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Taxation Act¹

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RT I 2002, 26, 150
entry into force pursuant to § 170

Amended by the following acts

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

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| 28.01.2009 | RT I 2009, 11, 67 | 01.05.2009 |
| 11.03.2009 | RT I 2009, 19, 114 | 06.04.2009 |
| 22.04.2009 | RT I 2009, 24, 146 | 01.06.2009 |
| 11.11.2009 | RT I 2009, 56, 376 | 01.01.2010 |
| 26.11.2009 | RT I 2009, 62, 405 | 01.01.2010 |
| 21.04.2010 | RT I 2010, 20, 102 | 01.07.2010 |
| 22.04.2010 | RT I 2010, 22, 108 | 01.01.2011, entry into force on the date provided 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). |
| 17.06.2010 | RT I 2010, 38, 231 | 01.07.2010 |
| 10.06.2010 | RT I 2010, 41, 241 | 01.08.2010 |
| 23.09.2010 | RT I 2010, 72, 544 | 01.01.2012 |
| 20.10.2010 | RT I, 18.11.2010, 1 | 01.01.2011, partially01.01.2012 |
| 17.11.2010 | RT I, 06.12.2010, 1 | 05.04.2011 |
| 25.11.2010 | RT I, 10.12.2010, 1 | 01.04.2011 |
| 25.11.2010 | RT I, 10.12.2010, 4 | 01.01.2011 |
| 27.01.2011 | RT I, 23.02.2011, 3 | 01.01.2012 |
| 16.02.2011 | RT I, 14.03.2011, 1 | 01.01.2012 |
| 17.02.2011 | RT I, 14.03.2011, 3 | 24.03.2011 |
| 22.02.2011 | RT I, 14.03.2011, 4 | 01.04.2011 |
| 17.02.2011 | RT I, 21.03.2011, 2 | 01.01.2012 Repealed [RT I, 29.06.2012, 2] |
| 23.11.2011 | RT I, 13.12.2011, 1 | 01.01.2012, partially01.01.2013 |
| 08.12.2011 | RT I, 22.12.2011, 3 | 23.12.2011 Repealed [RT I, 29.06.2012, 2] |
| 06.06.2012 | RT I, 29.06.2012, 1 | 01.04.2013, partially01.01.2014 |
| 06.06.2012 | RT I, 29.06.2012, 2 | 09.07.2012, partially01.01.2013, 01.01.2014 and 01.01.2015 |
| 13.06.2012 | RT I, 06.07.2012, 1 | 01.04.2013 |
| 14.06.2012 | RT I, 02.07.2012, 8 | 01.08.2012 |
| 10.10.2012 | RT I, 25.10.2012, 1 | 01.12.2012 |
| 07.12.2012 | RT I, 22.12.2012, 2 | 01.01.2013 |
| 13.12.2012 | RT I, 22.12.2012, 13 | 01.01.2013 |
| 09.04.2013 | RT I, 17.04.2013, 13 | 09.04.2013 - The Decision of the Supreme Court en banc shall declare subsection 136 ¹ (4) of the Taxation Act incompatible with subsection 24 (5) of the Constitution and void in so far as this provision does not enable a person, in respect of whose property the permission for the performance of the enforcement action specified in subsection 130 (1) of the Taxation Act has been granted by the Circuit Court for the first time on the basis of § 136 ¹ of the Taxation Act, to file an appeal with the Supreme Court against the ruling on authorisation. |
| 22.05.2013 | RT I, 07.06.2013, 1 | 01.07.2013, partially17.06.2013 and 01.01.2014 |
| 11.12.2013 | RT I, 23.12.2013, 1 | 01.01.2014, partially01.01.2015 and 01.01.2020 |
| 21.01.2014 | RT I, 31.01.2014, 6 | 01.02.2014, partially01.04.2014 and 01.07.2014 |
| 19.02.2014 | RT I, 13.03.2014, 4 | 01.07.2014 |

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| 26.03.2014 | RT I, 16.04.2014, 2 | 01.07.2014 |
| 05.06.2014 | RT I, 29.06.2014, 1 | 01.07.2014 |
| 01.07.2014 | RT I, 11.07.2014, 4 | 01.08.2014 |
| 19.06.2014 | RT I, 12.07.2014, 1 | 01.01.2015, partially on the date following the publication in Riigi Teataja. |
| 19.06.2014 | RT I, 29.06.2014, 109 | 01.07.2014, the official titles of the ministers have been replaced on the basis of subsection 107 ³ (4) of the Government of the Republic Act. |
| 19.11.2014 | RT I, 13.12.2014, 1 | 01.01.2016, date of entry into force amended 01.07.2016 [RT I, 17.12.2015, 1] |
| 16.12.2014 | RT I, 23.12.2014, 14 | 01.01.2015 |
| 18.12.2014 | RT I, 23.12.2014, 15 | 01.01.2015 |
| 19.02.2015 | RT I, 06.03.2015, 26 | 01.07.2015 |
| 19.02.2015 | RT I, 17.03.2015, 3 | 18.03.2015 |
| 15.06.2015 | RT I, 30.06.2015, 2 | 01.01.2016 |
| 25.11.2015 | RT I, 17.12.2015, 1 | 20.12.2015 |
| 17.12.2015 | RT I, 06.01.2016, 5 | 16.01.2016, partially 01.01.2017 |
| 27.01.2016 | RT I, 09.02.2016, 1 | 10.02.2016 |
| 07.12.2016 | RT I, 21.12.2016, 1 | 01.03.2018 |
| 15.06.2016 | RT I, 08.07.2016, 1 | 01.01.2017, partially 01.01.2018 |
| 12.10.2016 | RT I, 25.10.2016, 1 | 26.10.2016 |
| 27.10.2016 | RT I, 10.11.2016, 1 | 01.01.2017 |
| 08.03.2017 | RT I, 23.03.2017, 1 | 01.04.2017 |
| 15.03.2017 | RT I, 31.03.2017, 1 | 01.04.2017 |
| 31.05.2017 | RT I, 16.06.2017, 1 | 01.07.2017 |
| 07.06.2017 | RT I, 26.06.2017, 1 | 06.07.2017 |
| 14.06.2017 | RT I, 01.07.2017, 1 | 01.09.2017 |
| 14.06.2017 | RT I, 04.07.2017, 5 | 20.12.2017 |
| 14.06.2017 | RT I, 04.07.2017, 3 | 01.01.2018 |
| 19.06.2017 | RT I, 07.07.2017, 2 | 01.01.2018 |
| 15.11.2017 | RT I, 28.11.2017, 2 | 01.01.2018 |
| 06.12.2017 | RT I, 28.12.2017, 4 | 01.01.2018 |
| 21.03.2018 | RT I, 03.04.2018, 3 | 15.04.2018 |
| 09.05.2018 | RT I, 31.05.2018, 2 | 10.06.2018, partially 01.10.2018 |
| 21.11.2018 | RT I, 07.12.2018, 1 | 17.12.2018, partially 01.01.2019 and 01.01.2020 |
| 20.02.2019 | RT I, 13.03.2019, 2 | 15.03.2019 |
| 23.10.2019 | RT I, 06.11.2019, 1 | 15.11.2019 |

Chapter 1 GENERAL PROVISIONS

Division 1 Definitions Used in Act

§ 1. Scope of application of Act

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

(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 otherwise provided in an Act concerning a tax or the Tax Information Exchange Act.

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

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

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

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

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

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

(6) The procedure provided in the first division of Chapter 9 of this Act shall be applied to the performance and set-off of public monetary obligations arising from judicial proceedings, including a security on cassation and state fee, as well as to the performance and set-off of public monetary obligations arising from the decisions by the prosecutor's office and the maintenance claims transferred to the state. The procedure provided in §§ 33 and 34 of this Act shall be applied to the refund of the amount overpaid upon the performance of such monetary obligations in the case the monetary obligation was paid onto the account specified in subsection 105 (1) of this Act.

[RT I, 08.07.2016, 1 – entry into force 01.01.2018]

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

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

§ 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 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;
- 9) business income tax.

[RT I, 07.07.2017, 2 - entry into force 01.01.2018]

(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:

- 1) contributions to funded pensions and unemployment insurance premiums unless otherwise provided by the Funded Pensions Act;
- 2) pollution charges, water abstraction charge and the mineral resources extraction charge unless otherwise provided in the Environmental Fees Act;
- 3) road usage charges unless otherwise provided in the Traffic Act.

[RT I, 04.07.2017, 5 - entry into force 20.12.2017]

§ 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 in Acts concerning taxes and in rural municipality or city council regulations.

(3) The following shall be provided 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.

§ 4¹. Enforcement of Act concerning tax and amendment of thereof

A period of at least six months shall generally remain between the adoption of an Act concerning tax and the enforcement thereof. The provision shall not be applied in the case of an Act concerning tax and the amendment thereof which has a favourable impact on a taxable person.

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

§ 5. Tax authorities

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

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

(2) The tax authorities for local taxes are rural municipality 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 an administrative contract among themselves by which the duties of the tax authority for local taxes of the same type established in the rural municipalities and cities which are party to the agreement are transferred to an administrative agency of one rural municipality or city which is party to the agreement.

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

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

§ 6. Taxable person

(1) The following are taxable persons:

- 1) 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 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 organise the performance of the principal's monetary and non-monetary obligations arising from this Act, an Act concerning a tax and the acts specified in subsection 3 (4) of this Act within the term and in full. Monetary obligations shall be performed out of the assets of the principal.

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

(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 organise the performance of the monetary and non-monetary obligations, which are related to the assets of the association or managed pool of assets, arising from this Act, an Act concerning a tax and acts specified in subsection 3 (4) of this Act within the set term and in full. Monetary obligations shall be performed out of the administered assets.

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

(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 in subsections (1) and (2) of this section extend to an executor of will, administrator of estate, bailiff, compulsory administrator of immovable and other persons on whom the obligation to administer the assets of a taxable person has been imposed pursuant to law.

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

§ 8¹. Tax representative of non-resident

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

(2) All the rights and obligations of a registered 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 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 the amount of tax and interest due in the cases provided by law and return overpaid amounts or 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;

5) exercise supervision over the obligation to register employment;

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

6) exercise supervision over the compliance with the obligations of the information provider and information source provided in the Tax Information Exchange Act;

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

7) [Repealed - RT I, 24.12.2016, 1 - entry into force 01.01.2018]

(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.

§ 10¹. Processing of personal data

The tax authority of state taxes may process personal data collected pursuant to this Act, the tax law or legislation issued on the basis thereof, including, in justified cases, health data and biometric data, in the performance of the duties specified in § 10 of this Act.

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

§ 11. Principle of investigation

(1) 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 and explanations about his or her rights and obligations arising from this Act and the Taxation Act.

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

(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 them which is collected by tax authorities and to copy or make extracts of such information. A tax authority shall have the right to refuse to disclose information for protection of the rights and freedoms of the data subject and other persons.

[RT I, 13.03.2019, 2 - jõust. 15.03.2019]

(4) At the request of a taxable person, a tax authority is required to issue a written certificate to the taxable person or make information electronically available to the taxable person concerning the size of tax arrears of the taxable person 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) A taxable person and another interested person or agency has the right to request a certificate concerning the absence of tax arrears from a tax authority. The tax authority is required to issue a certificate concerning the absence of tax arrears also if the tax arrears of the taxable person in terms of all taxes administered by the same tax authority are less than 100 euros or if the tax arrears, not including interest not determined by an administrative act, 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 determined the amount of tax.

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

(6) A tax authority may make a notation on 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.

§ 14¹. Notification of taxable person

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

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

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

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

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

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

(3) The explanations and instructions specified in subsection (1) of this section 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]

§ 15¹. Processing of the personal identification code

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

§ 16. Compensation for damage

Damage unlawfully caused to a taxable person or third party by a tax authority 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) shall be founded and its statutes shall be established by a regulation of the Government of the Republic.

[RT I, 13.03.2019, 2 - jõust. 15.03.2019]

(1¹) The objectives of maintaining the register are:

- 1) collection of data for the performance of duties arising from tax laws and other Acts;
- 2) keeping records for tax assessment, verification of the correctness of payment of taxes and collection of taxes;
- 3) keeping records of public financial obligations specified in subsection 1 (6) of this Act.

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

(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;
- 7) on the basis of the Environmental Fees Act the persons who pay pollution charges, water abstraction charge and mineral resources extraction charge;
- 8) persons obligated to perform monetary obligations specified in subsection 1 (6) of this Act;

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

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

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

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

10) an association of persons or pool of assets without the status of a legal person;

[RT I, 09.02.2016, 1 – entry into force 10.02.2016]

11) a person whose data are processed on the basis of the Tax Information Exchange Act;

[RT I, 09.02.2016, 1 – entry into force 10.02.2016]

12) non-residents in connection with the obligation to pay road usage charges;

[RT I, 04.07.2017, 5 - entry into force 20.12.2017]

13) a person whose data are processed pursuant to the Alcohol, Tobacco, Fuel and Electricity Excise Duty Act for the performance of the functions of a state tax authority;

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

14) a person whose data are entered on the list of persons with gambling restrictions pursuant to the Gambling Act and the person whose data is processed pursuant to § 58 of the same Act;

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

15) a person whose data are processed on the basis provided for in subsection 13 (1) of the Customs Act and in order to perform the functions provided for in § 4 of the same Act and Article 3 of the Customs Code;

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

16) a person whose data are collected pursuant to the Liquid Fuel Act.

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

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

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

(2) The controller of the register is the Tax and Customs Board.

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

(3¹) The State Shared Service Centre, the court and the prosecutor's office shall be processors of the register upon taking account of the monetary obligations specified in subsection 1 (6) of this Act and arranging the performance thereof. The State Shared Service Centre that is a processor of the register shall have the rights specified in subsection 63 (2) of this Act.

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

(3²) The processors of the register shall be assigned in the statutes of the register.

[RT I, 13.03.2019, 2 - jõust. 15.03.2019]

(4) Information shall be entered in and obtained from the register pursuant to the procedure provided in the statutes of the register in accordance with the procedure provided in Divisions 3¹ and 4 of this Chapter and acts specified in subsection (2¹) of this section and the Social Tax Act.

[RT I, 13.03.2019, 2 - jõust. 15.03.2019]

§ 18. Registration requirement

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

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

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, self-employed persons, 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) [repealed - RT I, 31.05.2018, 2 - entry into force 01.10.2018]

(1¹) The following persons are required to register themselves in the Tax and Customs Board within ten days as of the date on which the tax liability arises in Estonia:

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

1) non-resident employers, including self-employed persons, 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) The Tax and Customs Board shall issue a certificate concerning registration wherein information specified in subsections 19 (1), 21 (1) or (3) or § 21¹ or subsection 22 (1) of this Act shall be indicated.

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

§ 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 Tax and Customs Board in which the following shall be set out:

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

- 1) the name and address of the person or agency;
- 2) the given name, surname, personal identification code (or, in the absence of 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.

§ 20. Self-employed person

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

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

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

(3) The obligations provided in Acts concerning taxes also apply to self-employed persons who have not been entered in the commercial register. Unless otherwise provided by an Act concerning a tax, the rights provided 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 self-employed person 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]

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

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

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

(1) A self-employed person shall have the right to register his or her spouse who participates in the activities of his or her business in the employment register pursuant to procedure provided in Division 3¹ of this Chapter.

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

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

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

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

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

§ 21. Registration of permanent establishment

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

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

- 1) the name and address of the non-resident legal person;
- 2) the place of registration and the registration number or another code enabling identification, 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 a person responsible for the permanent establishment of the legal person, 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]
- 6) the name and registry code or personal identification code of each shareholder or partner of a legal person, or, in the absence of the personal identification code, date of birth.
- [RT I, 07.06.2013, 1 – entry into force 01.07.2013]

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

(2) The following 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 an 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 Tax and Customs Board and the following shall be set out in the application:

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

- 1) the name and address of the association of persons or pool of assets, 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.

§ 21¹. 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 (1¹) 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:

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

- 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.

§ 22. Registration of non-resident employers

(1) In order to register a non-resident employer specified in clause 18 (1¹) 1) of this Act, an application is submitted to the Tax and Customs Board which sets out the following information:

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

- 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.

§ 23. Giving notification of changes in information

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

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

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

(3) A self-employed person 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 self-employed person for taxation purposes only during the period he or she is engaged in the activities.

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

§ 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 (1¹) 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 3¹

Employment register

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

§ 25¹. Employment register

(1) The employment register is a sub-register of the register provided in subsection 17 (1) of this Act, which is maintained to ensure the performance of functions imposed by law on the Tax and Customs Board, the Labour Inspectorate, the Estonian Unemployment Insurance Fund, the Health Insurance Fund, the Social Security Board and the Police and Border Guard Board.

(2) The processors of the employment register are the Labour Inspectorate and the Estonian Unemployment Insurance Fund. The chairman or secretary of a labour dispute committee shall have the right to make entries specified in § 63 of the Individual Labour Dispute Resolution Act on the basis of the decision specified in clause 25⁵4) of this Act. The Estonian Unemployment Insurance Fund shall have the right to make entries on the basis of a document specified in clause 25⁵3) of this Act if the right for benefit determined on the basis of the Unemployment Insurance Act or for unemployment allowance determined on the basis of the Labour Market Services and Benefits Act is established on the basis thereof.
[RT I, 04.07.2017, 3 - entry into force 01.01.2018]

(3) In this division the definitions relating to the employment register shall be used in the following meaning:

1) 'employment' is working under an employment contract or a contract under the law of obligations, civil service as defined in § 5 of the Civil Service Act, working in the business interests of a company or a self-employed person on a voluntary basis without receiving any remuneration for work and provision of a service or sale of goods specified in § 1 of the Simplified Business Income Taxation Act;

[RT I, 07.07.2017, 2 - entry into force 01.01.2018]

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

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

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

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

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

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

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

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

- 1) a person employed under the employment contract;
- 2) a person providing service under the law of obligations, except for a self-employed person;
- 3) a member of a management or controlling body of a legal person;
- 4) an official and employee for the purposes of § 7 of the Civil Service Act;
- 5) a member of the Riigikogu;
- 6) the President of the Republic;
- 7) a member of the Government of the Republic;
- 8) a judge;
- 9) the Chancellor of Justice;
- 10) the Auditor General;
- 11) the Public Conciliator;
- 12) a member of the local government council;
- 13) a member of the rural municipality or city government;
- 14) a rural municipality or city district elder;
- 15) [Repealed - RT I, 23.03.2017, 1 - entry into force 01.04.2017]
- 16) a non-working spouse accompanying an official sent on a long-term secondment abroad who is paid allowance for spouse on the basis of § 46 of the Civil Service Act, or a non-working spouse accompanying an outside worker or an administrative official on a long-term secondment employed in a foreign mission of the Republic of Estonia, who is paid allowance for spouse on the basis of § 67 of the Foreign Service Act;
- 17) a payer of business income tax for the purposes of the Simplified Business Income Taxation Act;

[RT I, 07.07.2017, 2 - entry into force 01.01.2018]

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

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

(5¹) Data regarding the spouse of a self-employed person who participates in the activities of his or her business specified in subsection 20²(2) of this Act may be entered in the employment register.

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

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

(7) Upon occurrence of an error the maker of the entry is required to correct the incorrect entry immediately. If it is impossible for the maker of the entry to correct the entry himself or herself, she or he shall submit a request to the controller pursuant to the procedure provided in subsection 25⁶(2) of this Act.

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

§ 25². Obligation to register

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

(2) A person providing work is required to register in the employment register the commencement, suspension, termination and type of employment and other data related to employment of persons specified in subsections 25¹(4), (5) and (5¹) of this Act.

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

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

(4) The suspension and termination of employment shall be registered within ten days as of the date of the suspension or termination of employment.

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

§ 25³. Competence of tax authority upon establishment of employment

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

(2) Upon establishment of the commencement and termination of employment the provisions regulating tax proceedings shall be applied, taking account of the specifications provided in this division.

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

§ 25⁴. Data recorded in employment register

(1) A list of data entered in the employment register shall be provided in the statutes of the register of taxable persons.

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

(2) For ensuring protection of state secrets, specifications may be made in the statutes of the register of taxable persons regarding the composition of the data and concerning the entry into the register of the data.

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

(3) A person providing work shall have the right to register the commencement of employment in a simplified procedure. For that purpose the person providing work shall submit the personal identification code and the date of commencement of employment of a person performing work and his or her registry code or personal identification code by phone or by a short message onto the phone number published on the web page of the tax authority. Other data specified in the statutes of the register of taxable persons shall be entered into the employment register by a person providing work within seven calendar days as of the registration in the simplified procedure.

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

§ 25⁵. Basis for entry in employment register

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

- 1) agreement concerning employment between a person providing work and a person performing work or an administrative act in civil service;
 - 2) an application for making an entry of a person providing work;
 - 3) a judicial decision that has entered into force;
 - 4) a decision of the labour dispute committee that has entered into force;
 - 5) a notice of assessment.
- [RT I, 16.04.2014, 2 - entry into force 01.07.2014]

§ 25⁶. Correction of entry in employment register

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

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

(3) The controller shall make the decision on the amendment of the entry within 30 days as of the submission of the application.

(4) If the controller has doubts concerning the accuracy of the entry or the application for the correction thereof, the controller shall have the right to make inquiries to the person who has made the entry or demand additional data.

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

§ 25⁷. Refusal to correct entry in employment register

(1) The controller may refuse to correct the entry if the correction of the entry is not justified.

(2) The controller shall make the decision to refuse to correct the entry within 30 days as of the submission of the application.

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

§ 25⁸. Penalty payment for failure to comply with obligation to register employment

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

(2) If a person providing work has not complied with the obligation imposed by an administrative act thereon by the term noted in the warning, the penalty payment set out in the warning shall be paid thereby. The tax authority shall submit a claim for payment of penalty payment to the obligated person by an order, setting the term of payment therein and shall issue a warning that upon failure to pay the penalty payment by the term the claim shall be subject to compulsory execution pursuant to §§ 128–132 of this Act.

(3) A penalty payment to enforce the performance of the obligation to register commencement and termination of employment shall not exceed 3,300 euros, thereby 1,300 euros for the first time and 2,000 euros the second time.

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

Division 3²

Stock records and reporting database

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

§ 25⁹. Stock records and reporting database

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

(1¹) The database is a sub-register of the register of taxable persons established on the basis of subsection 17 (1) of the Taxation Act. The procedure for maintaining the database shall be provided in the statutes of the register of taxable persons.

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

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

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

(4) The data contained in the database are not public. The controller and the processor shall have access to the database and the person submitting data to the data relating to him or her.

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

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

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 or employment duties (hereinafter tax secrecy). The obligation to maintain tax secrecy continues after the termination of the service or employment relationship. [RT I, 06.07.2012, 1 - entry into force 01.04.2013]

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

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

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

(2³) The State Shared Service Centre, the court and the prosecutors office shall have the right of access to tax secrecy in order to take account of the monetary obligations specified in subsection 1 (6) of this Act and arrange the performance thereof to the extent necessary. [RT I, 07.12.2018, 1 - entry into force 17.12.2018]

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

§ 27. Public information

(1) 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 (1¹), information concerning the responsible person and the information concerning the commencement, suspension and termination of the professional activities of a notary and bailiff;

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

2) the name, registry code and registration number of a taxable person and the date of entry into and deletion from the register;

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

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

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

2³) the name, registry code, number of permit, legal address and address of the place of business of the temporary storage facility, customs warehouse and customs agency and of the holder of the permit for operating in a free zone;

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

2⁴) the name, registry code, legal address and address of the place of business of the principal;

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

2⁵) the name and registry code of the keeper of the excise warehouse, registered consignee, registered consignor and tax representative, the number of the payer of excise duty, the date of suspension and invalidation of the permit, the location of the excise warehouse and the address of the place of business;

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

3) information concerning the residency of a taxpayer;

4) the amount and time of occurrence of tax arrears and obligations specified in clauses 31 (1) 4) and 128 (4) of this Act, if the total amount of all the liabilities exceeds 100 euros, excluding interest not determined by an administrative act;

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

5) the amount of deferred tax arrears and obligations specified in clauses 31 (1) 4) and 128 (4) of this Act, data on the securities submitted for payment in instalments and the duration of the schedule for the performance of the obligations;

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

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

7) information concerning the income of a non-profit association and foundation entered in the list of non-profit associations, foundations and religious associations with income tax incentives, including the gifts and donations received and information concerning the use thereof, as well as concerning the use of the income of religious associations;

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

8) information concerning the submission of a tax return by a taxable person or 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]

17) a payer of business income tax for the purposes of the Simplified Business Income Taxation Act;

[RT I, 07.07.2017, 2 - entry into force 01.01.2018]

(2) In the case of an obligation arising from an administrative act of the tax authority and court judgment which has taken effect the amount of and time of occurrence of obligations specified in clauses 31 (1) 4) and 128 (4) of this Act may be disclosed after the due date for performance of the obligation has arrived but the performance thereof has not been suspended. If the taxable person has contested the administrative act on which the performance of the obligation is based, a corresponding notice shall be made to the data to be published at the request of the taxable person. Without the request of the taxable person the corresponding notice shall be made to the data to be disclosed if the tax authority has become aware of the contestation in another manner.

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

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

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

1) the total of all the state taxes on a cash basis;

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

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

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

(5) The tax authority shall disclose on its web page the total sum of the supply /turnover of operations and transactions declared by the taxable person at a rate provided in subsections 15 (1)-(4) of the Value Added Tax Act by the tenth date of the month following the quarter.

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

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

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

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

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

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

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

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

(3) The Tax and Customs Board may disclose to a rural municipality or city government information concerning taxable persons whose state tax or fee or part thereof payable is transferred to the corresponding rural municipality or city, and information concerning the withholding agent. The following information may be disclosed:

- 1) the name and registry code of the taxpayer;
- 2) the taxpayer's given name and surname and personal identification code, or in the absence thereof the date, month and year of birth;
- 3) the amount of declared taxable income or fee;
- 4) the amount of paid tax or fee;
- 5) the name and personal identification code or registry code of the withholding agent and the amount of tax withheld from the taxpayer.

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

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

§ 29. Disclosure of information containing tax secret

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

A tax authority may disclose information subject to tax secrecy:

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

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

- 2) to persons authorised to conduct proceedings in 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 a bailiff if the information is necessary for the performance of enforcement actions and making an inventory provided in the Law of Succession Act;

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

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

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

- 6) to the minister responsible for the area in order to exercise supervisory control over the legality and purposefulness of the activities of the tax authority;

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

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

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

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

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

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

[RT I 2008, 3, 21 - entry into force 28.01.2008]

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

- 10) to the Ministry of Finance for the verification of the absence of grounds for removal of a person pursuant to the Public Procurement Act;

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

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

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

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

[RT I, 28.12.2017, 4 - entry into force 01.01.2018]

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

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

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

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

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

15¹) to the Estonian Unemployment Insurance Fund for the performance of the functions provided in the Labour Market Services and Benefits Act in connection with the award of labour market benefits and the provision of labour market services, for the award of benefits on the basis of the Unemployment Insurance Act and for the grant and payment of allowance on the basis of the Work Ability Allowance Act;

[RT I, 13.12.2014, 1 – entry into force 01.07.2016 (entry into force amended - RT I, 17.12.2015, 1)]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 responsible for the area for the performance of functions provided 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 place of business 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 for the performance of duties provided in the European Union Common Agricultural Policy Implementation Act, Fisheries Market Organisation Act, Rural Development and Agricultural Market Regulation Act and the Fiscal Marking of Liquid Fuel Act;

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

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]

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

[RT I, 10.11.2016, 1 - entry into force 01.01.2017]

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 controller of the Estonian Population Register for the performance of functions provided in the Population Register Act;

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

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

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

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

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

37) to the minister responsible for the area with regard to a notary and bailiff for the organisation and supervision of the professional activities of notaries and bailiffs;

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

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

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

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

[RT I, 22.12.2012, 2 - entry into force 01.01.2013]

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

[RT I, 22.12.2012, 2 - entry into force 01.01.2013]

41) to the insurer for the calculation of compensation on the basis of the Motor Third Party Liability Insurance Act.

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

42) to the Ministry of Economic Affairs and Communications as the controller of the register of economic activities and to the controller of another similar register specified in subsection 8 (1) of the Economic Activities entered into force Act for the controlling of the compliance with the obligation provided in subsection 30 (7) of the Economic Activities entered into force Act.

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

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

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

44) to the Estonian Civil Aviation Administration for the performance of obligations in relation to the recognition of the common security requirements of a regulated agent and known consignor system and authorised economic operator system;

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

45) to the Ministry of Culture or a legal person governed by private law authorised by the minister responsible for the area for the checking of compliance with the requirements of determining the size of support for labour costs of a coach on the basis of subsection 9¹(7) of the Sport Act;

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

46) to the persons involved in implementation of national support programs established on the basis of § 53¹ of the State Budget Act, to the management authority of funds specified in § 1 of the 2007–2013 Structural Assistance Act and § 1 of the 2014–2020 Structural Assistance Act and to the persons engaged in granting support on the basis of fund-specific rules to the extent which is necessary for the checking of compliance with the requirements for the grant of support, purposeful use and eligibility of expenditure;

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

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

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

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

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

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

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

50) to the Road Administration for issue of data connected to payment of road usage charges.

[RT I, 04.07.2017, 5 - entry into force 20.12.2017]

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

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

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

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

53) to the Defence Resources Agency for the purposes of ensuring the performance of the mandatory duty to serve in the Defence Forces of a call-up selectee and a person in alternative service provided in the Military Service Act and for organisation of state supervision and on the basis of the National Defence Duties Act for imposition and notification of national defence duties and for verification of the requirements of national defence work obligation provided in the National Defence Act;

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

54) to the Defence Forces for the purposes of ensuring the performance of the mandatory duty to serve in the Defence Forces of a person in reserve specified in the Military Service Act and the National Defence Act and organisation of the state supervision and for the performance of the military intelligence provided in the Defence Forces Organisation Act. [RT I, 07.12.2018, 1 - entry into force 01.01.2019]

55) for the purposes of deciding on the imposition of the national work obligation or emergency situation work obligation to a person specified in subsection 53 (1) of the National Defence Act and subsection 26 (1) of the Emergency Situation Act.

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

§ 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:

- 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]

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

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

Chapter 2 TAX CLAIMS AND LIABILITIES

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:

- 1) the amount of tax outstanding by the due date;
- 2) the amount of tax outstanding by the due date arising from the customs debt;
- 3) the amount unduly returned or set off on the basis of an application of the taxable person;
- 4) unpaid interest calculated on the amount specified in clauses 1) –3) of this section.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 33. Claim for refund

(1) A taxable person has the right to the refund of the payment made to the tax authority which exceeds the amount prescribed by 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]

(1¹) 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), (2¹), (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]

(5) The provisions of subsection (4) of this section shall not be applied if the bailiff has seized a claim for refund for the fulfilment of a claim for support of child. The provisions of subsection 65 (4) of the Code of Enforcement Procedure shall be applied to the right of security on seized assets created on the basis of the claim for support of child.

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

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, the monetary and nonmonetary rights and obligations arising from this Act, an Act concerning a tax and acts specified in subsection 3 (4) of this Act, which by their nature are not inseparably bound to the person, shall transfer to the legal successor. The obligation to pay a penalty payment shall not transfer from one person to another pursuant to legal succession.

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

§ 36. Transfer of tax liabilities by way of succession

(1) The monetary and nonmonetary rights and obligations arising from this Act, an Act concerning a tax and acts specified in subsection 3 (4) of this Act, except the obligation to pay a penalty payment, transfer from a bequeather to the successor pursuant to the procedure provided in the Law of Succession Act.

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

(2) The obligations arising from this Act, an Act concerning a tax forming part of the estate shall be performed out of assets of the estate by the executor of the will, the administrator of the estate or another person who has the obligation to administer the estate arising from the law.

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

(3) The tax authority 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, executive manager and tax representative

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

(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.

(1¹) If a natural person who is not a legal representative, executive manager or administrator of assets of the taxable person has actual power over the performance of the obligations specified in § 8 of this Act but whose intentional action causes tax debt he or she shall be solidarily with the taxable person liable for the tax arrears incurred.

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

(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 in § 8¹ of this Act.

(3) If several persons are liable pursuant to subsection (1) and (11) of this section, they shall be solidarily liable for the performance of the obligations.

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

(4) The ascertaining of intention, gross negligence or negligence is guided by the provisions of 104 (3) – (5) of the Law of Obligations Act.

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

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

(1) A person who is convicted of a tax offence provided 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 or public statement of claim.

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

§ 42. Contractual liability

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

(2) A person specified in subsection (1) of this section and a taxable person 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) If a person specified in subsection (1) of this section has not complied with the obligation assumed by the contract by the due date, the provisions of section 13 of this Act concerning compulsory execution of the tax debt shall apply to the collection of such obligation.

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

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

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

Chapter 3

GENERAL PROVISIONS OF TAX PROCEEDINGS

§ 43. 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 legislation.

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

§ 45¹. Electronic records management

The terms and procedures of electronic records management in the e-service environment of the Tax and Customs Board shall be established by a regulation of the minister responsible for the area.

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

§ 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 the tax authority shall be signed by the head, 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 a manner established by a regulation of the minister responsible for the area pursuant to § 45¹ of this Act.

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

(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.

§ 46¹. Order forwarded through electronic seizure system

(1) The tax authority shall forward through the electronic seizure system specified in § 63¹ of the Code of Enforcement (hereinafter electronic seizure system) an electronic order, which sets out:

- 1) name and registry code of the tax authority;

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

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

§ 46². Automatic administrative acts and documents

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

(2) An automatic administrative act and a document shall be authenticated instead of a hand-written signature or electronic signature with electronic seal under the conditions and pursuant to the procedure provided for in the Electronic Identification and Trust Services for Electronic Transactions Act. The provisions of clauses 46 (3) 2) and subsection (5) of this Act do not apply to automatic administrative acts and documents.

(3) An automatic administrative act and a document shall be served pursuant to the procedure provided for in § 54 of this Act.

(4) The list of automatic administrative acts and documents shall be established by a regulation of the minister responsible for the area.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 47. Language of proceedings and interpreter or translator

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

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

(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, as well as in the cases provided by law. A lawyer is presumed to have the right of representation. In the justified cases the tax authority may require the presentation of the power of attorney.
[RT I, 23.03.2017, 1 - entry into force 01.04.2017]

(4) A 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 the head of the relevant 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.
[RT I, 25.10.2012, 1 - entry into force 01.12.2012]

(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.

§ 49¹. Conduct of proceeding in office of tax authority

- (1) The procedural act shall be conducted in the office rooms of the tax authority which are located closest to the place of residence or seat of the taxable person or third person unless otherwise agreed upon.
- (2) Upon calling a person to the authority for giving oral explanations the procedural act may be conducted in the office rooms of the tax authority or over the phone or by means of such technical solution that the person conducting the proceedings and the person giving explanations, who are located in different administrative units at the same time, can see and hear each other directly by live transmission. The corresponding reference shall be made into the record of oral explanations.
[RT I, 25.10.2012, 1 - entry into force 01.12.2012]

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

- (1) The 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 3¹

INTERNATIONAL PROFESSIONAL ASSISTANCE

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

§ 51¹. 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 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;

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

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

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

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

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

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

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

(8) Upon requesting information from a third party at the request of a competent authority of a foreign state the tax authority may not note in the order:

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

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

§ 51². 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 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) [Repealed – RT I, 23.12.2014, 15 – entry into force 01.01.2015]

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

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

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

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

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

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

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

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

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

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

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

§ 51³. 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 in § 136¹ of this Act.

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

§ 51⁴. 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 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]

§ 51⁵. Involvement of official of foreign state in tax proceeding

(1) The 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 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]

§ 51⁶. 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.

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

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

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

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

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

§ 51⁷. Use of information

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

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

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

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.

§ 53¹. Delivery by post

(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 of his or her address, the tax authority has the right to send the 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 or at the request of a participant in proceedings at the address of which he or she informed the tax authority. A document shall be sent to a legal person or agency that is not entered in the register at the address of which he or she has informed the tax authority.

(3) 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 through a competent administrative authority of a foreign state. If a party to the proceedings who is residing or staying in a foreign state has a permanent establishment or representative in Estonia, the document shall be delivered at the address of the permanent establishment or representative.

(4) A document sent to a legal person or agency by ordinary mail at the address entered in the register or announced to the tax authority shall be deemed to have been delivered if 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 or announced to the tax authority is 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, 07.06.2013, 1 – entry into force 01.07.2013]

§ 54. Delivery by electronic means

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

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

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

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

(2¹) The time of delivery of an automatic administrative act or document issued at the request of the taxable person shall be deemed to be the date issue of the document. The tax authority shall make the automatic

administrative act or document, prepared on the basis of the taxable person's application, immediately available via the e-Tax Board. The notice of delivery shall not be sent with the consent of the taxable person.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

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

(4) The document which is made available by electronic means shall be delivered also by post if:

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

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

§ 55. 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*⁴. 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 4¹ **Tax control**

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

§ 55¹. The purpose of tax control

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

(2) Fiscal control may:

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

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

§ 55². Notification of tax control

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

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

(3) Upon changing the scope of tax control, the taxable person shall be informed thereof pursuant to the same procedure as upon commencement of tax control.

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

(5) Failure to notify of commencement of tax control is justified, in particular, if there is a doubt that taxable persons may, in the case of the notification of the tax control, make it more difficult or hinder the conduct of tax control, access to premises, data, documents or items related to their economic or professional activities or to falsify, damage or destroy them.

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

§ 55³. Tax authority's actions upon carrying out tax control

(1) The tax authority shall have the right to:

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

(2) Acts may be performed on the basis of an oral order unless otherwise arises from this Act.

(3) For the purpose of determining the amount of tax, verifying the correctness of the payment of taxes or preventing an offense, the tax authority shall exercise all the rights granted by law for the implementation of the customs rules. In the case of trade between Member States of the European Union (hereinafter Member State), international postal items and persons moving from one Member State to another, the tax authority shall use the specified rights if there is reason to believe that the tax law is not being complied with.

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

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

(1) A taxable person shall have the right to:

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

(2) A taxable person is required to:

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

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

§ 55⁵. Obligation of tax authority to provide explanation

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

(2) The tax authority shall inform the taxable person of the outcome of the proceedings before the end of the tax control. Before that, the tax authority may conduct a final interview in the course of which the tax authority will be able to ask additional and clarifying questions and the taxable person will give explanations on the circumstances of the proceedings.

(3) Subject to this Act, the tax authority shall prepare a control report for the determination of the results of tax control. The control document sets out all the legal and legal circumstances that are relevant for the purposes of tax control. If an expert or specialist was involved in tax control, his / her participation is noted in the control report. The taxable person shall be informed of the possibility of objecting to the facts set out in the inspection report.

(4) If no changes in the tax liability were made in the course of tax control, or if the taxable person agrees with the conclusions and explanations provided by the tax authority in the course of proceedings, the tax authority does not have to prepare a control report. In such a case, the tax authority shall notify the taxable person of the termination of the tax inspection by written notice. An application for drawing up a control report must be submitted in writing within ten calendar days as of receipt of the notice of termination of the tax inspection.

(5) A notice of termination of tax control shall be deemed to be equivalent to a tax decision pursuant to § 95 of this Act and the provisions of §§ 101–103 of this Act apply to amendment or revocation thereof.

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

Chapter 5

OBLIGATION OF TAXABLE PERSON TO CO-OPERATE IN TAX PROCEEDINGS

§ 56. Obligation of taxable person to co-operate

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

(2) A taxable person 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 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.

(6¹) 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 responsible for the area.

[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 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.

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

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

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

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

§ 60. Requesting information from taxable persons

(1) A tax authority is entitled to obtain oral and written information from a taxable person or a representative thereof 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 responsible for the area issued on the basis of § 45¹ of this Act. If the document is submitted in an electronic form, the tax authority has the right, if necessary, to request that the document be submitted on paper at a later date.

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

(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 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]

(3¹) In order to request information through the electronic seizure system the tax authority shall submit an order corresponding to the requirements provided in § 46¹ of this Act.

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

(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 controller and processor of state databases

(1) A tax authority has the right to request information relevant to tax proceedings, including the submission of documents and presentation of 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 controller or 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 responsible for the area 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 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 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 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 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 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 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 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. An official of the tax authority shall also have right to inspect a movable related to the business or professional activities of the taxable person, which is not at the location of the business or professional activities of the taxable person. In the course of an inspection the officials of tax authorities do not have the right to conduct searches, open locked spaces or storage rooms or enter a dwelling against the will of the persons residing therein even if the business or professional activities of a person are carried out therein.

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

(2) Officials of tax authorities have the right to inspect property owned or possessed by a third party, including immovable property, buildings, ships and vehicles and other movable property, provided that the inspection does not involve entry into and search of the dwelling or premises of the person against the person's will.
[RT I, 23.03.2017, 1 - entry into force 01.04.2017]

(3) 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 at the location of business or professional activities of the taxable person shall be conducted during the working time of the enterprise or during general working time. Minutes shall be taken of the course of the inspection and the facts established by the inspection.
[RT I, 23.03.2017, 1 - entry into force 01.04.2017]

(4¹) The party to the proceedings who is present at the inspection shall be immediately introduced his or her rights and obligation orally or in written form in a simple and understandable language. The signature of the party to the proceedings concerning the clarification of the rights and obligations shall be taken in the minutes.
[RT I, 23.03.2017, 1 - entry into force 01.04.2017]

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

- 1) involve specialists and experts;
- 2) make extracts or copies of documents pursuant to the procedure provided 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 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.

§ 72¹. Establishment of identity

(1) The tax authority may, with the knowledge of a person, establish the identity of the person within the meaning of the Law Enforcement Act on the basis of a valid identity document

(2) For establishment of identity an official of the tax authority shall have the right to stop a person, require him or her to present an identity document and obtain statements enabling the establishment of identity.

(3) Upon the establishment of identity an official of the tax authority may require from a person the presentation of a document in proof of a special right if pursuant to a legislation the person is required to carry with him or her such a document.

(4) An official of the tax authority may verify the authenticity of the data entered in the document or given by a person from the population register or from another database established under the legislation of the European Union or another Act.

(5) Upon the establishment of identity direct coercion may be used by an official of the tax authority insofar as it is unavoidable for the achievement of the objective. The official of the tax authority shall have the right

to use physical force upon the establishment of identity where it is impossible to achieve thereof by another administrative coercive measure.

(6) Before the application of direct coercion an official of the tax authority is required to caution the person with regard to whom it is planning to apply direct coercion.

(7) The application of direct coercion shall be recorded on the basis of and in the procedure provided in § 18 of the Administrative Procedure Act. The minutes of the application of the measure shall set out, in addition to the information provided in the Administrative Procedure Act, the direct coercive equipment applied, the official who applied the coercive measure and the person with regard to whom the direct coercion has been applied.

(8) The person with regard to whom direct coercion has been applied shall be given, on his or her demand, a copy of the minutes at the first opportunity.

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

Chapter 7

TAX AUDIT

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

§ 73. Objective and scope of tax audit

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

§ 74. Competence

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

§ 75. Advance notice of tax audit

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

§ 76. Commencement of tax audit

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

§ 77. Time and place of tax audit

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

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

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

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

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

§ 80. Closing interview

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

§ 81. Audit report

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

Chapter 7¹

ENQUIRY TO COMMUNICATIONS UNDERTAKING, SURVEILLANCE ACTIVITIES AND SECRET CO-OPERATION

§ 81¹. Enquiry to communications undertaking

(1) The Tax and Customs Board may make an enquiry to the electronic communications undertaking on the basis specified in clauses 126²(1) 1) and 2) of the Code of Criminal Procedure and with regard to the persons specified in clauses 126²(3) 1) and 2) of the Code of Criminal Procedure to get the following information:

- 1) the information needed to establish the end-user connected to the identifier of the user used in the electronic communication network, except the information concerning the fact of transmission of messages;
- 2) the information to the electronic communications undertaking specified in subsections 111¹(2) and (3) of the Electronic Communications Act which are not mentioned in clause 1) of this subsection.

(2) The authorisation for making the enquiry specified in clause (1) 2) of this section shall be granted by the prosecutor's office. The authorisation for making an inquiry shall set out the interval for which the request for information is allowed with an accuracy of date.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

§ 81². Collection of data for decision on access to surveillance information and employment in service of person

(1) The Tax and Customs Board may, with the written consent of the person, collect personal information with regard thereto by means of surveillance proceedings specified in subsection 126³(1) of the Code of Criminal Procedure and by means of the enquiry to the communications undertaking with regard to the information specified in subsections 111¹(2) and (3) of the Electronic Communications Act if this is needed for making a decision with regard to a person to allow access to surveillance information for him or her or for employment of a person in the Tax and Customs Board

(2) A person shall be notified of the conduct of proceedings specified in subsection (1) of this section with regard to him or her after making the decision and he or she shall be familiarised with the data collected by means of the proceeding at his or her request.

[RT I, 29.06.2012, 2 - entry into force 01.01.2013]

§ 81³. Secret co-operation and covert measures

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

(2) The head of the Tax and Customs Board or a person appointed by him or her shall give a written permission for the involvement of a person.

(3) The head of the Tax and Customs Board shall give a written permission for involvement of an undercover agent.

(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 him or her.

[RT I, 29.06.2012, 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.

(5) A declaration concerning the obligations included in the estate arising from this Act, an Act concerning a tax and acts specified in subsection 3 (4) of this Act shall be submitted within the frames of accounting records for taxation purposes of the bequether.

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

§ 86. Submission and 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 in the customs legislation 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.

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

(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 e-signature shall be given under the terms and pursuant to the procedure provided by the Electronic Identification and Trust Services for Electronic Transactions Act. E-signature shall not be added if the return has been submitted through e-Tax Board and the tax authority has identified the person submitting the return in a secure manner.

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

§ 88. Calculation of amount of tax

(1) A taxable person 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 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 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 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 in an Act concerning a tax or the customs legislation.

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

(2) The obligation specified in subsection (1) of this section also extends to legal successors of the taxable person, executor of the will, administrator of estate or another person who has an obligation arising from law to administer the estate.

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

(3) A taxable person who uses goods or services for purposes other than that due to which the goods or services were subject to a tax incentive or tax exemption is required to 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.

§ 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 to the deficiencies and, where necessary, shall set a term for the taxable person to eliminate the deficiencies.

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

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

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

§ 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 2¹ **Binding Preliminary Decision**

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

§ 91¹. 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]

§ 91². 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 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]

§ 91³. Formal requirements for preliminary decision

(1) The requirements established with regard to administrative acts and provided in § 46 of this Act apply to preliminary decisions taking into account the specifications provided 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]

§ 91⁴. 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]

§ 91⁵. 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 91⁹(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]

§ 91⁶. State fee

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

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

§ 91⁷. Deficiencies in application for preliminary decision

(1) If the application does not meet the requirements provided in subsections 91⁵(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]

§ 91⁸. 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]

§ 91⁹. 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]

§ 91¹⁰. 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]

§ 91¹¹. 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]

§ 91¹². 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 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. Determination of amount of tax liability by tax authority

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

(1) The tax authority shall make an assessment of the amount of tax liability:

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

- 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;

3¹) If a customs debt is incurred on the basis specified in Articles 79 and 82 of the customs legislation;

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

- 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) In justified cases, 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).

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

(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 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 it appears during additional tax control that there were no facts altering the tax liability. If a condition has not been revoked earlier, its validity shall expire upon expiry of the limitation period for making an assessment of tax.

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

§ 94. Assessment of tax by estimation

(1) A tax authority may, by way of estimation, establish facts which are the basis for 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 in § 46 of this Act. The notice of assessment shall clarify the method by which assessment of the payable or claim for refund is made. If none of the evidence submitted by a taxable person is taken into consideration upon making an assessment of tax or claim for refund or if only some of the evidence is taken into consideration, the reasons therefor must be set out in the notice of assessment.

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

(3) 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 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 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 the collection with respect to a taxpayer or withholding agent is commenced in the manner provided in clause 130 (1) 3) of this Act and if, as a result thereof, the tax arrears have not been collected within three months or the taxpayer or withholding agent is declared bankrupt.

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

(6) A liability decision is not made 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 legislation.

Interest amount shall be rounded to the nearest euro unless otherwise provided by an Act concerning a tax or the customs legislation.

[RT I, 07.12.2018, 1 – entry into force 01.01.2020]

§ 98. Limitation period for making assessment of tax

(1) The limitation period for making an assessment of tax is three years. In the event of deliberate non-payment/intentional failure to pay or withhold a tax, including the incurred/creation of tax arrears in the case of the criminal offence committed by the person specified in § 41 of this Act, the limitation period for making an assessment of tax is five years. The limitation period begins to run on the due date for submission of the tax return that was not submitted or which contained information on the basis of which the tax amount was calculated incorrectly.

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

(2) In the case of tax liabilities which do not involve an obligation provided by 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 in subsections (1) and (2) of this section.

(4) After the expiry of the limitation period, a notice of assessment in this matter may not be made or modified or the prior notice of assessment repealed. The notice of assessment has been made within the limitation period, if its delivery has begun before the expiry of the limitation period.

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

§ 99. Suspension of limitation period

(1) The limitation period for making an assessment of 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 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) [Repealed - RT I, 07.12.2018, 1 - entry into force 01.01.2019]

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]

7) from the date of receipt of complaint submitted on the basis of Chapter 14¹ of this Act or commencement of any other mutual agreement procedure with a competent authority of a foreign state until the date of implementation of mutual agreement or final decision of the competent authorities in the respective case or the date of service of the notice of termination of the procedure.

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

(2) If the tax authority has postponed the commencement of the tax procedure at the request of the taxable person, the limitation period for the assessment/determination of the amount of tax shall be suspended from the date on which the tax procedure would have been initially started until the date of commencement of the tax procedure.

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

(3) The limitation period for making an assessment of tax is not suspended for the duration of the proceedings of making a liability decision.

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

§ 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 legislation.

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

(2) A tax authority has the right not to assess or collect an amount of tax 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

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

- 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 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.

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

(4) [Repealed - RT I, 07.12.2018, 1 - entry into force 01.01.2019]

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

(1) A notice of assessment 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 a treaty.

(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 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 legislation, the tax shall be paid to the tax authority in cash or by way of purchasing revenue stamps by the due date provided in an Act concerning a tax or the customs legislation or, in the cases prescribed by 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, 16.06.2017, 1 - entry into force 01.07.2017]

(1¹) The monetary obligation specified in subsection 1 (6) of this Act shall be paid to the bank account designated therefor. If a reference number is noted in the document requiring payment, it must be noted upon the performance of the obligation.

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

(2) In order to ensure the performance of the future 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 in the Act concerning a tax or the customs legislation 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.

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

(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 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 or the date of receipt of payment authorisation data by 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, 04.07.2017, 5 - entry into force 20.12.2017]

(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) fine and pecuniary punishment;

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

1¹) contribution to mandatory funded pension;

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

- 2) unemployment insurance premium;
- 3) income tax withheld;
- 4) social tax;
- 5) personal income tax;
- 6) land tax;

6¹) mineral resources extraction charge;

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

6²) water abstraction charge;

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

6³) pollution charge for waste disposal;

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

6⁴) pollution charge for emission of pollutants into water bodies, groundwater or soil;

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

6⁵) 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.

(6¹) Upon performance and set-off of the monetary obligations arising from this Act and the fines imposed by the tax authority in the procedure provided in subsection (6) of this Act, the amounts paid in the manner established in subsection 105 (1¹) of this Act shall not be taken account of.

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

(7) The order of performance of the liabilities provided 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 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 responsible for the area.

[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 sixty days as of the date of the receipt of an application unless another term is provided 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 (1¹). 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 tax authority or an official authorised by him or her.

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

(2¹) 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 sixty days as of the due date for payment of tax unless the tax authority decides to fulfil the claim for refund earlier.

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

(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 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.

(3¹) 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 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, as well as payment of such known obligation the due date of which has not yet arrived. The payment of tax arrears in instalments does not relieve the taxable person from performance of current tax liabilities.

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

(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 § 34¹ of the Competition Act.

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

(6) The minister responsible for the area 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 submit declarations by due date during the period of validity of the schedule, does not pay current taxes by due date during the period of validity of the schedule, does not perform an obligation provided 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 selectively or together the following measures:

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

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

(3) The tax authority shall revoke a decision on the payment of tax arrears in instalments if the reorganisation proceedings or debt restructuring proceedings have been initiated with regard to a taxable person.

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

§ 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 or in exceptional circumstances at their own initiative 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* also when the income tax debt resulted from the realization of the taxable person's property as security for debt of third parties in enforcement proceedings or bankruptcy proceedings. The tax authority shall have 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, 07.12.2018, 1 - entry into force 01.01.2019]

(4) The minister responsible for the area shall establish the procedure for the writing off and forgiveness of tax arrears by a regulation.

§ 114¹. 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 § 34¹ of the Competition Act.

[RT I, 06.12.2010, 1 - entry into force 05.04.2011]

Chapter 11

INTEREST

§ 115. Interest payable by taxable person

(1) 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.

(1¹) Upon provision of international professional assistance, the interest on the amount of tax due in a foreign country shall be calculated after the expiry of the period for voluntary payment of the tax amount until the date of payment of the tax, the latter included. The period for voluntary performance may not be less than ten calendar days.

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

(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), (1¹) 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 may not be shorter than ten days. The provisions concerning notices of assessment (§ 95) apply to claims for interest, except in the case provided in § 46² of this Act.

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

(4) A claim for interest may be issued in a notice of assessment, a liability decision, a decision concerning fulfilment of a claim for refund or a warning simultaneously with the assessment or collection of an amount of tax. If interest is set off by a claim for refund or is recovered in the course of enforcement proceedings, the term for payment of a claim for interest provided in subsection (3) of this section shall not apply.

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

(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) If the tax authority has not entered the interest specified in subsections (1) and (2) of this section on its own initiative to the prepayment account of the taxable person, the taxable person may apply for it within two years as of:

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

1) the date of entry into force of a decision to amend or repeal a notice of assessment or a decision to refuse to 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 in §§ 115 and 116 of this Act is 0.06 per cent per day.

(1¹) The assessment of the interest rate payable on import and export duties relating to import and export of goods shall be based on the provisions of Article 114 (1) of the Customs Code.

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

(2) Upon the payment of tax arrears in instalments, a tax authority has the right to reduce the interest rate by up to 50 per cent as of the date of making the decision on payment of the tax arrears in instalments. Upon the payment of the tax arrears in instalments, a tax authority has the right in duly justified exceptional cases to reduce the interest rate by up to 50 per cent as of the date on which tax arrears were created.

[RT I, 07.12.2018, 1 – entry into force 01.01.2020]

(3) If a person fails to satisfy the claims contained in the schedule of payment in instalments by the due date, the tax authority shall calculate interest on the claims not performed by the due date in the amount provided in subsection (1) of this section.

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

§ 118. Limitation period for calculation of interest

(1) The limitation period for the calculation of interest is one year as of the date of full payment of the amount of tax calculated on the basis tax return, determined by notice of assessment or collectable by liability decision or the date of full payment or set-off of an amount refunded to a person without basis.

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

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

(3) A claim for interest 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]

(5) The limitation period for the calculation of interest on the amount of tax restructured with the reorganisation plan or debt restructuring plan is one year as of the date of revocation of the reorganisation plan or debt restructuring plan.

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

(6) The limitation period for the calculation of interest shall suspend for the duration of the challenging of the interest claim or the amount of tax on the basis of which the interest claim is calculated until the final decision made in the matter enters into force.

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

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

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) [Repealed - RT I, 11.07.2014, 4 - entry into force 01.08.2014]

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) from the initiation of reorganization proceedings or debt restructuring proceedings until approval of the reorganisation plan or the debt restructuring plan.
[RT I, 07.06.2013, 1 - entry into force 01.07.2013]

(1¹) The calculation of interest on the tax liability the due date of which arrived before the declaration of bankruptcy, shall terminate as of the date on which the taxpayer is declared bankrupt.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

(2) Interest shall not be calculated on an amount of tax outstanding on the due date or a part thereof which is equal to the amount to be paid or refunded to a taxable person by the tax authority pursuant to this Act, an Act concerning a tax or the customs legislation.
[RT I, 16.06.2017, 1 – entry into force 01.07.2017]

(3) Unless otherwise prescribed by an Act concerning a tax, a claim for interest is not submitted if the amount of interest is less than 10 euros.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

(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 for the period during which the taxable person was unable to perform his or her tax liability due to the undue delay of the tax authority in carrying out the tax control or on amounts of tax declared which are less than prescribed by law or on amounts the refund of which is claimed and which exceed amounts if such amounts are the result of misleading or false information provided by the tax authority in writing, unless:
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

(6) A tax authority has the right not to calculate or collect interest on the grounds provided in § 100 of this Act.

(7) [Repealed - RT I, 07.12.2018, 1 - entry into force 01.01.2019]

(8) Interest shall not be calculated on the amount of value added tax, which is to be paid on the anti-dumping or balancing customs duty, established retrospectively.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

(9) Interest shall not be calculated on the amount of 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, 07.12.2018, 1 - entry into force 01.01.2019]

(10) Interest shall not be calculated on tax liabilities related to an estate, which are not performed, as of the day of the opening of succession.
[RT I, 11.07.2014, 4 - entry into force 01.08.2014]

Chapter 12

SECURITY

§ 120. Security

(1) A tax authority has the right to request the provision of security:

1) 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));

[RT I 2005, 68, 528 – entry into force 01.01.2006]

2¹) upon suspension of the execution of an administrative act (§ 146);

[RT I 2005, 68, 528 – entry into force 01.01.2006]

3) in other cases prescribed by law.

(1¹) 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 due related to the incurrence of the customs debt.
[RT I, 16.06.2017, 1 - entry into force 01.07.2017]

(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.

(4) The bases for the assessment and calculation of the amount of security required to ensure payment of various taxes, different from customs duties, payable related to the incurrence of the customs debt, shall be established by a regulation of the minister responsible for the area.

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

§ 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 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 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 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 30 days as of the date of receipt of the notice of the tax authority, the tax authority shall recover the debt pursuant to the procedure provided in Chapter 13 of this Act.

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

(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 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 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 enforcement of the amount of tax due by the taxable person is permitted only after the taxpayer has been given at least once the term to pay the tax arrears with a warning about the consequences of non-compliance with obligation on due term (§ 129).

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

(4) A tax authority may also collect:

- 1) financial obligations arising from this Act, including the costs of substitutive enforcement, a penalty payment and the costs of the performance of obligations by interpreters, translators, experts or third parties if the administrative act on which they are based has been announced to a taxable person;
- 2) fines imposed by a decision enforced by the Tax and Customs Board pursuant to subsection 202 (1) of the Code of Enforcement Procedure and other procedural costs arising from the specified decision.

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

3) obligations arising from the court decisions, which have taken effect in criminal proceedings, the claimant of which is the Tax and Customs Board.

[RT I, 06.01.2016, 5 – entry into force 01.01.2017]

4) liabilities assumed on the basis of the contract pursuant to § 42 of this Act and financial liabilities secured but not settled by the due date;

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

5) enforcement costs arising from the submission of a financial claim arising from a tax law or the imposition of an obligation by performing the acts specified in clauses 136¹(1¹) 1) and 2) of this Act.

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

(4¹) The provisions of this Act regarding compulsory execution of tax arrears shall be applied upon compulsory execution of a financial obligation specified in subsection (4) of this section.

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

(5) The tax authority 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 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 in subsection 105 (6) of this Act.

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

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

(6) 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 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 an obligated person has not complied with the financial obligation within the term determined in an administrative act of the tax authority or in the decision specified in clause 128 (4) 2) or 3) of this Act, the tax authority shall commence collection of the tax arrears by way of compulsory execution. The tax authority has the right:

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

1) to apply for a prohibition which is making visible the restraint on disposition to be entered in the land register or another property register without the consent of the person concerned;

2) to apply for establishment of a mortgage on an immovable, a ship entered in the ships register or an aircraft entered in the civil aircraft register pursuant to the regulation concerning judicial mortgage provided in the Law of Property Act;

3) to make a claim for payment against financial entitlement pursuant to the procedure provided in this Act and in legislation regulating enforcement procedure;

4) to seize other proprietary rights which cannot be enforced on the basis of clause 3) of this subsection, as well as apply for a prohibition which is making visible the restraint on disposition to be entered in the register maintained with regard to the rights;

5) to issue an order to freeze securities or a securities account pursuant to the provisions of the Securities Register Maintenance Act.

[RT I, 26.06.2017, 1 - entry into force 06.07.2017]

(1¹) In order to perform the acts listed in subsection (1) of this section, the tax authority shall submit a request or order or forwards the order by the electronic seizure system.

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

(2) The tax authority may apply to a bailiff for continuing the enforcement procedure for the collection of tax arrears, the financial obligation specified in subsection 128 (4) of this Act and fine designated by the tax authority if enforcement actions performed by the tax authority have not yielded any results within reasonable time. Upon continuing the enforcement proceedings commenced by the tax authority by a bailiff, the claims provided in §§ 24 and 25 of the Code of Enforcement Procedure and the prohibitions and seizures imposed by the tax authority shall remain valid.

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

§ 131. Seizure of bank account

(1) A tax authority has the right to issue an order to a credit institution for the seizure of the bank account of a debtor or for the transfer of money from the bank account of a debtor to the 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 collection of the tax arrears or seizure of the bank account of a natural person, the amount reserved to cover the business income tax on the account opened on the basis of the Simplified Business Income Taxation Act and the amount of the minimum monthly wage per debtor and each of his or her dependant family members shall not be subject to collection or seizure by a tax authority each month. Information concerning the dependants shall be given to the tax authority by a 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 about the dependants of the person as a basis for the issue of the order. If the person submits different information about his or her dependants after the order is issued, the order shall be amended.

[RT I, 07.07.2017, 2 - entry into force 01.01.2018]

(4) Payments from a seized bank account may only be made to the extent of seized amount with the permission of a tax authority. Permission is not needed for transfer to the tax authority, except if the seizure has been applied on the basis of subsection 136¹(1) of this Act. The seized bank account is accessible with the permission of the tax authority. The tax authority shall issue an order for the release of the bank account within three working days as of the payment of tax arrears.

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

(5) A credit institution is prohibited from 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 unless the order has been submitted through the electronic seizure system;

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

2) [Repealed - [RT I, 23.03.2017, 1 - entry into force 01.04.2017]

the name and title of the employee who received the order;

3) the date and time of seizure of the bank account;

4) the balance in the bank account at the moment of seizure of the bank account.

§ 132. Limitation period for compulsory execution

[RT I, 07.06.2013, 1 - entry into force 01.01.2014]

(1) The limitation period for the compulsory execution of claims arising from the amount of tax collectable on the basis of a return or administrative act is five 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.

(2) The limitation period for the compulsory execution of claims arising from the amount of tax collectable on the basis of a notice of assessment and liability decision is five years. The limitation period begins to run on 1 January of the year following the year of delivery of the notice of assessment or liability decision.

(3) The limitation period for the compulsory execution of a claim for interest is five years as of 1 January of the year following the year of the filing of the claim.

(4) The limitation period for the compulsory execution of other financial obligations collectable by tax authority, except limitation periods provided in specific laws, is five years as of 1 January of the year following the year of the filing of the claim.

(5) A limitation period is interrupted:

- 1) upon submission of an application to a bailiff for enforcement of collecting tax arrears;
- 2) upon declaration of bankruptcy of the taxable person;
- 3) upon the entry into force of the administrative court ruling for provisional legal protection;
- 4) upon the entry into force of the ruling on reorganisation or of the ruling on the acceptance of the debt restructuring application for processing;

(6) The running of a new limitation period for compulsory execution shall be calculated as of 1 January of the year following the year during which the basis for interruption of the limitation period ceases to exist.

(7) A limitation period for compulsory execution shall be interrupted only with regard to the amount which is related to the circumstance causing the interruption of the limitation period.

(8) Tax liability and accessory obligations related thereto and other financial obligations collectable by the tax authority shall terminate upon the expiry of a limitation period for compulsory execution.
[RT I, 07.06.2013, 1 - entry into force 01.01.2014]

§ 133. Competence of tax authority as representative of state, rural municipality or city in liquidation, bankruptcy and judicial proceedings

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

Division 2 Ensuring Performance of Obligations

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

§ 135. Application of coercive measures

(1) The provisions of the Penalty Payment and Substitutive Enforcement Act shall be applied to penalty payment and substitutive enforcement prescribed in §§ 25⁸, 67, 71 and 91 of this Act and in an Act concerning tax, taking account of the specifications of this Act and an Act concerning tax. A coercive measure may be applied repeatedly until the objective intended by an administrative act is achieved.
[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

(2) The application of a coercive measure may be suspended by a court 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 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.

§ 136¹. 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 arising from the Act concerning a tax, 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 tax authority or an official authorised by him or her may submit an application to an administrative court to be granted permission for the performance of the enforcement actions provided in subsection 130 (1) of this Act.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1¹) If the performance of the enforcement actions provided in subsection 130 (1) of this Act is impossible regarding the matter or it is highly probable it would be ineffective, the head of the tax authority or an official authorised by him or her may submit an application to an administrative court for the grant of permission to the bailiff for the performance of the following enforcement actions:

- 1) seizure of the property belonging to a taxable person or an addressee of the liability decision held by the taxable person, addressee of the liability decision or third party;
- 2) prohibition on the third party to transfer property to a taxable person or addressee of liability decision or settlement of other liabilities with regard to him or her, which may be combined with the obligation to transfer the property to the bailiff or pay money to the account intended for that purpose

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

(1²) In the case specified in clause (1¹) 1) of this section the court may, on the basis of the application of a taxable person or an addressee of the liability decision, order the depositing of the sale of the seized property and the money received from sale in an account designated for that purpose if the value of an object may significantly decrease or if keeping the object would cause excessive spending.
[RT I, 31.01.2014, 6 – entry into force 01.02.2014]

(1³) The application specified in subsections (1) and (1¹) of this section shall be submitted to the administrative court within whose territorial jurisdiction the place of residence or seat of the taxable person or an addressee of the liability decision is. If the place of residence or seat of the taxable person or an addressee of the liability

decision is unknown or outside Estonia, the application shall be submitted to the administrative court within whose territorial jurisdiction the property concerned is located.

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

(1⁴) In order to recover enforcement costs related to the performance of the acts specified in clauses (1¹) 1) and 2) of this section, the tax authority shall prepare an order specifying the term for payment thereof and shall issue a warning that in the event of failure to pay the enforcement costs within the term, the outstanding obligation shall be enforced pursuant to the provisions of §§ 128–132 of this Act.

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

(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 acts provided 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 act.

[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) The tax authority as well as a taxable person whose rights are concerned with the ruling may lodge an appeal against court ruling on the regulation to satisfy the request or refusal to satisfy the request specified in subsections (1)-(1²) of this section. An appeal against court ruling may be lodged with regard to an appeal against the circuit court ruling.

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

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.

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

(4) The provisions of this Chapter apply to the adjudication of challenges against administrative acts and measures of tax authorities for local taxes taking account of the specifications provided in the Local Taxes Act.

§ 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]

(3) Where the competent authorities commence mutual agreement proceedings, the time limit for filing an appeal against the tax notice or tax assessment and for filing an appeal with the Administrative Court shall be

suspended until the implementation of the final decision or until the date of service of the notice of termination of the procedure.

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

§ 139. Requirements for challenges

(1) A challenge 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 the challenge shall append his or her authorisation document thereto unless such document has been submitted before. If a lawyer has signed the challenge as a representative, it is not necessary to append the power of attorney to the challenge but the tax authority shall have the right to request submission thereof in justified cases.

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

(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 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 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 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 with the Tax and Customs Board against the decision to return the challenge made by the Tax and Customs Board within thirty days as of the date of notification or delivery of the decision.

[RT I, 23.02.2011, 3 - entry into force 01.01.2012]

(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

[Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]

§ 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 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) [Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]

2) conduct on-the-spot visits of inspection, if necessary;

3) involve experts or specialists, if necessary;

4) [Repealed – RT I, 25.20.2012, 1 – entry into force 01.12.2012]

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 in subsection (3) of this section.

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

§ 147¹. Suspension of challenge proceedings

The Tax and Customs Board may suspend the processing of a challenge against a tax notice or tax assessment if the Tax and Customs Board has received a complaint arising from an international agreement filed by the person in the same matter until the mutual agreement or final decision of the competent authorities in the matter has been implemented or until the date of service of the notice of termination of the procedure. The Tax and Customs

Board shall immediately notify the person of the suspension of the challenge proceedings and of the resumption of the proceedings.

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

§ 148. 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 in full or in part and repeal an administrative act either in full or in part and to eliminate the factual consequences of the administrative act;

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

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 concerned to issue an administrative act, to take a measure or pass a new resolution of the matter;

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

4) restore the situation prior to the measure being taken or assign such task to the structural unit concerned;

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

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.

§ 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 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 or partial satisfaction of the challenge a judgment on the challenge shall, in addition to the requirements provided in subsection (1) of this section, be reasoned and contain an explanation concerning the procedure for further recourse.

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

§ 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 14¹

RESOLUTION OF DOUBLE TAXATION COMPLAINT

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

Section 1

General provisions and submission of complaints

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

§ 151¹. Scope

This Chapter lays down the procedure for the resolution of disputes between Member States (hereinafter question in dispute) arising from treaties for the elimination of double taxation of income or capital (hereinafter tax treaty) and the rights and obligations of the complainant and the Tax and Customs Board.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151². Complaint

- (1) A resident of a Member State shall have the right to file a complaint for resolution of a question in dispute, which has arisen from the interpretation or application of a tax treaty, pursuant to the procedure provided for in this Chapter or pursuant to the applicable tax treaty.
- (2) A person who is not a resident of a Member State shall have the right to file a complaint in accordance with the applicable tax treaty.
- (3) A complaint may also be filed if a person has filed a challenge with the Tax and Customs Board in the same matter, has filed an action in court or a court judgment has entered into force in the same matter.
- (4) The filing of a complaint in a question in dispute does not prevent a Member State from instituting or continuing proceedings in matters of misdemeanor or criminal matters in respect of the same matter or continuing proceedings under the circumstances related to the question in dispute
- (5) If the Tax and Customs Board receives a complaint concerning a question in dispute, it shall terminate the mutual agreement procedure previously initiated in the same question in dispute. The procedure shall be closed as at the date on which the first competent authority of the Member State receives the complaint filed on the basis of this Chapter.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151³. Communication of complaint and information to competent authority

- (1) The complaint and other documents and information submitted during the proceedings shall be submitted simultaneously to all the competent authorities of the Member States concerned. The Tax and Customs Board shall, within two months of receipt, notify the resident of the complaining Member State (hereinafter complainant) and the competent authority of the Member State concerned of receipt of the complaint. It shall also, within two months, inform the competent authority of the Member State concerned of the language of the proceedings which it intends to use for the communication of the complaint.
- (2) A resident natural person in Estonia and a person who is not a large company or part of a large consolidation group within the meaning of clauses 3 17) and 20) of the Accounting Act shall have the right to file a complaint, requested additional documents and information, a notification of withdrawal of complaint and a request to set up an Advisory Commission only to the Tax and Customs Board.
- (3) In the case specified in subsection (2) of this section, the Tax and Customs Board shall simultaneously forward a notification of withdrawal of a complaint, information on the request to set up an Advisory Commission, requested additional information and documents submitted and explanations to the other competent authorities of the Member States resolving the dispute within two months as of the receipt thereof.
- (4) A complaint, a notification of withdrawal of a complaint and a request to set up an Advisory Commission shall be deemed to have been filed by the complainant as of the date on which the notification was communicated. The additional information and documents requested shall be deemed to have been submitted as of their service to the competent authorities of the Member States concerned.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151⁴. Term for filing complaint

A complaint must be filed within three years as of the date of notification or service of the administrative act or the date of becoming aware of the act which may create or has created a question in dispute.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151⁵. Content of complaint

(1) A complaint shall set out:

- 1) the name of the complainant and names of other persons involved, the registry code or personal identification code or, in the absence thereof, the date of birth, address, means of communication, tax identification number, if available, and other information enabling the complainant and other persons concerned to be identified;
- 2) the Member States concerned by the complaint;
- 3) relevant tax periods;
- 4) the circumstances essential for the resolution of the dispute, information concerning the administrative act or measure giving rise to the dispute and the amounts related to the dispute in the currencies of all the Member States concerned;
- 5) a reference to the applicable legal provisions and the tax treaty;
- 6) an explanation of how the dispute is related to the application of the tax treaty;
- 7) the details of any appeals and litigation relating to relevant transactions concerning the dispute;
- 8) information on double taxation complaints submitted under the same circumstances and for the same tax period and a statement by the complainant that the complainant agrees to terminate the proceedings initiated to review those complaints;
- 9) a statement as to whether the complainant wishes to have the complaint reviewed on the basis of this Chapter or the tax treaty.

(2) The copies of the administrative act or other document which caused a question in dispute and other relevant documents shall be appended to the complaint.

(3) Complaints and other documents shall be filed in Estonian or in a foreign language by agreement with the Tax and Customs Board.

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

§ 151⁶. Requests for information and documents

(1) The Tax and Customs Board may demand additional information and documents necessary for the resolution of a matter within three months as of receipt of the complaint. Thereafter the Tax and Customs Board may request additional information and documents only during the mutual agreement procedure.

(2) The time limit for submission of additional information and documents shall be of a reasonable length, but no longer than three months.

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

§ 151⁷. Acceptance of complaint

(1) The Tax and Customs Board shall decide on acceptance of a complaint within six months as of receipt of the complaint or after expiry of the term prescribed for submission of information and documents required under subsection 151⁶(1) of this Act. The Tax and Customs Board shall immediately inform the complainant and the competent authorities of the Member States concerned of the acceptance of the complaint.

(2) If the complainant has filed a challenge in the same matter or has filed an action with a court for adjudication of the matter, the term provided for in subsection (1) of this section shall commence running as of the date on which the decision on the challenge is made, court proceedings are suspended or when the final decision in this matter enters into force.

(3) A complaint shall be deemed to be accepted if, in the case provided for in this section, the Tax and Customs Board has not made a decision within the specified period on acceptance, return or unilateral resolution of the complaint.

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

§ 151⁸. Return of complaint

(1) The Tax and Customs Board may return a complaint without reviewing it in essence within six months as of receipt of the complaint or after expiry of the term for elimination of deficiencies if:

- 1) the complaint is not filed within the term prescribed by law;
- 2) there is no question in dispute;
- 3) the complaint does not comply with the requirements provided for in § 151⁵ of this Act and the required additional information and documents have not been submitted.

(2) A complaint shall be returned to the complainant by a written decision complying with the requirements provided for in § 46 of this Act, indicating the reason for the return. The Tax and Customs Board shall immediately inform the complainant and the competent authority of the Member State concerned of the termination of the proceedings.

(3) If the complaint has been returned by all the competent authorities of the Member States concerned, the complainant shall have a right, within 30 days as of receipt of the last decision to return the complaint, to file a

challenge with the Tax and Customs Board pursuant to § 137 of this Act or to dispute the decision to return the complaint made pursuant to subsection (1) of this section in the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151⁹. Withdrawal of complaint

(1) The complainant shall have the right to withdraw the complaint by written notice before a final decision is made.

(2) Submission of a notice of withdrawal of a complaint shall terminate the complaint proceedings. The Tax and Customs Board shall forward a notification of termination of the proceedings to the complainant and the competent authority of the other Member State concerned.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁰. Unilateral resolution of complaint

(1) Within six months as of receipt of the complaint or of the additional information and documents, the Tax and Customs Board may resolve the complaint on a unilateral basis without involving the competent authority of the Member State concerned.

(2) The Tax and Customs Board shall notify the complainant and the competent authority of the Member State concerned without delay of the unilateral resolution of the complaint. The procedure shall be deemed to be terminated as of the date of notification.

(3) If the Tax and Customs Board receives a notification that a complaint is unilaterally resolved by the competent authority of the other Member State concerned, it shall terminate the procedure and immediately send a notification in this respect to the complainant and the competent authority of the Member State resolving the question in dispute.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹¹. Suspension of proceedings

(1) If, under the circumstances related to a question in dispute, a misdemeanor or criminal proceeding is commenced against the complainant due to fraud, wilful default or gross negligence, the Tax and Customs Board shall have the right to suspend the proceeding as of the commencement of the misdemeanor or criminal proceeding until termination of the proceedings in this matter.

(2) The Tax and Customs Board shall inform, without delay, the complainant and the competent authority of the Member State concerned of the suspension of the procedure and continuation of the procedure.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹². Termination of proceedings

(1) The Tax and Customs Board may terminate the processing of a complaint if:

- 1) a judgment enters into force by which the allegations submitted in a question in dispute which have been submitted on the same legal basis and with regard to the same facts have been assessed;
- 2) a court judgment by which the complainant has been punished for a misdemeanor or convicted of a criminal offence in the legal circumstances related to the question in dispute;
- 3) a question in dispute ceases to exist.

(2) The Tax and Customs Board shall inform the complainant, the competent authority of the Member State concerned and, where appropriate, the Advisory Commission or the Alternative Dispute Resolution Commission of the termination of the proceedings.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

Division 2

Mutual agreement procedure

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

§ 151¹³. Commencement of proceedings

The Tax and Customs Board, in cooperation with the competent authority of the Member State concerned, shall initiate a mutual agreement procedure if:

1) the complaint has been accepted by the competent authorities of all the Member States concerned;
2) the Advisory Commission decides that the complaint has not been lawfully returned by the competent authorities of the Member States concerned and one of the competent authorities of the Member States concerned requests the commencement of the mutual agreement procedure within 60 days of such decision.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁴. Term for conduct of proceedings

(1) The competent authorities of the Member States concerned shall endeavor to resolve the complaint within two years as of the date of the last notification that the Member State has taken a decision on the acceptance of the complaint. That period may be extended by one year at the reasoned request of the competent authority of the Member State concerned.

(2) If the complainant submits a challenge to the tax authority or a court prior to the commencement of the mutual agreement proceedings in the circumstances specified in a question in dispute, the term provided for in subsection (1) of this section shall commence running as of the date when the challenge decision is made, the challenge or court proceedings are suspended or a final court decision takes effect in the matter.

(3) In the case provided for in subsection 151²⁶(2) of this Act, the term of mutual agreement proceedings shall commence running as of the date of service of the decision of the Advisory Commission to the complainant.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁵. Mutual agreement between competent authorities

(1) If the Tax and Customs Board reaches an agreement with the competent authority of the Member State concerned, it shall immediately notify the complainant of the content of the agreement.

(2) If the competent authorities of the Member States concerned fail to reach an agreement on the question in dispute within the time limit, the Tax and Customs Board shall inform the complainant thereof, stating the reason for a failure to reach an agreement.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁶. Validity and implementation of mutual agreement

(1) The complainant shall have the right to request the competent authorities of the Member States concerned to implement the agreement if the complainant accepts the agreement and confirms that he does not file a challenge or complaint with the court in the Member States concerned. The right to submit the confirmation and proof of renouncing the right to domestic remedies shall be available within 60 days as of the day on which the complainant was notified of the content of the agreement.

(2) The reciprocal agreement shall be binding on the competent authorities of all the Member States concerned which have made the decision only in respect of that dispute and shall enter into force upon submission of the confirmation provided for in subsection (1) of this section.

(3) The Tax and Customs Board shall immediately enforce the agreement which has entered into force.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

Division 3

Dispute resolution procedure by Commission

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

§ 151¹⁷. Request for setting up Advisory Commission

(1) A complainant shall have the right to request the Tax and Customs Board to set up an Advisory Commission in the following cases:

- 1) for the assessment of the lawfulness of a decision to return a complaint on the basis of subsection 151⁸(1) of this Act if at least one competent authority of the Member State concerned has returned the complaint but not all the competent authorities of the Member States concerned have done so;
- 2) for delivering opinion on the complaint if the competent authorities of the Member States concerned have not reached an agreement for resolution of the complaint within the time limit.

(2) A complainant shall not have the right to request setting up an Advisory Commission if:

- 1) the decision to return the complaint has been disputed or it is possible to dispute it in the Member State concerned;
- 2) the complaint was returned by the competent authorities of the Member States concerned and the legality of the return of the complaint has been confirmed in an appeal procedure;
- 3) the judgment has entered into force in the matter in which the court has already assessed the same factual and legal grounds and the complainant's allegations.

(3) The request shall be filed within 50 calendar days as of the service of the decision to return the complaint or as of the entry into force of a court judgment annulling the decision to return the complaint or as of the service of the notification of a failure to reach a mutual agreement. If the complainant has waived the right to challenge the decision in court or in a challenge procedure, the respective evidence shall be attached to the request.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁸. Setting up Advisory Commission

(1) The Advisory Commission shall be comprised of:

- 1) the chair;
- 2) one representative from each competent authority of the Member State concerned;
- 3) one independent person of standing nominated by the competent authority of each Member State concerned from a list maintained by the European Commission.

(2) The chairman of the Advisory Commission shall be elected by the representatives of the competent authorities of the Member States concerned and independent persons of standing appointed pursuant to clause (1) 3) of this section from a list maintained by the European Commission. Unless otherwise decided by the representatives of the competent authorities of the Member States concerned and by independent persons of standing, a judge shall be elected the chair.

(3) By agreement between the competent authorities of the Member States concerned, the number of representatives of the competent authorities of the Member States concerned and independent persons of standing may be increased to two per Member State.

(4) The Tax and Customs Board shall agree with the competent authority of the Member State concerned on the rules for the appointment of independent persons of standing within the Advisory Commission. If the rules for the appointment of independent persons of standing have not been agreed upon, the Tax and Customs Board shall select an independent person of standing by drawing lots.

(5) Following the appointment of independent persons of standing, one alternate member shall be appointed for each of them in accordance with the rules for the appointment of independent persons of standing in the event that the independent persons of standing are unable to fulfill their obligations.

(6) In the case provided for in subsection 151¹⁷(1) of this Act, the Tax and Customs Board, in cooperation with the competent authority of the Member State concerned, shall set up an Advisory Commission within 120 days as of receipt of the request of the complainant.

(7) If the Advisory Commission has deemed the appeal to be unlawful but within 60 days as of the making of the decision specified in subsection 151²⁶(1) of this Act, the competent authority of any of the Member States concerned has not requested the commencement of the mutual settlement proceedings, the Advisory Commission is deemed to have been set up for delivering an opinion.

(8) The Tax and Customs Board shall refuse to set up an Advisory Commission unless a question in dispute concerns double taxation. The Tax and Customs Board shall immediately inform the complainant and the competent authority of the Member State concerned of not setting up the Advisory Commission.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151¹⁹. Payment of remuneration and reimbursement of expenses to independent person of standing

(1) An independent person of standing shall have the right to receive a fee of up to 1,000 euros for each day of the meeting, which shall include the taxes and payments due pursuant to law.

(2) The extent of and procedure for the reimbursement of expenses of an independent person of standing shall be established by a regulation of the Government of the Republic.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151²⁰. Objection

(1) The competent authority of each Member State concerned may object, with evidence, to an independent person of standing appointed to the Advisory Commission or the Alternative Dispute Resolution Commission if:

- 1) the person belongs to the composition of or represents the tax authority concerned or has been in such legal relationship for the last three years;
- 2) the person has or has had a significant holding or voting right in the legal person that is concerned by a question in dispute or the person is or has been an employee or adviser to such person for the last five years;
- 3) the person fails to ensure the objectivity necessary for the resolution of the dispute;

- 4) the person is a member of the staff of an enterprise that provides tax advice, otherwise gives tax advice on a professional basis or has been engaged in this at any time within the period of three years prior to the date of appointment to the Advisory Commission or the Alternative Dispute Resolution Commission;
- 5) other grounds have been agreed upon between the competent authorities of the Member States concerned.

(2) The competent authority of the Member State which is dealing with a question in dispute is not entitled to object on the basis of subsection (1) of this section if an independent person of standing has been appointed by a competent competent designated as such or a national competent appointing authority or person.

(3) If the Tax and Customs Board satisfies an objection made against an independent person of standing it has appointed, his or her substitute shall perform the duties of the independent person of standing who has been removed from the Advisory Commission or the Alternative Dispute Resolution Commission.

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

§ 151²¹. Alternative Dispute Resolution Commission

(1) The Tax and Customs Board may agree with the competent authority of the Member State concerned to set up an Alternative Dispute Resolution Commission to deliver the opinion provided for in § 151²⁷ of this Act instead of the Advisory Commission.

(2) The composition and form of the Alternative Dispute Resolution Commission may differ from the composition and form of the Advisory Commission, except as regards compliance with the requirement of independence by an independent person of standing.

(3) The Alternative Dispute Resolution Commission may apply other dispute resolution procedure or technique in addition to the procedure provided for in this Division, including the last best offer procedure, to resolve the dispute in a binding manner.

(4) The provisions of §§ 151¹⁹, 151²⁴, 151²⁵ and 151³¹ of this Act shall be applied to the resolution of disputes by the Alternative Dispute Resolution Commission unless the Tax and Customs Board has agreed otherwise with the competent authority of the Member State concerned.

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

§ 151²². Request for setting up Advisory Commission and appointment of independent person of standing by minister responsible for area

(1) If the Advisory Commission or the Alternative Dispute Resolution Commission has not been set up by the due date or if the Tax and Customs Board has not appointed an independent person of standing or his or her substitute, the members of the Advisory Commission shall be appointed by the minister responsible for the area on the basis of the written request of the complainant from the list kept by the European Commission, specified in subsection 151³³(1) of this Act. Where no independent person of standing has been appointed by the competent authority of any Member State resolving the complaint, the minister responsible for the area shall appoint two independent persons of standing from the list kept by the European Commission, specified in subsection 151³³(1) of this Act.

(2) Where there is more than one complainant, each complainant shall submit a request for the appointment of independent persons of standing to the competent authority of the Member State of residence.

(3) The request shall be filed within thirty calendar days as of the expiry of the term provided for in subsection 151¹⁸(6) of this Act.

(4) If the representatives of the competent authorities of the Member States resolving the complaint and independent persons of standing fail to agree on the election of the chairman of the Advisory Commission, the minister responsible for the area may appoint the chair of the Advisory Commission from the list kept by the European Commission, specified in subsection 151³³(1) of this Act.

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

§ 151²³. Rules of procedure and notification thereof

(1) The Tax and Customs Board shall, within 120 days as of the receipt of a request to set up the Advisory Commission on a question in dispute, inform the complainant of:

- 1) the rules of procedure of the Advisory Commission or the Alternative Dispute Resolution Commission;
- 2) the date of adoption of the opinion on the resolution of a question in dispute;
- 3) the applicable legal provisions in national law and tax treaties.

(2) The rules of procedure shall be signed by the representatives of the competent authorities of the Member States concerned and shall include the following:

- 1) a description and circumstances of a question in dispute;
- 2) the legal and factual circumstances of the questions in dispute being resolved as agreed between the competent authorities of the Member States concerned;

- 3) the dispute resolution form and a description of the procedure to be followed in the event of an alternative dispute resolution procedure if it differs from the nature of the procedure for giving an independent opinion applied by the Advisory Commission;
- 4) a time frame for the resolution of disputes;
- 5) the composition of the Advisory Committee or the Alternative Dispute Resolution Committee, including the number and names of the members and information on their competence and qualifications and the existence of any potential conflict of interest;
- 6) the rules governing the participation in the proceedings of the complainant, persons concerned in the dispute and third parties, the exchange of information and documents, and the costs and other organizational aspects relating to the procedure;
- 7) the organization of dispute resolution procedure and the manner in which opinions are delivered.

(3) If the setting up of the Advisory Commission is requested on the basis of clause 151¹⁷(1) 1) of this Act to assess the legality of the decision to return the complaint, the competent authorities of the Member States concerned shall submit the information provided for in clauses (2) 1) and 4) –6) of this section.

(4) Unless the competent authorities of the Member States concerned inform the complainant of the rules of procedure pursuant to subsections (1)- (3) of this section, the chair of the Advisory Commission or the Alternative Dispute Resolution Committee and independent persons of standing shall draw up the rules of procedure pursuant to the standard rules of procedure provided for in the Implementing Regulation of Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union (OJ L 265, 14.10.2017, pp. 1-14). The complainant shall be served the rules of procedure within two weeks as of the setting up of the Advisory Commission or the Alternative Dispute Resolution Commission.

(5) If the chair of the Advisory Commission or the Alternative Dispute Resolution Commission and independent persons of standing do not agree on the rules of procedure or do not inform the complainant thereof, the complainant shall have the right to file an action with an Administrative Court to oblige the Tax and Customs Board.

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

§ 151²⁴. Taking of evidence

(1) The complainant is entitled to, with the consent of the competent authorities of the Member States concerned, submit to the Advisory Commission or to the Alternative Dispute Resolution Commission any additional evidence which may be relevant for the resolution of the dispute.

(2) The Advisory Commission and the Alternative Dispute Resolution Commission shall have the right to request information and evidence necessary for the resolution of the complaint from the complainant and the Tax and Customs Board.

(3) The Tax and Customs Board may refuse to provide information to the Advisory Commission or to the Alternative Dispute Resolution Commission if:

- 1) the taking of information is contrary to national law;
- 2) the information cannot be obtained under national law;
- 3) the information relates to a trade, business, industrial or professional secret or trade process;
- 4) the disclosure of the information is contrary to public policy.

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

§ 151²⁵. Hearing

(1) The complainant shall have the right, upon request and with the consent of the Tax and Customs Board and the competent authority of the other Member State concerned, to appear to the consultation with the Advisory Commission or the Alternative Dispute Resolution Commission.

(2) The Advisory Commission and the Alternative Dispute Resolution Commission shall have the right to request that the complainant appear to the consultation of the commission for the purpose of submitting information, explanations and evidence.

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

§ 151²⁶. Assessment of legality of decision to return complaint

(1) The Advisory Commission shall submit a decision on the legality of the return of the complaint within six months as of the setting up of the Advisory Commission. The Advisory Commission shall notify the complainant and the competent authorities of the Member States concerned of the decision within 30 days as of the adoption of the decision.

(2) If the Advisory Commission determines that the complaint is in compliance with the requirements, the mutual agreement procedure shall be initiated at the request of the competent authority of one of the Member States concerned pursuant to the procedure provided for in Division 2 of this Chapter.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151²⁷. Opinion

(1) The Advisory Commission or the Alternative Dispute Resolution Commission shall issue a written opinion on the resolution of the question in dispute to the Tax and Customs Board and the competent authority of the Member State concerned within six months as of the setting up of the commission. Due to the complexity of the question in dispute the time limit may be extended by three months. The complainant and the competent authorities of the Member States concerned shall be notified of the extension of the time limit for delivery of an opinion.

(2) If, within 60 days as of service of the decision specified in subsection 151²⁶(1) of this Act, none of the competent authorities of the Member State concerned has requested the initiation of mutual agreement procedure and the Member States have not agreed to set up the Alternative Dispute Resolution Commission, the Advisory Commission shall provide an opinion on how to resolve the question in dispute.

(3) The Advisory Commission or the Alternative Dispute Resolution Commission shall adopt its opinion by a simple majority of votes. Where a majority of votes cannot be reached, the vote of the chair of the commission shall determine the result of the vote.

(4) The Advisory Commission or the Alternative Dispute Resolution Commission shall base its opinion on the applicable tax treaty and other applicable legislation.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151²⁸. Final decision of competent authorities

(1) The Tax and Customs Board shall agree with the competent authority of the Member State concerned on how to resolve a question in dispute within six months as of the notification of the opinion specified in § 151²⁷ of this Act. If the competent authorities of the Member States concerned fail to reach an agreement within the specified period, they shall be bound by the opinion of the Commission.

(2) The final decision of the competent authorities of the Member States concerned shall be binding only in respect of this dispute.

(3) The Tax and Customs Board shall immediately notify the complainant of the decision made. If the Tax and Customs Board has not notified the complainant of the decision within 30 days as of the due date for making the decision, the complainant may file a challenge with the Tax and Customs Board pursuant to § 137 of this Act or file a complaint with the administrative court pursuant to the procedure provided for in the Code of Administrative Court Procedure.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151²⁹. Enforcement of final decision of competent authorities

(1) The final decision shall be enforced without delay by the competent authorities of the Member States concerned if the complainant accepts the final decision and confirms renouncing the right to any other national remedy. Confirmation and evidence shall be submitted within 60 days as of the date of notification of the final decision.

(2) The complainant shall have the right to request immediate execution of the final decision, unless the administrative court has determined that the independent person of standing does not comply with the requirement of independence and this could have affected the final decision.

(3) In the event of a failure to comply with the decision, the complainant shall have the right to file an action with the administrative court.
[RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151³⁰. Publication of final decision of competent authorities

(1) The tax and customs authorities may, with the consent of the complainant, agree with the competent authority of the Member State concerned to have the final decision published.

(2) If the complainant does not consent to publishing the final decision or the competent authorities of the Member States concerned do not reach an agreement, the Tax and Customs Board shall publish a summary of the decision on its website. The following shall be summarized:

- 1) a description of the question in dispute;
- 2) the date of the decision;
- 3) the relevant tax period;
- 4) the legal basis;

- 5) the area of C0#3FC0#3Activity;
- 6) a brief description of the final decision;
- 7) a description of the method for dispute resolution.

(3) The information to be published shall be submitted to the complainant prior to its publication. The complainant shall have the right to request, within 60 days as of the receipt of the information, request non-disclosure of the information concerning trade, business, industrial or professional secret or a trade process or of information that is contrary to public policy. The Tax and Customs Board may not disclose specific types of personal data in the decision.

(4) The Tax and Customs Board shall forward the information on the final decision to the European Commission in a standard form approved by the Implementing Regulation of Council Directive (EU) 2017/1852.

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

§ 151³¹. Costs of proceedings

(1) Unless otherwise agreed upon between the Tax and Customs Board and the competent authority of the Member State concerned, the following costs shall be shared equally among the Member States:

- 1) reimbursement of the expenses of an independent person of standing to the extent established by a regulation of the Government of the Republic on the basis of subsection 151¹⁹(2) of this Act;
- 2) payment of fees of an independent person of standing in the amount of up to 1,000 euros for each day of the meeting.

(2) The expenses of the complainant shall not be reimbursed.

(3) Where the competent authorities of the Member States concerned agree, the complainant is required to bear the expenses specified in subsection (1) of this section if:

- 1) the Advisory Commission decides that the competent authorities of the Member States concerned acted lawfully when returning the complaint;
- 2) the complainant withdraws the complaint.

(4) The Tax and Customs Board shall issue an order for the recovery of expenses from a complainant, set a term for payment thereof and issue a warning that in the case of a failure to pay expenses by the due date the claim shall be subject to compulsory execution pursuant to §§ 128-132 of this Act.

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

§ 151³². Obligation to maintain secrecy

(1) A complainant, his or her representative and a member of the Advisory Commission or Alternative Dispute Resolution Commission may not disclose information which is known to them in connection with the proceedings of the Advisory Commission or Alternative Dispute Resolution Commission, information concerning the existence of data carriers or information on data carriers. The obligation to maintain confidentiality shall be without a term.

(2) The Tax and Customs Board shall have the right to demand written confirmation of compliance with the obligation to maintain secrecy from the complainant and his or her representative.

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

Division 4

List of independent persons of standing

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

§ 151³³. Independent person of standing

(1) The minister responsible for the area shall organize a public competition for the election of independent persons of standing and shall appoint by a directive at least three competent, independent, impartial and honest persons to be entered on a list kept by the European Commission.

(2) The minister responsible for the area shall notify the European Commission of the persons he or she has appointed and shall provide the European Commission with complete and up-to-date information on their professional and academic background, competence, knowledge and potential conflict of interest.

(3) A person who is appointed as an independent person of standing shall immediately inform the minister responsible for the area of C0#3FC0#3Fany circumstances which may give rise to objections against him.

(4) The competent authority of each Member State concerned may request that an independent person of standing or his or her substitute who has been appointed to the Advisory Commission or the Alternative Dispute Resolution Commission in accordance with the procedure agreed upon between the competent authorities of the Member States concerned or by drawing lots, shall disclose any interest, relationship or any other matter that may affect independence or impartiality of that person or that may create an appearance of bias in the proceedings.

(5) An independent person of standing appointed to the Advisory Commission or to the Alternative Dispute Resolution Commission shall not, for a period of 12 months as of the date of delivery of an opinion, be in a situation that would give a cause to submit an objection.

(6) If the minister responsible for the area has reason to believe that an independent person of standing included in the list kept by the European Commission is not in compliance with the conditions provided for in subsection (1) of this section, he or she shall inform the European Commission thereof and provide evidence in this respect. [RT I, 06.11.2019, 1 - entry into force 15.11.2019]

§ 151³⁴. Recall of independent person of standing

(1) The minister responsible for the area shall recall an independent person who he or she has appointed if it becomes evident that the person does not comply with the requirements provided for in subsection 151³³(1) of this Act. The person whose recall is being considered shall be heard.

(2) The minister responsible for the area shall immediately notify the European Commission of the recall of an independent person of standing for removal of the person from the list.

(3) If the European Commission notifies the minister responsible for the area that an objection relating to independence has been submitted against an independent person of standing, the minister responsible for the area shall make a decision to recall or not to recall the person. The person against whom the objection was made shall be heard before resolution of the objection. [RT I, 06.11.2019, 1 - entry into force 15.11.2019]

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]

§ 153¹. Concealment of tax liability and increase of claim for refund without basis

[RT I, 23.12.2014, 14 - entry into force 01.01.2015]

(1) Failure to submit information to a tax authority intentionally or submission of false information if the tax or withholding obligation is decreased thereby or the claim for refund is increased is punishable by a fine of up to 300 fine units.

(2) The same act, if committed by a legal person, is punishable by a fine of up to 32,000 euros. [RT I, 23.12.2014, 14 - entry into force 01.01.2015]

§ 153². Tax fraud

[Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

§ 154. Obstruction of activities of tax authority

(1) Failure to submit a tax return, other document or thing by the due date, failure to register with a tax authority, failure to comply with the requirements for the keeping of records or failure to comply with an order of a tax authority is punishable by a fine of up to 300 fine units. [Repealed - RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(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]

§ 154¹. Violation of rules relating to goods subject to excise duty

(1) The manufacture, dispatch, receipt, possession, storage, transfer or another unlawful act concerning excise goods in violation of the requirements provided in the excise duty Act or legislation issued on the basis thereof, provided that the elements of a misdemeanour provided in §§ 153¹ or 154 of this Act do not exist, is punishable by a fine of up to 300 fine units.

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

(2) The same act, 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]

§ 155¹. Failure to perform obligations of excise warehouse keeper and registered trader

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

(1) Failure to perform the obligations of an excise warehouse keeper and registered consignee provided in the Excise Duty Act or legislation established on the basis thereof, provided that the elements of a misdemeanour provided in §§ 153¹, 154 and 154¹ of this Act do not exist, is punishable by a fine of up to 300 fine units.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(2) The same act, 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]

§ 155². Unlawful acts involving motor fuel imported under exemption from excise duty

(1) The performance intentionally 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.

[RT I, 12.07.2014, 1 - entry into force 01.01.2015]

(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]

§ 155³. Prevention of exchange of information

(1) Failure to comply with the obligations of the information provider and information source provided in the Tax Information Exchange Act or prevention of information exchange is punishable by a fine of up to 300 fine units.

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

(2) The same act, if committed by a legal person, is punishable by a fine of up to 3,200 euros.

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

§ 156. Tampering with meter or preventive measure

(1) Tampering with or removal or replacement of a meter or preventive measure installed 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]

§ 156¹. Violation of obligation to maintain secrecy in dispute resolution proceedings

(1) For violation of the obligation of secrecy provided for in § 151³² of this Act by a member of the Advisory Commission or the Alternative Dispute Resolution Commission, the complainant or his representative - 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 3,200 euros.

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

§ 157. Organisation of gambling without decision of Tax and Customs Board

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 158. Violation of obligations arising from Heavy Goods Vehicle Tax Act

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 159. Failure to issue certificate

[Repealed – RT I, 12.07.2014, 1 – entry into force 01.01.2015]

§ 160. [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 expiry date of misdemeanours provided in §§ 153¹, 154, 154¹, 155¹ and 155² of this Act is three years.
[RT I, 12.07.2014, 1 – entry into force 01.01.2015]

(2) The following extra-judicial bodies conduct proceedings in matters of misdemeanours provided 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]

(2¹) The right to compensation for damage does not arise for a taxable person upon payment of interest calculated on the amount of tax arising from legislation in force prior to the entry into force of this Act and unpaid by the due date. Claims for interest for 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, 23¹ and 40 of the Taxation Act in force until the entry into force of this Act.
[RT I 2003, 48, 341 - entry into force 07.07.2003]

§ 164. Collection of tax arrears incurred prior to entry into force of this Act

(1) Tax arrears incurred prior to the entry into force of this Act shall be collected pursuant to the procedure provided in this Act. Collection commenced prior to the entry into force of this Act may be continued pursuant to the procedure provided 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 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 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 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 in the Code of Administrative Court Procedure, in accordance with the terms specified in subsection (13) of this section.
[RT I 2005, 57, 451 - entry into force 18.11.2005]

(13) An administrative penalty for a violation of tax law provided in subsections (2) - (11) of this section may be imposed not later than within three years as of the offence being committed.

§ 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 in § 148¹ 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.

§ 168¹. Notification of suspension of activities of self-employed person and deletion of self-employed person from register

(1) A self-employed person who wishes to notify of the suspension of the activities thereof from 1 January up to 31 December 2009 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 511⁴(1) of the Commercial Code. A person is not deemed to be a self-employed person for the purposes of taxation during the period when the business activities of the person are suspended.

(2) A self-employed person who wishes to terminate the activities 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 corresponding date was indicated in the application for registration of the self-employed person.

(3) A self-employed person shall be deleted from the register on the basis of a decision of the head of the tax authority. A self-employed person is deemed to be deleted from the register as of the date specified in the decision.

[RT I 2008, 27, 177- entry into force 10.07.2008]

§ 168². Suspension 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]

§ 168³. 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 an administrative contract concluded on the basis of the Local Taxes Act.

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

§ 168⁴. Calculation of limitation period for compulsory execution in case of claims arising before 1 January 2014

(1) The limitation period for compulsory execution valid from 1 January 2014 shall be applied to claims that have arisen before 1 January 2014. The interest claims and other financial obligations collectable by the tax authority determined before 1 January 2014 shall be applied the regulation concerning limitation period valid until 1 January 2014.

(2) If the limitation period for compulsory execution is interrupted by a circumstance that is not a basis for the interruption of limitation period any more, the basis for interruption of the limitation period shall be deemed to have ceased from 1 January 2014 and the new limitation period shall not begin to run.

[RT I, 07.06.2013, 1 - entry into force 01.01.2014]

§ 168⁵. Performance, set-off and refund of monetary obligation arising from judicial proceedings and decision of prosecutor's office

(1) Subsection 1 (6) of this Act shall apply to the payment and set-off of the state fee for acts in the commercial register, the non-profit associations and foundations register, the commercial pledge register and the land register, which shall be enacted on 1 April 2014 or later.

(2) Subsection 1 (6) of this Act shall apply to the payment and set-off of the state fee for acts in the ship's registration book and the review of the application for the expedited procedure of payment order, which shall be enacted on 3 February 2015 or later.
[RT I, 21.12.2016, 1 - entry into force 01.03.2018]

(3) Subsection 1 (6) of this Act shall apply to public monetary obligation arising from judicial proceedings and the decision of the procurator's office, which has become due on 1 July 2014 or later, as well as the state fee for a security in cassation and the state fee for judicial proceedings not referred to in subsections (1) and (2) of this section, which shall be paid on 1 July 2014 or later.
[RT I, 31.01.2014, 6 – entry into force 01.04.2014]

§ 168⁶. Transfer of valid data into employment register

Personal data entered into the health insurance database on the basis of clauses 17 (1) 1) and 2) of the Health Insurance Act and the data being the basis for creation, termination and suspension of the insurance cover shall be entered into the employment register as of 1 July 2014.
[RT I, 16.04.2014, 2 – entry into force 01.07.2014]

§ 168⁷. Disclosure of tax amount

(1) The amounts specified in subsection 27 (3) of this Act shall first be disclosed by 10 October 2014 for last two months of the third quarter of 2014.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

(2) Pursuant to clause 27 (1) 4) of this Act the amounts of obligations specified in clause 31 (1) 4) and clause 128 (4) and unpaid by the due date and the time of their creation shall be disclosed from 1 January 2019.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 168⁸. Fulfilment of claim for refund

The proceeding of a claim for refund submitted until 31 July 2014 shall be applied the term for the proceeding of a claim for refund valid until 31 July 2014.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

§ 168⁹. Calculation of interest on inherited tax arrears

Subsection 119 (10) of this Act shall be applied in the case the succession opened on 1 August 2014 or later.
[RT I, 11.07.2014, 4 – entry into force 01.08.2014]

§ 168¹⁰. Implementation of regulation on stock record and reporting database

The keeper of a warehouse or holder of procedure specified in § 25⁹ of this Act shall enter the inventory into the stock record and reporting database for the first time as at 1 February 2019 at the latest on 20 February of the same year.
[RT I, 03.04.2018, 2 - entry into 01.02.2019]

§ 168¹¹. Entry of data on spouse of self-employed person who participates in activity thereof in employment register

Entry may be made in the employment register with regard to the spouse of a self-employed person starting from 1 November 2018.
[RT I, 07.12.2018, 1 - entry into force 17.12.2018]

§ 168¹². Implementation of tax control

The provisions established on the tax control in Chapter 4¹ of this Act shall be applied to the proceedings which shall be commenced on 1 January 2019 or later.
[RT I, 07.12.2018, 1 - entry into force 01.01.2019]

§ 168¹³. Implementation of Chapter 14¹ of this Act

Chapter 14¹ of this Act shall apply to the resolution of a question in dispute relating to the taxation period beginning on or after 1 January 2018. Complaints may be filed with effect from 1 July 2019. The Tax and Customs Board shall have the right to agree on the application of Chapter 14¹ of this Act to any double taxation complaint filed before 1 January 2018 or for earlier taxation periods..

§ 169. Revocation of Taxation Act

(Omitted from this text.)

§ 170. Entry into force of Act

- (1) This Act enters into force on 1 July 2002.
- (2) Clause 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.

¹Commission 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 area of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.03.2011, pp.1-12); [RT I, 13.12.2011, 1- entry into force 01.01.2013] Directive 2010/41/EU of the European Parliament and of the Council on the application of the principle of equal treatment between men and women engaged in an activity in a self-employed capacity, repealing Council Directive 86/613/EEC (OJ L 180, 15.07.2010, pp. 1-6). [RT I, 02.07.2012, 8 – entry into force 01.08.2012] Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union (OJ L 265, 14.10.2017, pp.1-14) [RT I, 06.11.2019, 1 - entry into force 15.11.2019]