effect, or
  - 3) in order to prevent double taxation due to notices of assessment which preclude each other, taking account of the provisions of treaties.
- (2) Notices of assessment which preclude each other are notices by which the same amount of tax or the same tax incentive or tax exemption is imposed on a taxable person several times, the same amount of tax is imposed on several persons or a tax liability for one period of taxation is imposed on a person for several periods of taxation.
- (3) A notice of assessment specified in subsection (2) of this section may be amended or repealed in order to reduce a tax liability if the same amount of tax is imposed on a taxable person several times. If a tax incentive or tax exemption has been applied several times, a notice of assessment may be amended or repealed in order to increase a tax liability if the multiple tax incentive or tax exemption was caused by false information submitted by a taxable person.
- (4) In the case provided for in clause (1) 2) of this section, the limitation period for making an assessment of tax begins to run on 1 January of the year following the year during which the event occurs if evidence pertaining to the tax liability has been preserved.

### **§ 104. Application of provisions of this Division to other administrative acts**

- (1) Unless otherwise provided by law, the provisions of this Division concerning the amendment and repeal of notices of assessment also apply to cases where a new administrative act is issued as a result of the repeal of a notice of assessment.
- (2) The provisions of §§ 101–103 of this Act apply to the amendment and repeal of liability decisions. A liability decision shall be repealed or amended even if the extent of the obligation of a person who is liable for payment of the tax arrears of a taxpayer or withholding agent is amended as a result of the preparation, amendment or repeal of the liability decision.

# **Chapter 9**

## **FULFILMENT OF TAX CLAIMS AND SETTLEMENT OF TAX LIABILITIES**

### **Division 1 Payment and Refund**

#### **§ 105. Payment and set-off**

(1) A taxable person is required to pay the amounts arising from an amount of tax and amounts arising from accessory obligations to a tax (§ 31) into the bank account designated therefor. In the cases prescribed by an Act concerning a tax or the customs rules, the tax shall be paid to the tax authority in cash or by way of purchasing revenue stamps by the due date provided for in an Act concerning a tax or the customs rules or, in the cases prescribed by law, by the due date designated by a tax authority. The provisions of this section shall not apply if a taxable person submits a tax return (§ 85) within the prescribed term and the monetary obligations of the taxable person can be set off against a claim for refund (§ 33).

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(2) In order to ensure the performance of the future monetary obligations by the due date, a taxable person has the right to make payments to the tax authority before the due date for the performance of a monetary obligation or use the claim of refund (§ 33) arising due to other reasons for covering future monetary obligations.

(3) On the due date provided for in the Act concerning a tax or the customs rules or, in the cases prescribed by law, on the due date designated by the tax authority, the tax authority shall set off the monetary obligations of a taxable person against his or her claim for refund on the basis of a tax return (§ 33). Set-off shall take place on a continuous basis on the due date for the performance of a monetary obligation without the corresponding request of a taxable person.

(4) An amount of tax payable pursuant to a tax notice (§ 88) or assessed in a notice of assessment (§ 95) shall be set off against a claim for refund submitted by a taxable person within thirty days after the date of delivery of an administrative act if the taxable person does not request earlier payment.

(5) In the case provided for in subsection (1) of this section, the date of receipt of the amount payable in the bank account designated therefor or in cash in the cash register of the tax authority shall be deemed to be the date of payment. In the event of compulsory enforcement carried out by a bailiff, the date of payment of an amount to the bailiff or the date of receipt of the amount in the official bank account of the bailiff shall be deemed to be the date of payment.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(6) The monetary obligations of a taxable person shall be performed or set off in the order the obligations are created unless the taxable person applies for the exclusion of the obligations specified in clauses 14) – 16) of this section from the set-off before the due date for performance of the obligations. The claims with one and the same due date shall be fulfilled on the basis of the following order:

- 1) contributions to mandatory funded pension;
- 2) unemployment insurance premium;

- 3) income tax withheld;
- 4) social tax;
- 5) personal income tax;
- 6) land tax;
- 6<sup>1</sup>) mineral resources extraction charge;

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

- 6<sup>2</sup>) water abstraction charge;

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

- 6<sup>3</sup>) pollution charge for waste disposal;

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

- 6<sup>4</sup>) pollution charge for emission of pollutants into water bodies, groundwater or soil;

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

- 6<sup>5</sup>) pollution charge for emission of pollutants into ambient air;

[\[RT I, 14.03.2011, 4](#) - entry into force 01.04.2011]

- 7) customs duty;

- 8) gambling tax;

- 9) excise duties;

- 10) heavy goods vehicle tax;

- 11) income tax on a resident legal person's or non-resident legal person's permanent establishment;

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

- 12) value added tax;

- 13) local taxes;

- 14) interest;

- 15) penalty payments;

- 16) other liabilities.

(7) The order of performance of the liabilities provided for in subsection (6) of this section shall not be taken into account if a different due date for the performance of a monetary obligation arises from an administrative act of a tax authority (§ 95 and § 111). In this case the payments shall be made on the basis of the due date specified in the administrative act of the tax authority.

(8) The obligation provided for in subsection (1) of this section may be performed through a third party unless otherwise provided by an Act concerning a tax. A tax authority is required to accept performance of the obligation by a third party (subsection 106(8)).

(9) The procedure for entry in the accounts, payment and refund of the claims and liabilities administered by the tax authority for state taxes shall be established by a regulation of the Minister of Finance.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

## **§ 106. Fulfilment of claim for refund**

(1) An application for the fulfilment of a claim for refund (§ 33) shall be submitted to the tax authority in a tax return or in any other written document or a document submitted in a format which can be reproduced in writing together with the details of the bank account of the taxable person.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

(2) The amount which a person has the right to have refunded shall be refunded within thirty days as of the receipt of an application unless another term is provided for in an Act concerning a tax. A claim for refund shall be fulfilled immediately if the tax authority has verified the correctness of the claim for refund earlier on the basis of subsection 33 (1<sup>1</sup>). In the case of a refund exceeding 640,000 euros, a written decision shall be made stating the acts performed in order to verify the excess payment and the name of the official conducting the verification. The decision shall be signed by the head of the regional structural unit of the Tax and Customs Board.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(2<sup>1</sup>) If the tax authority calculates the amount of interest (§ 115) before the term for fulfilment of the claim for refund, the tax authority shall set off the claim for interest against the claim for refund before satisfaction of an application for fulfilment of the claim for refund without setting a term for the payment of the claim for interest.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

(3) If an application for fulfilment of a claim for refund is submitted prior to the due date for the payment of tax, the overpaid amount shall be refunded within thirty days as of the due date for payment of tax unless the tax authority decides to fulfil the claim for refund earlier.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

(4) If a claim for refund is fulfilled by transferring an amount to a taxable person's bank account located in a foreign state, the tax authority has the right to deduct the costs of transferring the refunded amount from the refunded amount.

(5) An overpaid amount of tax shall be refunded from the place of receipt of the tax.

(6) If the size of a claim for refund does not exceed 10 euros, the claim for refund shall only be fulfilled on the basis of a written request submitted separately by the entitled person. If no request is submitted, the tax authority shall keep the amount subject to a claim for refund in order to cover future tax liabilities or set-offs of the taxable person.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(7) If an application for fulfilment of a claim for refund is partially satisfied, a reasoned written decision shall be delivered to the person within the term provided for in subsection (2) of this section. If the tax authority ascertains that the actual claim for refund of the taxable person is up to 10 euros less than the claim for refund stated in the application of a taxable person for fulfilment of a claim for refund, such reasoned written decision shall only be issued at the request of the taxable person.

[\[RT I, 10.12.2010, 4\]](#) - entry into force 01.01.2011]

(8) At the request of a person entitled to submit an application for fulfilment of a claim for refund, the tax authority shall use the claim for refund for the performance of the monetary obligations of a third person to the extent specified in the application (subsection 105 (8)).

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

(9) The limitation period for submission of an application for fulfilment of a claim for refund is seven years from the date of making the last amendment in the claim for refund.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

## **§ 107. Suspension and extension of fulfilment of claims for refund**

(1) A tax authority for state taxes has the right to suspend the fulfilment of a claim for refund specified in § 106 of this Act if elements of a violation of this Act or Acts concerning taxes have been established in the activities of the taxable person and criminal proceedings or misdemeanour proceedings have been commenced in connection with the violation.

(2) The fulfilment of a claim for refund shall be suspended until a judgment in the misdemeanour proceedings or a court judgment in a criminal matter enters into force or a ruling is made to terminate the criminal proceedings. A reasoned written decision shall be made regarding suspension of the fulfilment of a claim for refund.

(3) If a claim for refund is not sufficiently proven, the tax authority may extend the term for fulfilment of the claim by a reasoned written decision and set a term for the person who submitted the claim for refund to submit additional proof. If proof is not submitted within the set term, the tax authority shall make a decision not to refund the overpaid amount. The provisions concerning notices of assessment (§ 95) apply to the making of such decisions.

(3<sup>1</sup>) A tax authority has the right to suspend the fulfilment of a claim for refund if the taxable person has failed to submit a tax return (§ 85) by the due date of the fulfilment of a claim for refund. A claim for refund shall be fulfilled within thirty days as of the submission of a tax return.

[\[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(4) If it becomes evident after the fulfilment of a claim for refund that the fulfilment had no legal basis, the tax authority shall make a decision to recover the overpaid amount. The provisions concerning notices of assessment apply to the making of such decisions.

(5) In event of extension or suspension of the fulfilment of a claim for refund in the cases provided for in this Act or an Act concerning a tax a taxable person has the right to fulfilment of the claim for refund if the taxable person provides sufficient security. Security shall be provided and accepted pursuant to §§ 120–127 of this Act.

[\[RT I 2005, 68, 528](#) - entry into force 01.01.2006]

## **Division 2 Set-off**

**§§ 108. – 110. [Repealed - RT I 2008, 58, 323 - entry into force 01.01.2009]**

### **Chapter 10 PAYMENT OF TAX ARREARS IN INSTALMENTS, WRITING OFF AND FORGIVENESS OF TAX ARREARS**

#### **§ 111. Payment of tax arrears in instalments**

(1) A tax authority has the right, at the request of a taxable person with solvency problems, to permit tax arrears to be paid in instalments. The payment of tax arrears in instalments does not relieve a taxpayer from tax liability that become due.

(2) [Repealed - [RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(3) A taxable person shall submit a reasoned request to pay tax arrears in instalments and a schedule for payment of the tax arrears.

(4) An official of a tax authority representing the state, a rural municipality or a city in bankruptcy proceedings may, if a compromise is made, vote for an extension of the term for the payment of tax arrears if a decision concerning the payment of tax arrears in instalments has been made and the decision will enter into force on the date on which the compromise is approved by a court.

(5) If the payment of tax arrears in instalments is state aid within the meaning of the Competition Act, the tax authority shall follow the provisions of § 34<sup>1</sup> of the Competition Act.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

(6) The Minister of Finance shall, by a regulation, establish the procedure for the payment of arrears of state taxes in instalments.

#### **§ 112. Decision on payment of tax arrears in instalments**

(1) A tax authority shall make a decision to satisfy or to refuse to satisfy a request for the payment of tax arrears in instalments within twenty days as of receipt of the request. Upon making a decision, the tax authority may alter the schedule for payment of tax arrears

submitted by the taxable person. Refusal to satisfy and partial satisfaction of a request shall be reasoned.

(2) Upon deciding to satisfy a request, the tax authority shall take into consideration the financial situation and economic indicators of the taxable person, the taxable person's prior performance of obligations arising from Acts concerning taxes, the feasibility of the payment of tax arrears in instalments and, if security is required, the reliability of the security provided and the circumstances specified in subsection (4) of this section. The tax authority has the right to request that documents that are necessary to establish these circumstances be submitted. In such case, the tax authority shall make a decision on the request within ten days as of the submission of the documents.

(3) The tax authority has the right to request security upon the payment of tax arrears in instalments. Security shall not be requested from a taxable person who is bankrupt and whose tax arrears are to be paid in instalments in order to make a compromise in bankruptcy proceedings. A request for security shall be prepared in writing unless the obligation to provide security arises from law. If security is required, a decision on the payment of tax arrears in instalments shall be made within five working days as of the date on which the security is provided.

(4) A tax authority has the right to deny a request for the payment of tax arrears in instalments if:

- 1) the request is not reasoned or is insufficiently reasoned, or
- 2) the taxable person has been issued an order to pay the tax arrears within forty-eight hours as of the date of receipt of the order (§ 129), or
- 3) the taxable person does not keep accounts pursuant to the procedure provided by legislation, does not submit tax returns or does not preserve documents, or
- 4) the taxable person fails to provide the security required or the tax authority does not consider that the security provided is sufficient or trustworthy, or
- 5) upon consideration of the compromise proposal made by the person who owes arrears in bankruptcy proceedings, the tax authority finds that the financial situation of the debtor does not enable the person to perform the obligations assumed as a result of the compromise, or
- 6) other circumstances or grounds exist which cause the tax authority not to consider the payment of the tax arrears in instalments to be expedient.

### **§ 113. Revocation of decision on payment of tax arrears in instalments**

(1) If a taxable person does not meet the schedule for the payment of tax arrears, does not pay taxes which become due during the period of validity of the schedule on time, does not perform an obligation provided for in the Law of Property Act to keep a thing encumbered with a pledge in order to guarantee tax arrears or, in the event of a decrease in the value of security, does not submit replacement security accepted by the tax authority, the tax authority has the right to implement one or several of the following measures:

- 1) to revoke the decision on the payment of tax arrears in instalments;
- 2) to revoke a reduction in the interest rate (subsection 117 (2));



3) to calculate interest retroactively at a rate established pursuant to subsection 117 (1) of this Act on the amount of tax which is being paid in instalments.

(2) A tax authority has the right to revoke a decision on the payment of tax arrears in instalments made in order to make a compromise if the compromise is annulled pursuant to the Bankruptcy Act.

### **§ 114. Writing off and forgiveness of tax arrears**

(1) A tax authority for state taxes shall write off:

1) the tax arrears of a legal person upon the dissolution of the legal person with bankruptcy or liquidation proceedings or upon the compulsory dissolution of the legal person without liquidation proceedings if no third party is liable for performance of the tax liabilities or the tax arrears cannot be collected from such third party;

2) the tax arrears of a natural person upon the death or declaration of death of the natural person if no estate exists which could be subject to a claim for payment, or tax arrears to the extent exceeding the value of the inventoried estate from which claims with higher ranking have been satisfied pursuant to the provisions of the Law of Succession Act.

(2) A tax authority for state taxes may forgive tax arrears in order to make a compromise in bankruptcy proceedings, as well as by debt restructuring by way of reducing the debts in the reorganisation procedure or in the debt restructuring procedure. If a tax authority agrees to a compromise proposal, the tax authority shall make a decision to forgive tax arrears, which enters into force on the date on which the compromise is approved.

[\[RT I, 06.12.2010, 1](#) - entry into force 05.04.2011]

(3) A tax authority for state taxes may forgive the tax arrears of a taxable person on the reasoned written request of the taxable person if collection of the tax arrears is hopeless or would be unfair due to circumstances beyond the control of the taxable person, including *force majeure*. The tax authority has the right to request that documents that are necessary to establish the abovementioned circumstances be submitted. In such case, the tax authority may make a decision within thirty days as of the submission of the documents. The provisions of subsection 111 (5) of this Act apply to the forgiveness of tax arrears.

[\[RT I, 06.12.2010, 1](#) - entry into force 05.04.2011]

(4) The Minister of Finance shall establish the procedure for the writing off and forgiveness of tax arrears by a regulation.

### **§ 114<sup>1</sup>. Restructuring of tax arrears and release thereof**

(1) The provisions of this section are without prejudice to the restructuring of tax claims and release thereof in the reorganisation procedure of a legal person or debt restructuring procedure of a natural person or release from debts in the bankruptcy procedure in accordance with special laws.

(2) If the restructuring of tax claims and release thereof in the reorganisation procedure of a legal person, confirmation of compromise in the bankruptcy procedure or debt restructuring of a natural person (entrepreneur) is state aid within the meaning of Competition Act, the tax authority shall follow the provisions of § 34<sup>1</sup> of the Competition Act.

[\[RT I, 06.12.2010, 1](#) - entry into force 05.04.2011]

# Chapter 11

## INTEREST

### § 115. Interest payable by taxable person

(1) If a taxable person fails to pay tax by the due date prescribed by law, the taxable person is required to calculate and pay interest on the amount of tax outstanding by the due date. Interest shall be calculated as of the day following the day on which payment of the tax was due pursuant to law until the date of payment or set-off, inclusive of the latter.

(1<sup>1</sup>) Upon provision of international professional assistance interest on the amount payable in a foreign state shall be calculated from the day following the day when the tax authority received from a competent authority of a foreign state a request for recovery until the day of payment of the tax, the latter included.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(2) If, on the request of a taxable person, an amount of tax is refunded to the taxable person or is transferred to cover other tax liabilities of the taxable person and if such amount of tax is greater than that due to be refunded or transferred pursuant to an Act concerning a tax, the taxable person is required to calculate and pay interest on the amount refunded to the taxable person or transferred to cover other liabilities without basis. Interest shall be calculated as of the day on which the amount was refunded to the taxable person or transferred to cover other tax liabilities until the date of payment or set-off of the amount, inclusive of the latter.

(3) If a taxable person fails to pay interest pursuant to the provisions of subsections (1) and (2) of this section, the tax authority shall issue a claim for interest stating the number of days delayed, the interest rate, the amount of interest payable and the term for payment. The term shall not be shorter than ten days. The provisions concerning notices of assessment (§ 95) apply to claims for interest.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

(4) A claim for interest may be issued in a notice of assessment, a liability decision, a decision concerning fulfilment of a claim for refund or a warning simultaneously with the assessment or collection of an amount of tax. If tax arrears are collected by way of compulsory execution, interest shall be calculated by the tax authority or bailiff conducting the enforcement proceedings. If interest is paid by way of set-off of a claim for refund or in the course of enforcement proceedings, the term for payment of a claim for interest provided in subsection (3) of this section and the minimum rate specified in subsection 119 (3) of this Act shall not apply thereto and payment shall take place on a continuous basis.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(5) The provisions of subsection (1) of this section also apply if the taxable person fails to make advance payments by the due date prescribed by law.

(6) Interest is received by the state.

[\[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

## **§ 116. Interest payable to taxable person**

(1) If, on the basis of the administrative act issued by the tax authority, an amount of tax has been collected from a taxable person or an amount of tax has been set off against a claim for refund submitted by a taxable person and the amount of tax exceeds the amount of tax due according to an Act concerning a tax, the tax authority is required to calculate interest on the overpaid amount for the benefit of the taxable person. Interest shall be calculated as of the date of set-off or payment until the amendment or repeal of the administrative act which was the basis for the payment. Interest shall not be calculated if the tax authority has issued the administrative act on the basis of the information declared by the taxable person.

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(2) If a tax authority fails to fulfil a claim for refund (§ 33) within the term prescribed by law, the tax authority is required to calculate interest on the amount outstanding by the due date. Interest shall be calculated as of the day on which the overpaid amount was to be refunded until the date of payment or set-off of the amount, inclusive of the latter.

(3) If a tax authority has, pursuant to the provisions of subsection 107 (3) of this Act, set a term for a taxable person to submit additional documents, interest shall not be calculated for the benefit of the taxable person as of the date of delivery of a corresponding decision until the date of submission of the additional documents.

(4) A taxable person may apply for the payment of interest specified in subsections (1) and (2) of this section within two years as of:

- 1) the date of entry into force of a decision to amend or repeal a notice of assessment or a decision to refuse to fulfil a claim for refund;
- 2) the entry into force of a judgment of acquittal regarding a misdemeanour which caused a claim for refund to be suspended or a judgment of acquittal in a criminal matter regarding such a claim, or as of the date on which a ruling on terminating criminal proceedings regarding such a claim is made, or as of the date on which a judgment terminating misdemeanour proceedings regarding such a claim is made.

[[RT I 2003, 71, 472](#) - entry into force 01.01.2004]

(5) A tax authority is required to pay interest within fifteen days as of the date of receipt of an application specified in subsection (4) of this section. A reasoned written decision shall be made upon refusal to pay interest.

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(6) If a taxable person has not applied for the refund of the amount paid to the tax authority without basis and the interest calculated on such amount to his or her bank account before the amendment or repeal of the administrative act which was the basis for the payment, the overpaid amount shall be deemed to be payment within the meaning of subsection 105 (2).

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

## **§ 117. Interest rate**

- (1) The rate of interest provided for in §§ 115 and 116 of this Act is 0.06 percent per day.
- (2) Upon the payment of tax arrears in instalments, a tax authority has the right to reduce the interest rate by up to 50 percent as of the date of making the decision on payment of the tax arrears in instalments.

## **§ 118. Limitation period for calculation of interest**

- (1) The limitation period for the calculation of interest is one year as of the date of full payment of an amount of tax or full payment or set-off of an amount refunded to a person without basis.
- (2) [Repealed - [RT I 2008, 58, 323](#) - entry into force 01.01.2009]
- (3) A claim for interest shall not be submitted after expiry of the period specified in subsection (1) of this section. The provisions of subsection 98 (4) of this Act shall apply to the limitation period for the claim for interest.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

- (4) On the amount of tax that is being paid in instalments the limitation period for the calculation of interest is one year as of the date of the expiry or repeal of the schedule of payments in instalments.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

## **§ 119. Non-calculation of interest**

- (1) The calculation of interest shall be suspended:
  - 1) on tax liabilities not performed by a credit institution by the due date for the duration of a moratorium on the credit institution;
  - 2) upon the declaration of bankruptcy of a taxable person;
  - 3) on tax liabilities not performed by the due date if the tax liabilities are being performed pursuant to a valid compromise approved in bankruptcy proceedings;
  - 4) on tax liabilities related to an estate which are not performed by the due date, as of the opening of the succession until acceptance of the estate by successors;
  - 5) if the amount of interest exceeds the claim for tax which is a basis for the calculation thereof.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

- 6) in a reorganisation proceeding until approval of the reorganisation plan.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

- (2) Interest shall not be calculated on an amount of tax outstanding on the due date or a part thereof which is equal to an amount to be paid or refunded to a taxable person by the tax authority pursuant to this Act, an Act concerning a tax or the customs rules.

(3) Unless otherwise prescribed by an Act concerning a tax, a claim for interest is not submitted if the amount of interest is less than 10 euros. The minimum rate shall not apply to set-off of interest against the claim for refund or compulsory execution.

[\[RT I, 10.12.2010, 4\]](#) - entry into force 01.01.2011]

(4) If, for reasons independent of a taxable person, a tax authority sends a tax notice specified in § 88 of this Act or a land tax notice to the taxable person later than thirty days before the due date for payment of the tax and if the amount indicated in the tax notice is paid after the due date for payment of the tax, interest shall not be calculated for the same number of days as the number of days by which the tax authority was late in sending of the tax notice.

(5) Interest shall not be calculated on amounts of tax declared which are less than the amounts prescribed by law or on amounts the refund of which is claimed and which exceed amounts prescribed by law if such amounts are the result of misleading or false information provided by the tax authority in writing, unless:

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

- 1) the taxable person was aware that the information was misleading or false when declaring or paying tax or submitting a claim for refund;
- 2) the taxable person caused the false information to be issued by threats or duress, by submitting misleading or false information to the tax authority or by using other illegal means.

(6) A tax authority has the right not to calculate or collect interest on the grounds provided for in § 100 of this Act.

(7) Interest shall not be calculated on an amount of customs duty which is payable for the reason that the customs authorities of the exporting country or another authorised body of the exporting country has retrospectively revoked the document certifying preferential origin or declared the document certifying preferential origin not conforming to the requirements and the taxable person was not aware of the issue of the document certifying preferential origin on incorrect bases.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

(8) Interest shall not be calculated on the sum of customs duty and value added tax, which is to be paid on the anti-dumping or balancing customs duty, established retrospectively.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

(9) Interest shall not be calculated on the sum of customs duty and value added tax, which is to be paid due to the fact that the European Commission did not allocate quota for the ensured tariff quota.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

# **Chapter 12**

## **SECURITY**

### **§ 120. Security**

- (1) A tax authority has the right to request the provision of security:
  - 1) upon the payment of tax arrears in instalments (§ 111);
  - 2) in event of extension or suspension of the fulfilment of a claim for refund (subsection 107 (5));
  - 2<sup>1</sup>) upon suspension of the execution of an administrative act (§ 146);
  - 3) in other cases prescribed by law.

(1<sup>1</sup>) Upon placement of goods under customs supervision or release thereof for free circulation, a tax authority has the right to demand a security to cover taxes payable in connection with a custom debt. The provision, use and release of security and the bases for calculation of amounts of security shall be carried out pursuant to the procedure provided for in the customs rules.

- (2) No security shall be required if the amount of a claim is less than 64 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

- (3) No security shall be required from state, rural municipality and city agencies.

[\[RT I 2005, 68, 528](#) - entry into force 01.01.2006]

### **§ 121. Scope of security**

A tax authority shall determine the amount of security to be provided. The tax authority shall determine the scope of security based on the size of the secured claim and the extent of the costs of possible compulsory execution.

### **§ 122. Types of security**

Unless otherwise provided by an Act concerning a tax, a person who is obligated to provide security may choose between the following types of security:

- 1) surety;
- 2) an amount of security paid into the bank account designated therefor as a deposit;

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

- 3) a registered security over movables or a mortgage established for the benefit of the state, a rural municipality or a city.

### **§ 123. Surety**

- (1) Any person who is accepted by a tax authority as a surety and who undertakes to pay the amount indicated in a contract of suretyship at the request of the tax authority may act as a surety.
- (2) A tax authority has the right not to accept a surety if:
  - 1) the surety does not have sufficient property in order to secure the tax arrears;
  - 2) the amount in which security is provided is not sufficient in the opinion of the tax authority;
  - 3) the previous activities, financial situation or reputation of the surety give sufficient reason to doubt the reliability of the security.

### **§ 124. Pledge**

- (1) Pledges shall be established pursuant to the procedure provided for in the Law of Property Act or the Commercial Pledges Act.
- (2) On behalf of the state, pledge contracts shall be signed by the head or deputy head of a tax authority for state taxes or a person authorised by the head of a tax authority for state taxes. On behalf of a rural municipality or city, pledge contracts shall be signed by the head or deputy head of a tax authority for local taxes or a person authorised by the head of a tax authority for local taxes.
- (3) A tax authority has the right not to accept a pledge proposed as security if, in the opinion of the tax authority, the value of the object of the pledge is not sufficient to secure the tax arrears or the object of the pledge is not easily sold or will lead to excessive administrative costs.
- (4) If a pledge is no longer sufficient to secure a claim as a result of a reduction in the value of the object of the pledge, a taxable person is required to provide additional security.

### **§ 125. Replacement of security**

- (1) A person who provides security has the right to replace the security with another security permitted by this Act or an Act concerning a tax.
- (2) A tax authority has the right to request that a security be replaced if the value of the security falls or the security is no longer sufficient to secure tax arrears which have been or may be incurred.
- (3) A tax authority has the right not to accept a replacement security if the security is not sufficient to secure tax arrears or is not reliable.

### **§ 126. Release of security**

- (1) Unless otherwise provided by law or a regulation, a tax authority shall release a security if:
  - 1) the claim for the securing of which the security was provided does not arise;
  - 2) the claim for the securing of which the security was provided terminates;

3) the claim for the securing of which the security was provided has been invalidated or declared null and void.

(2) A surety shall be notified of the release of the security within ten days as of the occurrence of a fact provided for in subsection (1) of this section. Entries of registered securities over movables and of mortgages shall be deleted pursuant to the procedure provided by law.

(3) An amount of security paid into the bank account designated therefor shall be released within ten days as of the submission of a corresponding request unless otherwise prescribed by legislation. If a person has not submitted a request for the release of an amount of security within one year as of the occurrence of facts provided for in subsection (1) of this section, the tax authority shall transfer the amount of security to the prepayment account of the person.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(4) A taxable person may request that the security not be released and that it be used in order to secure other claims of the tax authority which have arisen or which may arise.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **§ 127. Use of security**

(1) In order to make a claim against a surety, the surety shall be notified of an obligation which the principal debtor has not performed. If the surety has not commenced payment of the tax arrears of the principal debtor within one month as of the date on which the tax authority sends the corresponding notice, the tax authority has the right to file an action with a court in order to collect the tax arrears.

(2) Upon failure to fulfil a secured claim, the amount of security paid into the bank account designated therefor shall be calculated to cover the claim. If security is provided to cover several claims, the provisions of subsection 128 (5) of this Act apply to the order of satisfaction of the claims.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(3) Upon failure to fulfil a claim secured by a registered security over movables, a tax authority has the right to sell the security pursuant to the procedure provided by legislation regulating enforcement procedure.

# **Chapter 13 COMPULSORY EXECUTION**

## **Division 1 Compulsory Execution of Claims Arising from Tax Arrears**



## **§ 128. Compulsory execution**

(1) A tax authority is required to collect tax arrears unpaid by a taxable person. Compulsory execution of claims arising from tax arrears shall be conducted pursuant to the procedure provided for in this Chapter and in legislation regulating enforcement procedure. If a taxable person is declared bankrupt, tax arrears shall be settled pursuant to the procedure provided for in the Bankruptcy Act.

(2) Compulsory execution of claims arising from tax arrears is permitted if:

- 1) the due date for performance of the obligation has arrived and the claim is collectable;
- 2) the taxable person has been notified of the administrative act containing the claim pursuant to the procedure provided by law;
- 3) the tax arrears are not being paid in instalments;
- 4) the limitation period for the tax arrears has not expired and the tax arrears have not been forgiven or have not extinguished on other grounds;
- 5) execution of the administrative act has not been suspended.

(3) Compulsory execution of a claim for an amount of tax declared and not paid by a taxable person or an amount of tax payable pursuant to a tax notice is permitted only after a term has been set at least once for the taxable person to pay the tax arrears together with a warning stating the consequences of failure to perform the obligation within the term (§ 129).

(4) A tax authority may also collect fines imposed by the tax authority and other financial obligations arising from this Act, including the costs of substitutive enforcement and penalty payments and the costs of the performance of obligations by interpreters, translators, experts or third parties if, pursuant to law, such costs are payable by the taxable person. In such case, the provisions concerning the compulsory execution of claims arising from tax arrears apply to the compulsory execution of such claims. If a person who is obligated to cover costs or pay a penalty payment has not incurred tax arrears or if a tax authority has not commenced compulsory execution of claims arising from the tax arrears, the tax authority may submit a request for compulsory execution of the abovementioned claims to a bailiff.

(5) The tax authority shall first collect the amount of tax to be paid and thereafter interest. If other financial obligations arising from this Act are subject to compulsory execution together with tax arrears, the arrears shall be collected in the order provided for in subsection 105 (6) of this Act. If amounts of money recovered as a result of compulsory execution are not sufficient to satisfy all tax claims, the amounts of money recovered as a result of compulsory execution shall be calculated to cover different taxes in the order provided for in subsection 105 (6) of this Act.

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(5<sup>1</sup>) [Repealed - [RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(6) If amounts of money recovered as a result of compulsory execution conducted by a bailiff are not sufficient to satisfy all claims, the amount received shall first be calculated to cover the costs of execution and the remuneration of the bailiff and, thereafter, the claims shall be satisfied in the order provided for in subsection 105 (6) of this Act.

[[RT I 2008, 58, 323](#) - entry into force 01.01.2009]

(7) A tax authority for a state tax may, by way of compulsory execution, collect state tax arrears of rural municipality and city agencies. If a state agency incurs tax arrears, the

administrative authority exercising supervisory control over the state agency shall be addressed to settle the matter.

(8) A tax authority has the right to waive compulsory execution if the expenses related to compulsory execution exceed the amount to be collected or collection of the amount is hopeless due to the insolvency of the taxable person and if it is not expedient to submit a bankruptcy petition.

### **§ 129. Warning of compulsory execution**

(1) A tax authority has the right to issue an order to a taxable person to pay tax arrears within ten days as of the date of receipt of the order.

(2) A tax authority has the right to issue an order to a taxable person to pay tax arrears within forty-eight hours as of the delivery of the order if the tax authority has reason to believe that any delay in the collection of tax arrears may render collection of the tax arrears impossible.

(3) In addition to the provisions of § 46 of this Act, an order issued pursuant to subsection (1) or (2) of this section shall contain a warning concerning the commencement of compulsory execution if the obligation is not performed within the term.

(4) If several persons are solidarily liable for the payment of tax arrears, a tax authority has the right to issue a joint order to such persons.

### **§ 130. Enforcement action by tax authority**

(1) If a taxable person fails to pay tax arrears within the term set by a tax authority pursuant to § 129 of this Act or in a notice of assessment or a liability decision, the tax authority shall commence collection of the tax arrears by way of compulsory execution. A tax authority has the right to perform the following acts:

1) to apply for a prohibition on the disposal of an immovable to be entered in the land register;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

2) to apply for a prohibition on the disposal of a structure which is a movable to be entered in the register of construction works;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

3) to apply for a prohibition on the disposal of a vehicle to be entered in the relevant register;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

4) to apply for a prohibition on the disposal of a ship to be entered in the ship register;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

5) to issue an order to freeze securities or a securities account pursuant to the provisions of the Estonian Central Register of Securities Act;

5<sup>1</sup>) to apply for establishment of a mortgage on an immovable or a ship entered in the ships register or an aircraft entered in the civil aircraft register. The regulation concerning judicial mortgage provided for in the Law of Property Act shall apply to the mortgage;

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

6) to make a claim for payment against financial claims and proprietary rights pursuant to the procedure provided for in this Act or in legislation regulating enforcement procedure.

(1<sup>1</sup>) In order to perform the enforcement action specified in subsection (1) of this section, the person specified in subsection 46 (5) of this Act shall submit a corresponding written application.

(2) A tax authority may apply to a bailiff for the collection of tax arrears if acts performed by the tax authority pursuant to clause (1) 6) of this section have not yielded any results. If the enforcement proceedings commenced by a tax authority are continued by a bailiff, the person who owes arrears need not be issued with a new warning. If enforcement proceedings are continued by a bailiff, the prohibitions and seizures imposed by the tax authority shall remain valid.

[\[RT I 2005, 25, 193\]](#) - entry into force 01.07.2005]

### **§ 131. Seizure of bank account**

(1) A tax authority has the right to issue and order to a credit institution for the seizure of the bank account of a debtor or for the transfer of money from the bank account of a debtor to the bank account designated therefor in the amount of the tax arrears.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

(2) A credit institution is required to comply without delay with an order issued by a tax authority for the seizure of the bank account of a taxable person. If the amount in the bank account is smaller than the amount to be transferred according to the order of the tax authority, the credit institution is required to comply with the order for the transfer of the tax arrears in an amount equal to the amount in the bank account of the taxable person and, in the event of further receipts of money in the bank account of the debtor, transfer the money to the bank account designated therefor until the amount indicated in the order is paid, unless the tax authority has granted permission to access the seized bank account.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

(3) Upon the collection of the tax arrears or seizure of the bank account of a natural person, the amount of the minimum monthly wage for the person who owes arrears and for each of his or her dependant family members shall not be subject to collection or seizure by a tax authority each month. Information on the dependants shall be given to the tax authority by the person who shall, at the request of the tax authority, submit the necessary documents. Upon issue of the order, the tax authority may take the information available thereto on the dependants of the person as the basis for the issue of the order. If the person submits different information on his or her dependants after the issue of the order, the order shall be amended correspondingly.

(4) Payments from a seized bank account may only be made with the permission of a tax authority. A seized bank account is accessible with the permission of a tax authority. A tax

authority shall issue an order for the release of a bank account from seizure within three working days after payment of the tax arrears.

(5) A credit institution is prohibited from providing a taxable person with access to a bank account if an order of a tax authority concerning the seizure of the bank account of the taxable person has been received.

(6) Upon seizure of the bank account of a taxable person, the credit institution is required to communicate immediately, by post or electronic means, the following information to the tax authority which issued the order:

- 1) the date and time of receipt of the order;
- 2) the name and title of the employee who received the order;
- 3) the date and time of seizure of the bank account;
- 4) the balance in the bank account at the moment of seizure of the bank account.

[\[RT I 2005, 25, 193\]](#) - entry into force 01.07.2005]

### **§ 132. Limitation period for compulsory execution**

(1) The limitation period for the compulsory execution of claims arising from the amount of tax is seven years. The limitation period begins to run on 1 January of the year following the year during which the due date for the performance of an obligation arrives. The limitation period for the compulsory execution of claims arising from the amount of tax collectable pursuant to a notice of assessment or liability decision begins to run on 1 January of the year following the year of delivery of the notice of assessment or liability decision. The limitation period for the compulsory execution of claims arising from other financial obligations collectable by a tax authority is one year as of 1 January of the year following the year of the filing of the claim.

[\[RT I 2008, 58, 323\]](#) - entry into force 01.01.2009]

(2) The limitation period for the compulsory execution of a claim for interest specified in subsection 115 (3) of this Act is one year as of 1 January of the year following the year of the filing of the claim.

(3) Upon expiry of the limitation period, the tax liability and accessory obligations related thereto terminate.

(4) A limitation period is interrupted:

- 1) if the term for the payment of taxes is extended;
- 2) if the tax arrears are to be paid in instalments;
- 3) if a bankruptcy petition is submitted;
- 4) if enforcement proceedings are commenced in order to collect tax arrears;
- 5) if measures for provisional legal protection are applied by the administrative court.

[\[RT I 2008, 60, 331\]](#) - entry into force 01.01.2009]

6) upon submission of the reorganisation application or of the debt restructuring application by a person who owes arrears;

[\[RT I, 06.12.2010, 1](#) - entry into force 05.04.2011]

(5) The running of a new limitation period shall be calculated as of 1 January of the year following the year during which the grounds for interruption of the limitation period cease to exist.

(6) A limitation period shall be interrupted only with regard to the amount which is related to the grounds for interruption of the limitation period.

(7) Compulsory execution of claims arising from tax arrears is not permitted after expiry of the limitation period provided for in this section.

### **§ 133. Competence of tax authority as representative of state, rural municipality or city in liquidation, bankruptcy and judicial proceedings**

(1) Upon the collection of tax arrears in liquidation, bankruptcy, reorganisation, debt restructuring or judicial proceedings, the state is represented by the Tax and Customs Board.

[\[RT I, 06.12.2010, 1](#) - entry into force 05.04.2011]

(2) Upon the recovery of tax arrears in liquidation, bankruptcy, reorganisation, debt restructuring or judicial proceedings, a rural municipality or city shall be represented by a rural municipality or city administrative agency with the powers of a tax authority.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

(3) A tax authority may submit a petition for the declaration of bankruptcy of a taxable person as bankrupt if enforcement action taken by the tax authority or a bailiff does not result in the collection of tax arrears.

(4) A tax authority may submit a petition for the declaration of bankruptcy of a taxable person as bankrupt before the case specified in subsection (3) of this section if a basis specified in clause 10 (2) 3) of the Bankruptcy Act exists.

[\[RT I 2007, 23, 121](#) - entry into force 01.07.2007]

### **§ 134. Compulsory enforcement by way of international professional assistance**

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **Division 2 Ensuring Performance of Non-Monetary Obligations**

### **§ 135. Application of coercive measures**

(1) The provisions of the Substitutive Enforcement and Penalty Payment Act apply to the penalty payments and substitutive enforcement prescribed in §§ 67, 71 and 91 of this Act or in an Act concerning a tax, taking account of the specifications provided for in this Act or the

Act concerning a tax. A coercive measure may be applied repeatedly until the objective intended by an administrative act is achieved.

(2) The application of a coercive measure may be suspended by a court pursuant to the procedure prescribed in the Code of Administrative Court Procedure or, on the basis of a reasoned request, by the tax authority which issued an administrative act. A tax authority may postpone the application of a coercive measure and issue a new warning setting a new term for compliance with an administrative act. A tax authority shall not postpone the application of a coercive measure for longer than two months. A decision to amend the application of a coercive measure shall be delivered pursuant to the procedure provided for in Chapter 4 of this Act.

[\[RT I, 23.02.2011, 3](#) - entry into force 01.01.2012]

(3) Penalty payments and the costs of substitutive enforcement shall be collected by way of compulsory execution pursuant to the provisions of subsection 128 (4) of this Act.

### **§ 136. Warning of application of coercive measure**

(1) A person with regard to whom a coercive measure is to be applied shall be set a term for the performance of an obligation and the person shall be warned that coercive measures may be applied if the obligation is not performed by the due date.

(2) Warnings shall be prepared in writing. A warning may be issued in an administrative act if a coercive measure is applied in order to ensure compliance with the administrative act.

(3) The following shall set be out in a warning:

- 1) the name and address of the person to whom the warning is issued;
- 2) a reference to the administrative act imposing the obligation with which failure to comply will result in the application of a coercive measure;
- 3) the due date for voluntary performance of the obligation, except in the case of an obligation to refrain from a particular activity;
- 4) the type of coercive measure or, in the case of a penalty payment, the size of the penalty payment to be applied in the event of failure to perform the obligation by the due date;
- 5) the name of the tax authority which issued the warning;
- 6) the given name and surname of the official competent to sign and his or her signature;
- 7) the date of issue of the warning.

(4) If a tax authority intends to apply several coercive measures to ensure performance of the same obligation, the order of application and the dates of commencement of application of the coercive measures shall be indicated. The tax authority may apply a new coercive measure only if compliance with an administrative act is not achieved by the initial coercive measure.

(5) If a tax authority wishes to apply coercive measures of the same type to ensure the performance of several obligations, the coercive measure shall be indicated separately for each obligation in a warning.

(6) If a person is required by an administrative act to refrain from acting or to tolerate measures taken by a tax authority, a warning may state that a coercive measure may be re-applied upon each failure to comply with the obligation.

## **§ 136<sup>1</sup>. Performance of acts ensuring enforcement before imposition of financial claim or obligation**

(1) If, upon verification of the correctness of payment of taxes, a justified doubt arises that, after imposition of a financial claim or obligation, the compulsory execution thereof may become considerably more difficult or impossible as a result of the activities of the taxable person, the head of the regional structural unit of the Tax and Customs Board may submit an application to an administrative court to be granted permission for the performance of the enforcement actions provided for in subsection 130 (1) of this Act or apply to the court for permission to apply to a bailiff for the performance of enforcement actions if the performance of the enforcement actions provided for in subsection 130 (1) of this Act is impossible regarding the matter or it is highly probable it would be ineffective.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(2) The following shall be set out in an application submitted to an administrative court:

- 1) the reasons indicating the considerable difficulty or impossibility to collect potential tax liability;
- 2) the estimated amount of the potential financial claim or obligation;
- 3) information concerning security, upon the provision of which the tax authority shall terminate the enforcement actions;
- 4) one or several enforcement actions provided for in subsection 130 (1) of this Act or in the Code of Enforcement Procedure and the reason why the tax authority considers it to be necessary to perform the selected action.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(3) If the circumstance requiring the performance of an enforcement action ceases to exist or if the taxable person provides security to ensure the payment of the financial claim or obligation, the tax authority shall terminate an enforcement action not later than within two working days.

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

(4) A tax authority as well as a taxable person may lodge an appeal against court ruling on the regulation to satisfy the request or refusal to satisfy the request specified in subsection (1) of this section. An appeal against court ruling may be lodged with regard to an appeal against the ruling of a circuit court.

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]

## **Chapter 14**

# **CHALLENGE PROCEEDINGS**

### **§ 137. Right to file challenge**

(1) If a taxable person or another participant in proceedings finds that the rights of the person have been violated or freedom of the person has been restricted by a tax notice, notice of assessment, liability decision, order or another administrative act issued by a tax authority, the person has the right to demand the repeal or amendment of the administrative act or the issue of a new administrative act.

[\[RT I, 23.02.2011, 3\]](#) - entry into force 01.01.2012]

(2) Participants in proceedings also have the right to challenge:

- 1) a delay;
- 2) an omission;
- 3) refusal to remove an official or expert;
- 4) the return of an application for the issue of an administrative act;
- 5) other measures taken by a tax authority.

(3) A challenge against an administrative act or measure of the Tax and Customs Board shall be filed with the Tax and Customs Board. If the regional structural unit has issued the administrative act of the Tax and Customs Board or performed the transaction in question, the challenge shall be filed to the Tax and Customs Board through the regional centre.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

(4) The provisions of this Chapter apply to the adjudication of challenges against administrative acts or measures of tax authorities for local taxes taking account of the specifications provided for in the Local Taxes Act.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

### **§ 138. Term for filing challenge**

(1) A challenge against an administrative act shall be filed within thirty days as of the date of notification of or delivery of the administrative act.

(2) A challenge against a measure shall be filed within thirty days as of the day when the person filing the challenge becomes or should have become aware of the challenged measure.

[\[RT I 2003, 88, 591\]](#) - entry into force 01.01.2004]

### **§ 139. Requirements for challenges**

(1) A challenge shall be filed in writing.



- (2) The following shall be set out in a challenge:
- 1) the name of the administrative authority with which the challenge is filed;
  - 2) the name, postal address and telecommunications numbers of the person filing the challenge;
  - 3) the name of the challenged administrative act and the date of issue thereof or the time of the challenged measure;
  - 4) the content of the challenged administrative act or measure;
  - 5) the reasons why the person filing the challenge finds that the administrative act or measure violates the rights of the person;
  - 6) the clearly expressed claim of the person filing the challenge;

[\[RT I, 23.02.2011, 3](#) - entry into force 01.01.2012]

- 7) certification by the person filing the challenge that no judgment has entered into force and no court proceedings are being conducted concerning the matter;
- 8) a list of documents annexed to the challenge.

(3) A challenge shall be signed by the person filing the challenge or by the representative of such person. The representative of the person filing a challenge shall append his or her authorisation document thereto unless such document has been submitted before.

(4) The relevant documents shall be appended to a challenge. If it is not possible to submit the documents, the location of the documents shall be indicated in the challenge.

### **§ 140. Restoration of term for filing challenge**

The term for filing a challenge may be restored under the conditions provided for in § 50 of this Act.

### **§ 141. Withdrawal of challenge**

(1) A person who files a challenge has the right to withdraw the challenge prior to the making of a decision. A notice of withdrawal of a challenge shall be filed in writing or orally. The tax authority shall record an oral withdrawal and the record shall be signed by the person withdrawing the challenge.

(2) The withdrawal of a challenge does not preclude the filing of a new challenge during the term for filing challenges.

### **§ 142. Deficiencies in challenge**

If a challenge does not comply with the requirements provided for in § 139 of this Act, the tax authority with which the challenge is filed shall draw the attention of the person who filed the challenge to the deficiencies in the challenge and, if necessary, grant a term of up to ten days to the person who filed the challenge to eliminate the deficiencies.

### **§ 143. Return of challenge**

(1) A challenge shall be returned if:

- 1) the person who filed the challenge has no right to file the challenge;

- 2) the person who filed the challenge has failed to eliminate the deficiencies in the challenge within the designated term;
- 3) the term for filing the challenge has expired and is not restored;
- 4) a court judgment has entered into force concerning the matter;
- 5) judicial proceedings are being conducted concerning the matter.

(2) If the review of a challenge is not within the competence of an administrative authority, the administrative authority shall return the challenge and explain where the person has recourse or shall deliver the challenge to the competent administrative authority and notify the person who filed the challenge of such delivery.

(3) A challenge shall be returned to a person by a written decision within seven days as of the filing of the challenge. The decision shall set out the grounds for the return and an explanation concerning the procedure for further recourse. In the case provided for in clause (1) 2) of this section, the challenge shall be returned within seven days after expiry of the term for the elimination of the deficiencies (§ 142).

[\[RT I 2008, 60, 331](#) - entry into force 01.01.2009]

#### **§ 144. Contestation of return of challenge**

(1) A person who filed a challenge may file a complaint against a decision to return the challenge made by a regional structural unit of the Tax and Customs Board with the Tax and Customs Board within thirty days as of the date of notification of or delivery of the administrative act. A person who filed a challenge may file a complaint with the same authority against a decision made by a regional tax centre of the Tax and Customs Board to return the challenge.

(2) If an agency specified in subsection (1) of this section finds that the return of a challenge was not justified, the agency shall accept the challenge.

(3) If an agency specified in subsection (1) of this section finds that a complaint against the return of a challenge is not justified, the agency shall deny the complaint and shall return the challenge.

(4) A person shall be notified of the denial of a complaint against the return of a challenge by a written decision within seven days as of the filing of the complaint and the grounds for the denial and an explanation concerning the procedure for further recourse shall be set out in the decision.

#### **§ 145. Delivery of challenge**

(1) If a challenge complies with the requirements provided for in this Act, the regional structural unit of the Tax and Customs Board shall deliver the challenge together with the necessary documents and its opinion in writing to the Tax and Customs Board within seven days.

(2) If a regional tax centre of the Tax and Customs Board which issued an administrative act finds that the challenge against it is reasoned, the challenge may be satisfied by the regional structural unit of the Tax and Customs Board.

[\[RT I 2005, 57, 451](#) - entry into force 18.11.2005]

## **§ 146. Suspension of execution of administrative act**

- (1) The filing of a challenge shall not prevent the challenged administrative act from being executed, except in the cases provided for in subsections (2) and (3) of this section.
- (2) The execution of orders issued to a third party pursuant to §§ 61 or 62 of this Act shall be suspended until the final decision made in the matter enters into force.
- (3) An administrative authority adjudicating a challenge may suspend the execution of an administrative act if this is necessary. If the execution of an administrative act is suspended at the request of a taxable person, the tax authority has the right to request that the taxable person provide security if the suspended administrative act contains a financial obligation. Security shall be provided and accepted pursuant to the provisions of §§ 120-127 of this Act.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 147. Review of challenge**

- (1) Upon the review of a challenge, the lawfulness and purposefulness of the issue of an administrative act shall be verified.
- (2) An administrative authority which reviews a challenge shall:
  - 1) request that the corresponding administrative authority submit documents concerning the administrative act, if necessary;
  - 2) conduct on-the-spot visits of inspection, if necessary;
  - 3) involve experts or specialists, if necessary;
  - 4) require written explanations from the administrative authority which issued the administrative act, if necessary;
  - 5) hear the explanations of interested persons;
  - 6) resolve issues concerning suspension of the execution of the administrative act;
  - 7) perform other acts provided by law.
- (3) A challenge shall be reviewed within thirty days after the receipt thereof by the administrative authority reviewing the challenge.
- (4) If a challenge needs to be examined further, the administrative authority which reviews the challenge may, by a written decision, extend the term for review of the challenge by up to ten days.
- (5) An administrative authority which reviews a challenge may, if necessary, request that the person who filed the challenge submit additional evidence. In such case, a challenge shall be reviewed within five days as of the submission of evidence but the administrative authority has no obligation to review the challenge earlier than within the term provided for in subsection (3) of this section.

[\[RT I, 10.12.2010, 4\]](#) - entry into force 01.01.2011]

## **§ 148. Authority of tax authority upon review of challenge**

(1) Upon adjudication of the matter on the merits of a challenge, the tax authority has the right to:

- 1) satisfy the challenge and repeal an administrative act either in full or in part and to eliminate the factual consequences of the administrative act;
- 2) issue an administrative act, take a measure or make a new decision on the merits of the matter;
- 3) issue a precept to the administrative authority which issued the administrative act to issue an administrative act, to take a measure or for a new resolution of the matter;
- 4) restore the situation prior to the measure being taken or assign such task to the administrative authority which took the measure;
- 5) dismiss the challenge.

(2) If a decision to repeal or amend an administrative act made on a challenge affects the rights of a third party, the third party shall be granted the opportunity to submit explanations and objections prior to the decision being made.

(3) If the person who filed a challenge has filed or files an action in the matter with a court within the term for review of the challenge, the tax authority has the right to return the challenge and not to make a decision on the challenge.

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

## **§ 149. Decision on challenge**

(1) A decision on a challenge shall be in writing and shall indicate the resolution concerning adjudication of the challenge. A decision on a challenge shall be delivered to the person who filed the challenge and to third parties involved in challenge proceedings pursuant to the procedure provided for in Chapter 4 of this Act.

(2) If a challenge is satisfied, the tax authority is not required to prepare a decision on the challenge but shall take the desired measure or amend an administrative act in the desired manner.

(3) Upon dismissal of a challenge, a judgment on the challenge shall, in addition to the requirements provided for in subsection (1) of this section, be reasoned and contain an explanation concerning the procedure for further recourse.

## **§ 150. Burden of proof**

(1) If an amount of tax assessed in a tax notice or notice of assessment is challenged, the burden of proof that the tax was assessed incorrectly lies with the taxable person.

(2) If a determined amount of tax is challenged by a taxable person, the burden of proof regarding evidence possessed only by a tax authority lies with the tax authority.

## **§ 151. Right to appeal**

(1) A taxable person or another participant in proceedings may have recourse to a court for adjudication of the matter at each stage of the challenge proceedings. A person also has the right of recourse to a court without filing a challenge.

(2) A taxable person or another participant in proceedings whose challenge was not satisfied in the course of challenge proceedings or whose rights were violated in the challenge proceedings has the right to file an action with an administrative court under the conditions and pursuant to the procedure provided by the Code of Administrative Court Procedure.

(3) Repeal of the decision on challenge may be claimed by the challenge filed with the administrative court:

1) together with the claim that was not satisfied in whole or in part by the decision on challenge;

2) if the decision on challenge has violated the person's rights other than dismissal of the challenge in whole or in part, irrespective of filing the claim specified in clause 1) of this subsection.

[\[RT I, 23.02.2011, 3](#) - entry into force 01.01.2012]

# **Chapter 15 PUNISHMENTS IMPOSED FOR VIOLATION OF TAX LAW**

**§ 152. [Repealed - [RT I 2007, 13, 69](#) - entry into force 15.03.2007]**

**§ 153. [Repealed - [RT I 2007, 13, 69](#) - entry into force 15.03.2007]**

**§ 153<sup>1</sup>. Maksude maksmisest kõrvalehoidumine**

**§ 153<sup>1</sup>. Evasion of payment of taxes**

(1) Failure to submit information to a tax authority or submission of false information or violation of the obligation to withhold which results in the amount of tax payable being less than the amount of tax to be paid pursuant to an Act concerning a tax or the amount to be refunded, compensated for or set off being greater than the amount to be refunded, compensated for or set off pursuant to an Act is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 13,000 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

## **§ 153<sup>2</sup>. Tax fraud**

(1) Submission of knowingly false information to a tax authority with the aim of increasing the amount of a claim for refund or creating a claim for refund is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros.

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

## **§ 154. Obstruction of activities of tax authority**

(1) Failure to submit a tax return, documents, things or other information by the due date, failure to register with a tax authority, submission of false information or knowing submission of incorrect documents to a tax authority, failure to comply with the requirements for the keeping of records, failure to comply with an order of a tax authority or obstruction of the activities of a tax authority in another manner is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

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

(3) [Repealed - [RT I 2007, 13, 69](#) - entry into force 15.03.2007]

## **§ 154<sup>1</sup>. Violation of rules relating to goods subject to excise duty**

(1) The manufacture, dispatch, receipt, possession, storage, transfer or another unlawful act concerning excise goods in violation of the requirements provided for in an excise duty Act or legislation issued on the basis thereof, provided that the elements of a misdemeanour provided for in § 152 or 154 of this Act do not exist, is punishable by a fine of up to 300 fine units.

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

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

## **§ 155. [Repealed - [RT I 2002, 63, 387](#) - entry into force 01.09.2002]**

## **§ 155<sup>1</sup>. Failure to perform obligations of excise warehousekeeper and registered trader**

[[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(1) Failure to perform the obligations of an excise warehousekeeper and registered consignee provided for in the Excise Duty Act, provided that the elements of a misdemeanour provided for in §§ 153<sup>1</sup>, 153<sup>2</sup>, 154 or 154<sup>1</sup> of this Act do not exist, is punishable by a fine of up to 300 fine units.

[\[RT I, 10.12.2010, 4](#) - entry into force 01.01.2011]

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

### **§ 155<sup>2</sup>. Unlawful acts involving motor fuel imported under exemption from excise duty**

(1) The performance of unlawful acts or transactions involving fuel imported under an exemption from excise duty in the standard fuel tank of a motor vehicle is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

### **§ 156. Tampering with meter or preventive measure**

(1) Tampering with or removal or replacement of a meter or preventive measure installed pursuant to an Act concerning a tax or this Act without the permission of a tax authority, or any other activity due to which a meter or preventive measure cannot be used as intended is punishable by a fine of up to 200 fine units or by detention.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 2,600 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

### **§ 157. Organisation of gambling without decision of Tax and Customs Board**

(1) Organisation of gambling without the decision confirming payment of gambling tax is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

[\[RT I 2010, 22, 108](#) - entry into force 01.01.2011]

## **§ 158. Violation of obligations arising from Heavy Goods Vehicle Tax Act**

(1) Failure to re-register a lorry pursuant to the requirements arising from the Heavy Goods Vehicle Tax Act or use of a heavy goods vehicle with a registration certificate which has not been re-registered is punishable by a fine of up to 100 fine units imposed on the owner or possessor of the lorry.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 1,300 euros.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

## **§ 159. Failure to issue certificate**

(1) Failure to issue a certificate concerning tax withheld or paid on payments made to a taxpayer, if such obligation is imposed on the person who makes the payment by law, is punishable by a fine of up to 100 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 450 euros.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

**§ 160. [Repealed - [RT I 2009, 19, 114](#) - entry into force 06.04.2009]**

**§ 161. [Repealed - [RT I 2009, 19, 114](#) - entry into force 06.04.2009]**

## **§ 162. . Proceedings and accrual of fines**

(1) The provisions of the General Part of the Penal Code and the Code of Misdemeanour Procedure apply to misdemeanours provided for in this Chapter, taking account of the specifications provided for in this Chapter.

(2) The following extra-judicial bodies conduct proceedings in matters of misdemeanours provided for in this Chapter:

1) the Tax and Customs Board;

2) tax authorities for local taxes (in matters relating to local taxes).

(3) Fines imposed by tax authorities for state taxes are paid into the state budget, fines imposed by tax authorities for local taxes are paid into the budget of the local government.

[\[RT I 2003, 88, 591\]](#) - entry into force 01.01.2004]



## **Chapter 16**

### **IMPLEMENTING PROVISIONS**

#### **§ 163. Application of this Act to tax liabilities incurred prior to entry into force of this Act**

(1) The provisions of this Act apply to the making of assessments of tax and the refund of overpaid amounts relating to tax liabilities incurred prior to the entry into force of this Act.

(2) [Repealed - [RT I 2003, 48, 341](#) - entry into force 01.01.2003]

(2<sup>1</sup>) The right to compensation for damage does not arise for a taxable person upon payment of interest calculated on the amount of tax arising from legislation in force prior to the entry into force of this Act and unpaid by the due date. Claims for interest for a period preceding the entry into force of this Act presented by the tax authority after 5 November 2002 are invalid. All other valid claims for interest are subject to fulfilment.

(3) The provisions of this Act concerning the amendment and repeal of tax notices, notices of assessment and liability decisions apply to the amendment and repeal of precepts, decisions and tax notices issued pursuant to §§ 21, 22, 23<sup>1</sup> and 40 of the Taxation Act in force until the entry into force of this Act.

[\[RT I 2003, 48, 341](#) - entry into force 07.07.2003]

#### **§ 164. Collection of tax arrears incurred prior to entry into force of this Act**

(1) Tax arrears incurred prior to the entry into force of this Act shall be collected pursuant to the procedure provided for in this Act. Collection commenced prior to the entry into force of this Act may be continued pursuant to the procedure provided for in this Act.

(2) The provisions of this Act concerning the compulsory execution of liability decisions apply to the compulsory execution of precepts issued to guarantors for the payment of amounts of tax pursuant to the Taxation Act in force prior to the entry into force of this Act.

#### **§ 165. Application of provisions concerning limitation periods**

(1) The provisions of this Act concerning suspension (§ 99) and interruption of limitation periods (subsections 132 (4)-(6)) apply to limitation periods which have begun to run prior to the entry into force of this Act if grounds for the suspension or interruption of the limitation period arise after the entry into force of this Act.

(2) The limitation period provided for in subsection 98 (2) of this Act, commencing as of the entry into force of this Act, applies to tax liabilities which were incurred prior to the entry into force of this Act and which do not involve an obligation provided by law to submit tax returns.

(3) The limitation period for the calculation of interest on amounts of tax or on amounts refunded to persons without basis which are returned or set off prior to the entry into force of this Act is one year as of the entry into force of this Act.

## **§ 166. Resolution of disputes**

Objections and appeals filed prior to the entry into force of this Act shall be resolved pursuant to the procedure provided for in the Taxation Act in force prior to the entry into force of this Act.

## **§ 167. Punishment of legal persons for acts committed prior to entry into force of Penal Code**

(1) Legal persons shall be punished for violations of tax law committed prior to the entry into force of the Penal Code and after the repeal of the Taxation Act pursuant to the provisions of subsections (2)–(13) of this section.

(2) Failure to submit a tax return by the due date, failure to comply with the requirements for the keeping of records, failure to register with a tax authority, failure to give notice of changes in information submitted upon registration or failure to submit documents to a tax authority is punishable by a fine of up to 640 euros.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(3) Tampering with or removal or replacement of a meter or preventive measure installed on the orders of a tax authority, or any other activity due to which a meter or preventive measure cannot be used as intended, or obstruction of the activities of a tax authority upon verification of the correctness of payment of taxes, assessment of tax payable or collection of tax arrears, or failure to comply with an administrative act issued by a tax authority to this effect is punishable by a fine of up to 1,300 euros.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(4) Indicating in a tax return or other documents submitted to a tax authority a smaller amount of tax than that prescribed in an Act concerning a tax or a greater amount of tax than that due to be refunded pursuant to an Act concerning a tax is punishable by a fine in an amount of up to 40 per cent of the amount by which the amount of tax as indicated by the taxpayer is lower than the amount of tax to be paid pursuant to an Act concerning a tax or by which the amount of tax to be refunded as indicated by the taxpayer is greater than the amount of tax to be refunded pursuant to an Act concerning a tax.

(5) An activity specified in subsection (4) of this section, if the activity is performed intentionally, is punishable by a fine in an amount of up to 100 per cent of the amount by which the amount of tax as indicated by the taxpayer is lower than the amount of tax to be paid pursuant to an Act concerning a tax or by which the amount of tax to be refunded as indicated by the taxpayer is greater than the amount of tax to be refunded pursuant to an Act concerning a tax.

(6) Failure to withhold or pay taxes which have been withheld is punishable by a fine in an amount of up to 100 per cent of the amount of tax unpaid within the set term.

(7) If a credit institution fails to comply with an order of a tax authority to seize a bank account, a fine equal to the amount of the tax not paid by a taxpayer by the due date shall be imposed on the credit institution, whereupon the fine shall not exceed the amount in the bank account of the taxpayer at the moment when the bank account is seized.

(8) Organisation of gambling using a gambling machine that does not have a revenue stamp for the corresponding taxable period is punishable by a fine of up to 3,200 euros per gambling machine without a revenue stamp in the gambling location.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(9) Organisation of gambling using a gambling table that does not have a revenue stamp for the corresponding taxable period is punishable by a fine of up to 6,400 euros per gambling table without a revenue stamp in the gambling location.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(10) Trade in cigarettes at a price which is higher than the price printed on the revenue stamp attached to the sales packaging of the cigarettes is punishable by a fine of between 320 and 2,600 euros.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(11) Failure to re-register a lorry pursuant to the requirements arising from the Heavy Goods Vehicle Tax Act or use of a heavy goods vehicle with a registration certificate which has not been re-registered is punishable by a fine of up to 1,300 euros imposed on the owner or possessor of the lorry.

[\[RT I 2010, 22, 108\]](#) - entry into force 01.01.2011]

(12) The director general of a tax authority, his or her deputy, the head of the regional structural unit of a tax authority and persons authorised by a director general or the head of the regional structural unit have the right to hear matters of violations of tax law provided for in subsections (2) –(11) of this section and to impose punishments in such matters. An official authorised by a council has the right to hear matters concerning violations of the Local Taxes Act and to impose punishments in such matters. Matters of violations of tax law shall be heard and punishments shall be imposed pursuant to the procedure provided for in the Code of Administrative Court Procedure, in accordance with the terms specified in subsection (13) of this section.

(13) An administrative penalty for a violation of tax law provided for in subsections (2) – (11) of this section may be imposed not later than within three years as of the offence being committed.

[\[RT I 2005, 57, 451\]](#) - entry into force 18.11.2005]

## **§ 168. Liability of persons convicted of tax offences pursuant to Criminal Code for payment of tax arrears**

A person who is convicted of committing a criminal offence provided for in § 148<sup>1</sup> of the Criminal Code shall be liable for tax arrears incurred as a result of the offence committed by the person pursuant to the provisions of subsection 41 (1) of this Act and a tax authority may prepare a liability decision obligating the person to pay the tax arrears.

## **§ 168<sup>1</sup>. Notification of suspension of activities of sole proprietor and deletion of sole proprietor from register**

(1) A sole proprietor who wishes to notify of the suspension of the activities thereof from 1 January up to 31 December 2009 shall notify the registrar of the commercial register thereof in compliance with subsection 3 (3) of the Commercial Code by an application specified in subsection 511<sup>4</sup> (1) of the Commercial Code. A person is not deemed to be a sole proprietor for the purposes of taxation during the period when the business activities of the person are suspended.

(2) A sole proprietor who wishes to terminate the activities thereof during the period specified in subsection (1) of this section is required to notify the regional structural unit of the Tax and Customs Board of the termination of the activities thereof within five working days. A person need not notify of the termination the business activities thereof if the relevant date was indicated in the application for registration of the sole proprietor.

(3) A sole proprietor shall be deleted from the register on the basis of a decision of the head of the tax authority. A sole proprietor is deemed to be deleted from the register as of the date specified in the decision.

[\[RT I 2008, 27, 177\]](#) - entry into force 10.07.2008]

## **§ 168<sup>2</sup>. Suspension on calculation of interest exceeding tax claim**

Clause 119 (1) 5) of this Act does not apply concerning the amount of interest exceeding tax claim calculated until 1 January 2011 if the calculation of interest is not continued.

[\[RT I, 10.12.2010, 4\]](#) - entry into force 01.01.2011]

## **§ 168<sup>3</sup>. Representation of rural municipality and city**

The Tax and Customs Board may represent a rural municipality or city in the recovery of tax arrears related to tax liabilities in the liquidation, bankruptcy, reorganisation, debt restructuring and judicial proceedings in accordance with the powers transferred to it under a contract under public law concluded on the basis of the Local Taxes Act.

[\[RT I, 13.12.2011, 1\]](#) - entry into force 01.01.2012]

## **§ 169. (Omitted from this text)**

## **§ 170. Entry into force of Act**

(1) This Act enters into force on 1 July 2002.

(2) Clause 30 2) of this Act enters into force as of the moment of Estonia's accession to the European Union.

(3) §§ 152–160 and 162 of this Act enter into force on the date on which the Penal Code enters into force.

<sup>1</sup> Commission Directive 2006/84/EC of 23 October 2006 adapting Directive 2002/94/EC laying down detailed rules for implementing certain provisions of Council Directive 76/308/EEC on mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures, by reason of the accession of Bulgaria and Romania (OJ L 362, 20.12.2006, pp. 99–100);

Council Directive 2008/118/EC of 16 December 2008 concerning the general arrangements for excise duty and repealing Directive 92/12/EEC (OJ L 009, 14.01.2009, pp.12–30)

Council Directive 2010/24/EU concerning mutual assistance for the recovery of claims relating to taxes, duties and other measures (OJ L 84, 31.03.2010, pp.1-12)

Council Directive 2011/16/EU, on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.03.2011, pp.1-12).

[\[RT I, 13.12.2011, 1](#) - entry into force 01.01.2012]