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Income Tax Act¹

Passed 15 December 1999

(RT² I 1999, 101, 903; consolidated text RT I 2004, 59, 414),

entered into force 1 January 2000,

amended by the following Acts:

18.11.2004 entered into force 01.01.2005 - RT I 2004, 84, 568;

08.12.2004 entered into force 01.01.2005 - RT I 2004, 89, 604;

06.04.2005 entered into force 01.01.2006 - RT I 2005, 22, 148;

20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193;

20.06.2005 entered into force 01.01.2006 - RT I 2005, 36, 277;

28.09.05 entered into force 01.01.06 - RT I 2005, 54, 430;

12.10.05 entered into force 18.11.05 - RT I 2005, 57, 451;

26.01.06 entered into force 04.02.06 - RT I 2006, 7, 40;

26.01.06 entered into force 13.02.06 - RT I 2006, 7, 41;

10.05.06 entered into force 01.01.07 - RT I 2006, 26, 193;

31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208;

07.06.2006 entered into force 01.01.2007 - RT I 2006, 30, 232;

15.11.2006 entered into force 01.01.2007 - RT I 2006, 55, 406;

21.12.2006 entered into force 01.01.2007 - RT I 2006, 63, 468;

21.12.2006 entered into force 01.09.2007 - RT I 2007, 4, 19;

14.02.2007 entered into force 01.07.2007 - RT I 2007, 24, 126;

21.02.2007 entered into force 01.01.2008 - RT I 2007, 25, 130;

14.06.2007 entered into force 14.07.2007 - RT I 2007, 44, 316;

14.06.2007 entered into force 1.01.2008 - RT I 2007, 44, 318;

26.03.2008 entered into force 01.01.2009 - RT I 2008, 17, 119;

19.06.2008 entered into force 01.09.2008 - RT I 2008, 34, 208;

23.10.2008 entered into force 14.11.2008 - RT I 2008, 48, 269;

19.11.2008 entered into force 01.01.2009, partially 01.01.2010 - RT I 2008, 51, 283;

20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286;

04.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 323;

04.12.2008 entered into force 01.01.2009 - RT I 2008, 58, 324;

17.12.2008 entered into force 01.01.2010 - RT I 2008, 58, 329;

11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331;

18.12.2008 entered into force 01.02.2009 - RT I 2009, 3, 15;

20.02.2009 entered into force 01.04.2009, partially 01.07.2009 and 01.01.2010 - RT I 2009, 15, 93;

26.02.2009 entered into force 28.03.2009, partially 01.07.2009 - RT I 2009, 18, 109;

22.04.2009 entered into force 01.06.2009 - RT I 2009, 24, 146;

29.10.2009 entered into force 01.01.2010, partially 01.12.2009 (amendments apply retroactively as of 01.08.2009) - RT I 2009, 54, 362;

26.11.2009 entered into force 01.01.2010 - RT I 2009, 59, 391;

18.11.2009 entered into force 01.07.2010 - RT I 2009, 60, 395;

26.11.2009 entered into force 01.01.2010 - RT I 2009, 62, 405;

16.12.2009 entered into force on the date when the authority of the XII membership of the Riigikogu³ commences - RT I 2010, 1, 2;

22.04.10 enters into force on the date which has been determined in the decision of the Council of the European Union regarding abrogation of a derogation established in respect of the Republic of Estonia on the basis provided for in Article 140 (2) of the Treaty on the Functioning of the European Union - RT I 2010, 22, 108.

Chapter 1

General Provisions

§ 1. Object of taxation

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

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

(3) Income tax prescribed in §§ 49-52 is imposed on gifts, donations and costs of entertaining guests, distributed profit, and expenses and payments not related to business, made by a resident legal person and a profit-making state agency. Income tax prescribed in § 50 is imposed on an amount transferred into the state budget out of the net profit of a profit-making state agency.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(4) Income tax prescribed in § 53 is imposed on fringe benefits granted by a non-resident and on gifts, donations and costs of entertaining guests, profit distributions, and expenses and payments not related to business, made by a non-resident through a permanent establishment.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

§ 2. Taxpayer

(1) Income tax specified in subsection 1 (1) is paid by natural persons and non-resident legal persons who derive taxable income.

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

(3) Income tax specified in subsection 1 (3) is paid by resident legal persons and profit-making state agencies.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(4) Income tax specified in subsection 1 (4) is paid by non-resident legal persons which have a registered permanent establishment (§ 7) in Estonia.

§ 3. Period of taxation

(1) The period of taxation for income tax specified in subsection 1 (1) is one calendar year.

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

§ 4. Tax rates

(1) Except in the cases specified in subsections 4 (2) and 43 (4), the rate of income tax is 21 per cent.

(1¹) In the case of the object of taxation specified in subsections 1 (2)-(4), the taxable amount, before it is multiplied by the tax rate, shall be divided by 0.79.

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 59, 391)

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

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)(3) (Repealed - 17.12.2003 entered into force 01.01.2005 - RT I 2003, 88, 587)

§ 5. Receipt of tax

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

1) without taking into account the deductions provided for in Chapter 4, 11.4 per cent of the taxable income of a resident natural person is received by the local government of the taxpayer's residence;

(20.02.2009 entered into force 01.04.2009 - RT I 2009, 15, 93)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(1¹) Income tax paid by a non-resident is received by the state.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

(3) Income tax specified in subsections 1 (2)-(4) is received by the state.

Chapter 2

Definitions Used in Act

§ 6. Resident

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(3) A non-resident is a natural or legal person not specified in subsections (1) or (2). A non-resident shall pay income tax pursuant to the provisions of § 29 only on income derived from Estonian sources. Unless otherwise prescribed in this Act, the income of a non-resident legal person shall be declared and income tax shall be imposed, withheld and paid pursuant to the same conditions and procedure as in the case of a non-resident natural person.

(3¹) The income of foreign associations of persons or pools of assets without the status of a legal person is subject to taxation as the income of the shareholders or members of such association or pool in proportion to the sizes of their holdings. If the members or shareholders of an association or pool of assets are unknown or their residency is not proved, the income is attributed to the person who administers the assets of the association or the pool of assets or who concludes transactions in the name thereof. Income tax shall be withheld from payments made to such associations or pools of assets according to the provisions of law applicable to non-resident legal persons. If such association or pool of assets is located in a low tax rate territory (§ 10), income tax shall be withheld according to the provisions of law applicable to legal persons located in low tax rate territories.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(4) The income of branches of foreign companies entered in the Estonian commercial register and the income of other permanent establishments (§ 7) of non-resident legal persons registered with a regional structural unit of the Tax and Customs Board is subject

to taxation pursuant to § 53. The provisions of subsection (3) of this section do not apply to taxation of income derived by such non-residents through their permanent establishments.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(5) If the residency prescribed on the basis of an international agreement differs from the residency prescribed pursuant to law or if the international agreement prescribes more favourable conditions for taxation of income than those provided by law, the provisions of the international agreement apply.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 7. Permanent establishment

(1) “permanent establishment” means the place through which the permanent economic activity of a non-resident is fully or partially carried out in Estonia.

- 1) a branch;
- 2) a centre of management, or an office, factory or workshop;
- 3) a building site, a place of construction, or an installation or assembly project;
- 4) a place where the examination or extraction of natural resources is carried out, as well as any supervisory activities related thereto;
- 5) a place for the provision of services (including management and consultation services).

(2) If a representative of a non-resident operates in Estonia and is authorised to carry out and repeatedly carries out transactions in the name of the non-resident, such non-resident is deemed to have a permanent establishment in Estonia with respect to the transactions carried out in Estonia by the representative in the name of the non-resident.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

§ 8. Associated persons

Persons are deemed to be associated if:

- 1) one person is the spouse, direct blood relative, sister or brother, descendant of a sister or brother, direct blood relative of the spouse, or a sister or brother of the spouse of the other person;
- 2) the persons are companies belonging to one group as defined in § 6 of the Commercial Code (RT I 1995, 26/28, 355; 1998, 91/93, 1500; 1999, 10, 155; 23, 355; 24, 360; 57, 596; 102, 907; 2000, 29, 172; 49, 303; 55, 365; 57, 373; 2001, 24, 133; 34, 185; 56, 332; 336; 89, 532; 93, 565; 2002, 3, 6; 35, 214; 53, 336; 61, 375; 63, 387; 388; 96, 564; 102, 600; 110, 657; 2003, 4, 19; 13, 64; 18, 100; 78, 523; 88, 591);
- 3) one person owns more than 10 per cent of the share capital, total number of votes or rights to the profits of a legal person;

- 4) one person, together with other persons with whom the person is associated , owns more than 50 per cent of the share capital, total number of votes or rights to the profits of a legal person;
- 5) more than 50 per cent of the share capital, total number of votes or rights to the profits of legal persons belong to one and the same person;
- 6) the persons own more than 25 per cent of the share capital, total number of votes or rights to the profits of one and the same legal person;
- 7) all members of the management board or the bodies substituting for the management boards of legal persons are the same persons;
- 8) a person is an employee of another person, the employee's spouse or a direct blood relative;
- 9) a person is a member of the management or controlling body of a legal person (§ 9), or the spouse or a direct blood relative of a member of the management or controlling body.

§ 9. Management or controlling body of legal person

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

(2) Management or controlling bodies include management boards, supervisory boards, partners authorised to represent general or limited partnerships, procurators, founders until registration of the legal person, liquidators, trustees in bankruptcy, auditors, controllers and internal audit committees. Directors of branches of foreign

companies and managers of permanent establishments (§ 7) registered at regional structural units of the Tax and Customs Board are also deemed to be management bodies.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

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

§ 10. Low tax rate territory

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

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

(2) A legal person is not deemed to be located in a low tax rate territory if more than 50 per cent of its annual income is derived from:

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

1) manufacturing of goods, trade in goods, and provision of transport, communications, accommodation and tourism services in the home country of the legal

person, or provision of insurance services by a legal person holding an insurance activities licence;

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

2) chartering of freighting vessels.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

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

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

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

1) the association operates in the public interest;

2) it is a charitable association, that is, an association offering goods or services primarily free of charge or in another non-profit seeking manner to a target group which, arising from its articles of association, the association supports, or makes support payments to the persons belonging in the target group;

3) the association does not distribute its assets or income, grant material assistance or monetarily appraisable benefits to its founders, members, members of the management or controlling body (§ 9), persons who have made a donation to it or to the members of

the management or controlling body of such person or to the persons associated with such persons within the meaning of clause 8 (1);

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

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

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

(3) The requirement specified in clause (2) 3) does not apply to an association engaged in social welfare, or to a case where the associated person belongs to the target group supported by the association and does not receive additional benefits as compared with other persons in the target group.

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

1) it is not operating in accordance with its articles of association;

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

3) it is engaged in business as its principal activity or uses business income for purposes other than those specified in its articles of association; The principal activity of an association is deemed to be business if over a half of the income of the association is received from business, unless at least 90 per cent of the business income minus the expenditure related to business are used in the public interest;

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

- 5) it has tax arrears for which no payment schedule has been arranged;
- 6) it has repeatedly failed to submit, by the term or pursuant to the procedure prescribed by legislation, a report or tax return to a tax authority, or it has repeatedly delayed payment of tax;
- 7) it is being terminated or bankruptcy proceedings have been brought against it;
- 8) it is a professional organisation, organisation for business support, trade union or political association. An association is deemed to be a political association if it is a political party or election coalition or if the main objective of the association or the principal activity of the political party or election coalition is organising campaigns or collecting donations for or against a person running for an elected or appointed office of a political party or election coalition, or an office for the performance of public duties.

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

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

- 1) activities directly related to the objectives set out by the articles of association (for example publication of printed matter, training, information exchange, organisation of events);
- 2) activities for the sale of donated capital;
- 3) organisation for lotteries and auctions for charitable purposes, and other such activities for collecting donations unless such activity is the principal activity of the association;
- 4) receiving financial income which results from the principal activity.

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

- 1) the activity of the association does not meet the requirements set forth in subsection (2), or
- 2) the circumstances specified in subsection (4) become evident, or
- 3) the association has failed to notify a regional structural unit of the Tax and Customs Board of amendment of its articles of association within thirty days after the date of entry of the amendment in the register of non-profit associations and foundations, or
- 4) the association has submitted a written application for deletion of the association from the list.

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

(9) An application for entry of in the list shall be submitted to a regional structural unit of the Tax and Customs Board by 1 February or 1 August. After obtaining the recommendations of the expert committee, the regional structural unit of the Tax and Customs Board shall inform the association by 15 March or 15 September correspondingly of an initial decision to deny entry in the list or to delete the association from the list. Based on the proposal of the Minister of Finance, the Government of the Republic shall enter an association in the list or delete an association from the list as of 1 July or 1 January by an order.

(10) A legal person entered in the register of religious associations pursuant to the Churches and Congregations is deemed to be a non-profit association benefiting from income tax incentives without being included in the list.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

Chapter 3

Taxation of Income of Resident Natural Persons

§ 12. Income of resident natural person

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

- 1) income from employment (§ 13);
- 2) business income (§ 14);
- 3) gains from transfer of property (§ 15);
- 4) rent and royalties (§ 16);
- 5) interest (§ 17);
- 6) dividends (§ 18);
- 7) maintenance support, pensions, scholarships, grants, benefits, awards, lottery prizes (§19);
- 8) insurance indemnities and payments from pension funds (§§ 20, 20¹ and 21);

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

- 9) income of a legal person located in a low tax rate territory (§ 22).

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 13. Income from employment

(1) Income tax is charged on all emoluments paid to an employee or public servant, including wages and salaries, additional remuneration, additional payments, holiday pay, holiday benefit paid on the basis of § 46 of the Public Service Act, compensation prescribed upon cancellation of the employment contract or upon release from service, compensation or fines for delay ordered by a court or a labour dispute committee, sickness benefit and holiday pay compensated from the state budget. Income tax shall be charged on compensation paid in connection with an accident at work or an occupational disease, unless such compensation is paid as insurance indemnity. For the purposes of this Act, servants specified in subsections 12 (2) and (3) of the Public Service Act are also public servants.

(20.02.2009 entered into force 01.07.2009 - RT I 2009, 15, 93)

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

(06.04.2005 entered into force 01.01.2006 - RT I 2005, 22, 148)

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(3) Income tax is not charged on:

1) compensation for official travel, accommodation and other expenses, daily allowances during assignments abroad and remuneration for business travel abroad paid to a public servant, an employee or a member of the management or controlling body of a legal person by the employer or a third person in the name of the employer, compensation for such expenses paid for a family member of a public servant, and compensation for relocation expenses arising from appointment to a position located in another area. The tax exempt limit of compensation for accommodation costs is 77 euro per one twenty-four hour period in the case of domestic assignments and 128 euro per one twenty-four hour period in the case of assignments abroad, and the tax exempt limit of daily allowances during assignments abroad is 32 euro. The procedure for the payment of compensation for the expenses and daily allowances during assignments abroad specified in the first sentence of this clause shall be established by a regulation of the Government of the Republic;

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

2¹) the compensation paid to a handicapped person specified in clause 2) for the use of a personal motor vehicle for transport between his or her residence and place of employment if it is impossible to make the journey using public transport or if the use of public transport would cause a material decrease of the person's ability to move or work.

In total, the costs provided for in this clause and clause 2) may be compensated for exempt from tax within the limits provided for in clause 2). The compensation shall be paid and driving records shall be kept pursuant to the procedure specified in clause 2).

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

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

(14.06.2007 entered into force 14.07.2007 - RT I 2007, 44, 316)

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

(26.01.06 entered into force 13.02.06 - RT I 2006, 7, 41)

4¹) payments made to members of the Government of the Republic pursuant to § 31¹ of the Government of the Republic Act;

(16.12.2009 entered into force on the date when the authority of the XII membership of the Riigikogu commences - RT I 2010, 1, 2)

5) (Repealed - 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

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

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

(10.05.06 entered into force 01.01.07 - RT I 2006, 26, 193)

12) compensation for the cost of a uniform, paid on the basis of § 160 of the Defence Forces Service Act;

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 62, 405)

13) the cost of meals given free of charge to contract servicemen during outdoor exercises, during international military operations, on board aircraft of the Air Force and upon service on board ships of the Navy.

(21.12.2006 entered into force 01.01.2007 - RT I 2006, 63, 468)

14) monetary payments made to persons who have been recruited for secret co-operation pursuant to § 14 of the Surveillance Act.

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 62, 405)

(4) If a person receives income specified in subsections (1), (1¹) and (2) for working in a foreign state, income tax is not charged on such income in Estonia if all the following conditions are met:

1) the person has stayed in the foreign state for the purpose of employment for at least 183 days over the course of a period of 12 consecutive calendar months;

2) the specified income has been the taxable income of the person in the foreign state and if this is certified and the amount of income tax is indicated on the certificate (even if the amount is zero).

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 14. Business income

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(2) Business is a person's independent economic or professional activity (including the professional activity of a notary, a bailiff or, in the case specified in subsection 9 (3) of the Sworn Translators Act (RT I 2001, 16, 70; 2002, 61, 375; 102, 600; 2003, 18, 100; 2004, 14, 91; 30, 208), a sworn translator and the creative activity of a creative person), the aim of which is to derive income from the production, sale or intermediation of

goods, the provision of services, or other activities, including creative or scientific activity.

(18.11.2004 entered into force 01.01.2005 - RT I 2004, 84, 568)

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

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

(5) Sole proprietors entered in the commercial register may make the deductions allowed under Chapter 6 from their business income. Expenses incurred before registration of a sole proprietor may be deducted from business income if they are related to the registration of the sole proprietor or obtaining of activity licences and registrations necessary for commencement of business activities. A certificate concerning the absence of tax arrears shall not be issued if, on the date of submission of an application, a taxable person has failed to perform the obligation to submit a tax return and the tax authority has not specified the amount of tax either.

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(5¹) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

(5²) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(5⁴) If the amount received by multiplying the amount calculated pursuant to subsection (5³) and the factor 0.33 is less than the amount of social tax calculated pursuant to subsections 2 (5), (6) and (8) of the Social Tax Act, then such amount shall not be divided in the manner specified in subsection (5³) and income tax shall be

calculated from business income after deductions relating to enterprise which has been reduced by the social tax calculated pursuant to subsections 2 (5), (6) and (8) of the Social Tax Act. If the amount of social tax to be paid is higher than business income after deductions relating to enterprise, the amount of tax shall not be carried forward to subsequent periods of taxation.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(5⁵) If the amount received by multiplying the amount calculated pursuant to subsection (5³) and the factor 0.33 is more than the amount of social tax calculated pursuant to clause 2 (1) 5) of the Social Tax Act, then such amount shall not be divided in the manner specified in subsection (5³) and income tax shall be calculated from business income from which deductions relating to enterprise have been made and which has been reduced by the social tax calculated pursuant to clause 2 (1) 5) of the Social Tax Act.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(6) The provisions of this Act concerning sole proprietors entered in the commercial register also apply to notaries and bailiffs and to sworn translators, except in the case specified in subsection 9 (4) of the Sworn Translators Act.

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(7) If the value of a transaction conducted between a person associated with the sole proprietor in the course of business differs from the value of similar transactions conducted between non-associated persons, the tax administrator may, when determining income tax, use the values of transactions applied by non-associated independent persons under similar conditions.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

(8) In the case specified in subsection (7), taxable business income shall be increased or expenses to be deducted from business income shall be reduced. The methods for

determining the value of transactions shall be established by a regulation of the Minister of Finance.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 15. Gains from transfer of property

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

(2) In the case of a reduction in the share capital of a public limited company, private limited company or association or in the contributions of a general or limited partnership, and in the case of redemption or return of shares or contributions or in other cases, income tax is charged on the portion of the payments received from own capital which exceeds the acquisition cost of the holding (shares, contributions), unless the portion of the specified payments or the share of profit which is the basis of the proceeds is subject to income tax, taking account of the provisions of the second sentence of subsection 50 (2¹).

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(3) Income tax is charged on the amount in which the liquidation proceeds received by a person upon the liquidation of a legal person exceed the acquisition cost of the holding, unless the portion of the liquidation proceeds or the share of profit which is the

basis of the proceeds is subject to income tax, taking account of the provisions of the second sentence of subsection 50 (2¹).

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(4) Income tax is not charged on:

- 1) accepted succession;
- 2) property returned in the course of ownership reform;
- 3) expropriation payments and compensation paid upon expropriation, and gains from the transfer of immovable property to the state or a local government without expropriation proceedings for the purposes provided for in subsection 3 (1) of the Immovables Expropriation Act if, prior to the transfer transaction, the requirements provided for in subsection 3 (4) of the Immovables Expropriation Act are complied with;

(26.02.2009 entered into force 28.03.2009 - RT I 2009, 18, 109)

- 4) income from the transfer of movable property in personal use;
- 5) income from the transfer of land returned in the course of ownership reform;
- 6) income derived by a person holding a public capital bond from the sale of privatisation vouchers issued to him or her on the basis of the public capital bond;
- 7) income derived by an entitled subject of the agricultural reform from the sale of the employment share issued in his or her name;
- 8) income derived by a person who is an entitled subject of the ownership reform from the sale of privatisation vouchers issued to him or her on the basis of an unlawfully expropriated property compensation order;
- 8¹) compensation paid for unlawfully expropriated property, and compensation for privatisation vouchers issued to but not used by an entitled subject of ownership reform.

(26.01.06 entered into force 04.02.06 - RT I 2006, 7, 40)

9) income from the exchange of a holding (shares, contributions) in the course of a merger, division or transformation of companies or non-profit co-operatives;

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

10) income from the increase or acquisition of a holding (shares, contributions) in a company by way of a non-monetary contribution;

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

11) income from the exchange of units of an investment fund of a Member State of the European Union pursuant to the procedure provided for in §§ 153 and 154 of the Investment Funds Act (RT I 2004, 36, 251).

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 36, 251)

(5) Gains from the transfer of immovable property, a structure or apartment as a movable or contributions to a housing association are not subject to income tax if:

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

2) an essential part of the immovable or the object of apartment ownership or a right of superficies is a dwelling, and the immovable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property, or

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

5) the structure or apartment as a movable was used by the taxpayer as his or her permanent or primary place of residence until transfer, or if the structure or apartment as a movable has been transferred to the taxpayer's ownership through restitution of unlawfully expropriated property or through privatisation with the right of pre-emption, or

6) the summer cottage or garden house is a structure regarded as a movable and has been in the taxpayer's ownership for more than two years, or

7) an apartment in a building belonging to the housing association was used by the taxpayer as his or her permanent or primary place of residence while he or she was a member of the housing association.

(6) If the tax exemption specified in subsection (5) is based on the use of the dwelling as the taxpayer's residence and the immovable, building or apartment was also used for other purposes, the tax exemption is applied according to the proportion of the area of the rooms used as residence and the area of the rooms used for other purposes.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 16. Income from rent and royalties

(1) Income tax is charged on income the hire or lease of immovable or movable property or parts thereof, and consideration for constitution of right of superficies or encumbrance of immovable property with right of pre-emption, usufruct, personal right of use or servitude. (31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

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

§ 17. Interest receivable

(1) Income tax is charged on all interest accrued from loans, securities, leases or other debt obligations, including the amounts calculated on the basis of the debt obligations by which the initial debt obligations are increased. The amounts payable in the event of delay of the payment or other non-performance of the obligation are not deemed to be interests.

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

(2) Income tax is not charged on interest paid to natural persons by a credit institution which is a resident of a state which is a Contracting Party to the EEA Agreement (hereinafter Contracting State) or on interest paid through or on account of a permanent establishment of a non-resident credit institution located within a Contracting State.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 18. Dividends receivable

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

(4) If a resident natural person is a shareholder or member in an association of persons or a co-owner of a pool of assets which does not have the status of a legal person, income tax is charged on the net profit of the association or pool of assets in proportion to the holding or voting rights of the taxpayer.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

(5) The provisions of subsection (4) do not apply to any holding in a pool of assets concerning which a security, as defined in § 2 of the Securities Market Act (RT I 2001, 89, 532; 2002, 23, 131; 63, 387; 102, 600; 105, 612; 2003, 81, 544; 88, 591; 2004, 36, 251; 37, 255), has been issued.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 19. Maintenance support, pensions, scholarships and grants, benefits, awards, gambling prizes, compensation

(22.04.2009 entered into force 01.06.2009 - RT I 2009, 24, 146)

(1) Income tax is charged on maintenance support which a natural person receives on the basis of a court decision or a notarially authenticated or notarially certified agreement, pursuant to the Family Act.

(18.11.2009 entered into force 01.07.2010 - RT I 2009, 60, 395)

(2) Income tax is charged on all pensions, benefits, scholarships and grants, cultural, sports and scientific awards, lottery prizes, benefits received on the basis of the Parental Benefit Act and compensation and daily allowances related to sports assignments and paid by an artistic association to creative persons for business trips relating to the creative activity of the creative persons.

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

(3) Income tax is not charged on:

1) (Repealed - 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

2) (Repealed - 12.09.2001 entered into force 01.01.2002 - RT I 2001, 79, 480)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

6) gifts and donations received from a natural person, a state or local government authority or a resident legal person, or from a non-resident through or on account of its permanent establishment registered in Estonia;

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

7) winnings from gambling organised on the basis of an activity licence for the organisation of gambling or a corresponding registration;

(22.04.2009 entered into force 01.06.2009 - RT I 2009, 24, 146)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544; 28.09.2005 entered into force 01.01.2006 - RT I 2005, 54, 430)

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

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

§ 20. Insurance indemnities

- (1) Income tax is charged on benefits for temporary incapacity for work, paid on the basis of the Health Insurance Act (RT I 2002, 62, 377; 2003, 20, 116; 88, 591; 2004, 37, 253).
- (2) Income tax is charged on benefits paid on the basis of the Unemployment Insurance Act (RT I 2001, 59, 359; 82, 488; 2002, 44, 284; 57, 357; 61, 375; 89, 511; 111, 663; 2003, 17, 95; 88, 591).
- (3) Income tax is charged on amounts paid to a policy holder or beneficiary under a life insurance contract with an investment risk, from which the insurance premiums made by the policy holder on the basis of the same contract have been deducted. Such amounts are subject to taxation if they are paid within twelve years as of the entry into the insurance contract. If the insurance premiums paid under a life insurance contract with an investment risk have been deducted from the income of the taxpayer in the form of an insurance premium on a supplementary funded pension during one or several taxable periods, the amounts paid to the policy holder are subject to taxation pursuant to § 21.
- (4) Income tax is charged on an insurance indemnity paid in a case where the insured event occurred under non-life insurance conditions if the taxpayer has deducted the insurance premiums related to such insured event, the acquisition cost of the insured assets, or the depreciation of fixed assets applied with regard to the same assets on the basis of the Income Tax Act in force before the entry into force of this Act from the taxpayer's business income. The insurance indemnities received are subject to taxation as gain from the sale of property (§ 37) and the amount of the insurance indemnity is deemed to be the sales price of the property.
- (5) Income tax is not charged on sums insured and insurance indemnities not specified in subsections (1)–(4) or §§ 20¹ and 21, the surrender value payable upon

termination of a life insurance contract, or insurance indemnities paid in the event of death on the basis of a contract specified in subsection (3).

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

§ 20¹. Mandatory funded pension

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

(23.10.2008 entered into force 14.11.2008 - RT I 2008, 48, 269)

(2) (Repealed - 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 21. Supplementary funded pension

(1) Income tax is charged on payments made to a unit-holder or the successor of a unit-holder on the basis of an insurance contract for a supplementary funded pension or from a voluntary pension fund, taking into account the specifications provided for in subsections (2)–(5). Income tax is charged also on negative changes in the provisions formed pursuant to the provisions of subsection 28 (1¹) with a view to securing a supplementary funded pension.

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

- 1) payments made after the unit-holder has reached 55 years of age but not before five years have passed since the acquisition of units which are redeemed in order to make the payments;

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 252)

- 2) payments made in the event of the total and permanent incapacity for work of the unit-holder;
- 3) payments made from a voluntary pension fund in the event of liquidation of the pension fund.

(3¹) If units of a voluntary pension fund are exchanged for units of another voluntary pension fund, the five-year term shall be calculated as of transfer into the securities account of the units of the voluntary pension fund which are redeemed upon the exchange. If units of a voluntary pension fund are bequeathed, such term shall be

calculated as of the date of transfer of the units into the securities account of the successor of the units.

(23.10.2008 entered into force 14.11.2008 - RT I 2008, 48, 269)

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

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 252; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

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

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

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

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

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(7) If a resident taxpayer has paid income tax on income specified in subsection (1), dividends (subsection 18 (2)) or other profit distributions received by the taxpayer out of

the income taxed in accordance with subsection (1) shall not subsequently be subject to income tax.

Chapter 4

Deductions from Income of Resident Natural Persons

§ 23. Basic exemption

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

§ 23¹. Increased basic exemption upon provision of maintenance to child

(14.06.2007 entered into force 1.01.2008 - RT I 2007, 44, 318)

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

(18.11.2009 entered into force 01.07.2010 - RT I 2009, 60, 395)

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

(14.06.2007 entered into force 1.01.2008 - RT I 2007, 44, 318)

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

(14.06.2007 entered into force 1.01.2008 - RT I 2007, 44, 318)

§ 23². Increased basic exemption in event of pension

If a resident natural person receives a pension paid by a Contracting State pursuant to an Act, a mandatory funded pension provided for in legislation of such state or a pension arising from a social security agreement, increased basic exemption shall be deducted from the income of the person in the amount of those pensions but not more than 2304 euro during a period of taxation.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

§ 24. Maintenance support

A resident natural person has the right to deduct support paid during a period of taxation from the income which he or she receives during the period of taxation, if such support is subject to taxation pursuant to subsection 19 (1) or subsection 29 (9), and amounts paid to satisfy claims for support which have been transferred to the state.

(21.02.2007 entered into force 01.01.2008 - RT I 2007, 25, 130)

§ 25. Housing loan interest

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

(17.12.2003 entered into force 01.01.2005 - RT I 2003, 88, 587; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

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

(15.05.2002 entered into force 01.01.2003 - RT I 2002, 47, 297; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(4) A parent who is raising a child alone and who has taken parental leave during a period of taxation may fully or partly deduct the interest payments specified in subsection (1) of this section made during the same taxable period from the income received during subsequent periods of taxation without taking into account the restriction provided for in § 28² of this Act.

(29.01.2003 entered into force 01.03.2003 - RT I 2003, 18, 105)

§ 26. Training expenses

(1) A resident natural person has the right to deduct the expenses on the training of himself or herself or a person of less than 26 years of age who is specified in § 101 of the Family Law Act and maintained by the person or, if no such training expenses are incurred, the training expenses of one permanent resident of Estonia of less than 26 years of age, from the income which the resident natural person receives during the period of taxation.

(18.11.2009 entered into force 01.07.2010 - RT I 2009, 60, 395)

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

(19.06.2008 entered into force 01.09.2008 - RT I 2008, 34, 208)

(3)–(4) (Repealed - 29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

§ 27. Gifts and donations

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(1) A resident natural person has the right to deduct gifts and donations of which there is documented proof and which are made during a period of taxation to persons included in the list specified in subsection 11 (1), persons specified in subsection 11 (10) or to a state or local government scientific, cultural, sports, educational or social welfare institution, a manager of a protected area, or a university in public law from the income which the resident natural person receives during the period of taxation.

(20.02.2009 entered into force 01.01.2010 - RT I 2009, 15, 93)

(2) (Repealed - 29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

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

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

§ 28. Insurance premiums and acquisition of pension fund units

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

1) that part of the insurance premiums paid to an insurer holding an activity licence issued by a Contracting State during the period of taxation under an insurance contract for a supplementary funded pension which meets the conditions of § 63 of the Funded Pensions Act or an equivalent insurance contract, the purpose of which is to ensure payment of the insured sum as a pension;

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

2) amounts paid to acquire units of a voluntary pension fund established in Estonia or a voluntary pension fund operating in a Contracting State on equivalent bases in accordance with the procedure prescribed in the Funded Pensions Act, except in the cases prescribed in §§ 56 and 65 of the Funded Pensions Act.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662; 14.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 252)

(2) The deductions specified in subsection (1) during one period of taxation are limited to 15 per cent of the taxpayer's income of the same period of taxation, after the deductions allowed under Chapter 6 have been made.

(3) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

§ 28¹. Mandatory social security contributions

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

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

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

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 28². Restriction on deductions from taxable income

The deductions provided for in §§ 25-27 of this Act are altogether limited to 3196 euro per taxpayer during a period of taxation, and to not more than 50 per cent of the taxpayer's income of the same period of taxation, after the deductions relating to enterprise have been made.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

§ 28³. Restriction on deductions from taxable income of the resident of the member state of European Union

The deductions provided for in this chapter can be made from the income subject to taxation in Estonia also by other European Union resident natural person who derived at least 75 per cent of his or her taxable income in Estonia and who submits an income tax return of resident natural person. Taxable income means income before deductions pursuant to the legislation of the state concerned.

(17.12.2003 entered into force 01.05.2004 - RT I 2003, 88, 587)

Chapter 5

Taxation of Income of Non-residents

§ 29. Non-resident's taxable income

(1) Income tax is charged on income derived by a non-resident natural person from work under an employment contract or in public service or from activities engaged in on the basis of a contract for services, an authorisation agreement or a contract entered into for the provision of any other services under the law of obligations if the non-resident performed his or her duties or provided the services in Estonia and the payment was made by an Estonian state or local government authority or resident or a non-resident operating in Estonia as an employer, or if the payment was made through the permanent establishment (§ 7) of a non-resident legal person registered in Estonia, or if the person has stayed in Estonia for the purpose of employment for at least 183 days over the course of a period of 12 consecutive calendar months. If a non-resident who receives remuneration on the basis of such contract under the law of obligations has been entered in the commercial register in Estonia as a sole proprietor and such remuneration is his or her business income, the income is subject to taxation pursuant to subsection (3).

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(2) Income tax is charged on remuneration paid by a resident legal person to a non-resident member of a management or controlling body (subsection 13 (2)).

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

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

- 1) the sold or exchanged immovable is located in Estonia, or
- 2) the movable subject to entry in a register was in an Estonian register prior to the transfer, or

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

3) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

4) the transferred holding is a holding in a company, contractual investment fund or other pool of assets of whose property, at the time of the transfer or during a period within two years before transfer, more than 50 per cent was directly or indirectly made up of immovables or structures as movables located in Estonia and in which the non-resident had a holding of at least 10 per cent at the time of transfer.

5) the transferred holding is a holding of at least 10 per cent in a company of whose property, according to the balance sheet as of the last day of the preceding financial year, more than 75 per cent is made up of immovables or structures as movables, which are located in Estonia.

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

(5¹) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

1) the immovable subject to a commercial or residential lease or encumbered with limited real rights is located in Estonia, or

2) the property subject to a commercial or residential lease or encumbered with limited real rights is entered or is subject to entry in an Estonian register, or

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 1.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

3) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

4) the payer of the consideration specified in § 16 is the Estonian state, a local government, a resident or non-resident through or on account of its permanent establishment in Estonia.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

5) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

(7) Income tax is charged on interest received by a non-resident from the Estonian state, a local government or a resident, or from non-resident through or on account of its permanent establishment registered in Estonia, if it significantly exceeds the amount of interest payable on the similar debt obligation under the market conditions during the period of occurrence of the debt obligation and payment of the interest. In that case income tax is charged on the difference between the interest received and the interest payable according to market conditions on the similar debt obligations.

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

(8) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(9) Income tax is charged on all pensions, scholarships and grants, cultural, sports and scientific awards, benefits, lottery prizes paid on the conditions provided in subsections 19 (2) and (3), benefits paid on the basis of the Parental Benefit Act and support and maintenance allowance specified in subsection 19 (1) which are paid to a non-resident by the Estonian state, a local government or a resident. Income tax is charged on insurance indemnities paid on the conditions provided in §§ 20-21 to a non-resident by the Estonian Health Insurance Fund, Estonian Unemployment Insurance Fund or a resident insurance company, and on payments made from a pension fund registered in Estonia.

(21.02.2007 entered into force 01.01.2008 - RT I 2007, 25, 130)

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

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

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

(2) Persons specified in subsection (1), with the exception of members of representations of co-operation programmes, shall be registered with the Ministry of

Foreign Affairs. The procedure for registration shall be established by a regulation of the Minister of Foreign Affairs.

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

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

- 1) accepted succession;
- 2) property returned in the course of ownership reform;
- 3) expropriation payments and compensation paid upon expropriation, and gains from the transfer of immovable property to the state or a local government without expropriation proceedings for the purposes provided for in subsection 3 (1) of the Immovables Expropriation Act if, prior to the transfer transaction, the requirements provided for in subsection 3 (4) of the Immovables Expropriation Act are complied with;

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

- 4) income from transfer of movable property in personal use;
- 5) interest paid to a natural person by a resident credit institution or a branch of a non-resident credit institution entered in the Estonian commercial register;

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

- 6) (Repealed -31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

- 7) compensation for expenses and daily allowances during assignments abroad which are specified in clauses 13 (3) 1) and 1¹) under the conditions and within the limits specified in the same clauses;

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

8) the contributions specified in clauses 13 (3) 2) and 2¹) on the conditions and according to the rates specified in the same clauses;

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

9) the income specified in clauses 15 (4) 9)-11).

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(2) (Repealed - 20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

(3) (Repealed - 20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

Chapter 6

Deductions from Business Income

§ 32. Expenses related to business

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

(2) Expenses are related to business if they have been incurred for the purposes of deriving income from taxable business or are necessary or appropriate for maintaining or developing such business and the relationship of the expenses with business is clearly

justified, or if the expenses arise from subsection 13 (1) of the Occupational Health and Safety Act (RT I 1999, 60, 616; 2000, 55, 362; 2001, 17, 78; 2002, 47, 297; 63, 387; 2003, 20, 120).

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

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

§ 33. Limitations on deduction of expenses

(1) Certified expenses incurred in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners may be deducted in an amount not exceeding 2 per cent of the taxpayer's business income during a period of taxation after the deductions allowed under subsections 32 (1) and (4) have been made.

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

§ 34. Expenses not deductible from business income

The following shall not be deducted from business income:

1) income tax established by this Act, except for income tax paid on the basis of § 48 of this Act;

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

2) (Repealed - 14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

3) fines and penalty payments imposed on the basis of law and interest paid on the basis of the Taxation Act (RT I 2002, 26, 150; 57, 358; 63, 387; 99, 581; 110, 660; 111, 662; 2003, 2, 17; 48, 341; 71, 472; 82, 554; 88, 591; 2004, 2, 7; 28, 188; 189; 45, 319);

(15.05.2002 entered into force 01.07.2002 - RT I 2002, 44, 284)

4) the cost of property seized from the taxpayer;

5) (Repealed - 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

6) the environmental charge paid at an increased rate pursuant to the Environmental Charges Act, and compensation paid for damage caused to the environment or a third party by pollution or through violation of requirements prescribed by law;

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

7) expenses incurred in the provision of benefits not subject to income tax pursuant to this Act;

8) the cost of gifts or donations;

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

9) any loss (§ 37) from the transfer, at a price lower than the market price, of property to a person associated with the taxpayer (§ 8), unless income tax has been paid on such loss pursuant to § 48;

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

10) any loss (§ 37) from the transfer, at a price higher than the market price, of property purchased from a person associated with the taxpayer (§ 8);

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

11) gratuities and bribes;

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

12) payments and contributions paid in Estonia or a foreign state if the objective of payment was to guarantee pension, health, maternity, unemployment, accident at work or occupational disease insurance to the person.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 35. Carrying forward of expenses exceeding business income

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(3) If a taxpayer incurs expenses to be carried forward during more than one period of taxation, such expenses are recorded in accounting documents on a yearly basis in the order in which they were incurred. Expenses or parts of expenses which have been

carried forward for more than seven years shall not be carried forward to subsequent periods of taxation.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

Chapter 7

Rules for Calculation of Taxable Income

§ 36. Calculation of taxable income

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

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

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

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

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

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

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

- 1) the special account is opened after 1 January 2001;
- 2) only amounts calculated as business income and benefits received in connection with business pursuant to law are transferred to the special account within ten working days as of their receipt;
- 3) the increase in the amount in the special account during a period of taxation does not exceed the business income derived by the taxpayer and the amount of benefits received in connection with business pursuant to law during the period of taxation, after the deductions relating to enterprise and permitted for in § 32 have been made.

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(7) If the assets of a sole proprietor which belonged among the assets of an enterprise are transferred to a company in the form of a non-monetary contribution with the purpose of continuing the activities of the enterprise, the assets shall not be deemed to have been taken into personal use.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(8) Upon the transfer of the right to cut standing crop, certified expenses relating to reforestation shall also be deemed to be expenses related to the transfer and the taxpayer

has the right to deduct the expenses from the income received from the transfer of the right to cut standing crop during the same period of taxation or following periods of taxation if all of the following conditions are met:

- 1) reforestation is carried out, as defined in the Forest Act;

(07.06.2006 entered into force 01.01.2007 - RT I 2006, 30, 232)

- 2) the owner of the forest has submitted a forest notification concerning the reforestation works to the Environmental Board pursuant to the procedure provided for in the Forest Act and the Environmental Board has not prohibited the planned activity.

(18.12.2008 entered into force 01.02.2009 - RT I 2009, 3, 15)

§ 38. Acquisition cost

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

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

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

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

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(5²) Additional contributions made shall be added to the acquisition cost determined pursuant to subsection (5¹) and payments received shall be deducted therefrom. In the calculation of acquisition cost, supply of labour or other services shall not be considered to be a non-monetary contribution.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(8) The acquisition cost of assets on which income tax is charged pursuant to §§ 48 and 49 shall be increased by the amount of income tax charged.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(9) The acquisition cost of the units of an investment fund which are transferred in the course of an exchange is deemed to be the acquisition cost of the units acquired upon the exchange of the units of an investment fund specified in clause 15 (4) 11) of this Act.

(14.04.2004 entered into force 01.05.2004 - RT I 2004, 36, 251)

§ 39. Calculation of loss suffered upon transfer of securities

(1) A resident natural person has the right to deduct any loss suffered upon the transfer of securities during a period of taxation from the gains derived from the transfer of securities during the same period of taxation. Any loss from the transfer, at a price lower than the market price, of securities to a person associated with the taxpayer (§ 8) or from the transfer of securities acquired from such person at a price higher than the market price shall not be deducted.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(1¹) If the security giving the right to receive dividends is acquired within thirty days before the date on which the persons with the right to receive dividends are specified and is transferred on the date on which the persons with the right to receive dividends are specified, or within thirty days after such date, then the loss from the transfer of such security shall not be deducted from the gains derived from the transfer of other securities.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

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

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

Chapter 8

Withholding of Income Tax

§ 40. Withholding agent for income tax

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

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

- 1) payments made to resident legal persons;
- 2) payments made to non-resident legal persons' permanent establishments registered in Estonia;
- 3) payments made to sole proprietors entered in the commercial register if the payments are the business income of the recipients or are related to acquisition of property from sole proprietors, including under the conditions of financial lease.

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(2¹) (Repealed - 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

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

1) the payment is made through a resident legal person's permanent establishment in a foreign country, or

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

(5) A withholding agent is required to submit a tax return to the regional structural unit of the Tax and Customs Board by the due date specified in subsection (4). The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

§ 41. Payments from which income tax is withheld

Income tax is withheld from:

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

2) salaries, wages and other remuneration paid to a non-resident (subsection 29 (1)), and remuneration paid to non-resident members of the management and controlling bodies of a legal person (subsection 29 (2));

3) remuneration or service fees paid to a natural person on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations;

(06.04.2005 entered into force 01.01.2006 - RT I 2005, 22, 148)

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

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

5) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

6) insurance indemnities, pensions, payments from a pension fund, scholarships, grants, lottery prizes, support, maintenance allowance, benefits paid on the basis of the Parental Benefit Act (subsections 19 (1) and (2), 20 (1)–(3), § 20¹ and subsections 21 (1)

and 29 (9)) or other payments which are subject to income tax and paid to a non-resident or to a resident natural person, except for the payments specified in clause 12);

(21.02.2007 entered into force 01.01.2008 - RT I 2007, 25, 130)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

8) royalties paid to a non-resident (clause 29 (6) 4));

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

9) payments made to a non-resident artist, sportsman or sportswoman for activities conducted in Estonia, and payments made to a third person who is a non-resident or a natural person for activities conducted in Estonia by an artist, sportsman or sportswoman (subsection 29 (10));

10) payments to a non-resident for services provided in Estonia (subsection 29 (3));

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544)

11) payments to a legal person located in a low tax rate territory (§ 10) for services provided to an Estonian resident (subsection 29 (3));

12) payments listed in subsections 21 (2) and (3) which are made to a natural person.

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

§ 42. Deductions upon withholding of income tax

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

(1¹) In the case of a pension paid to a resident natural person by the Estonian state pursuant to an Act and a mandatory funded pension provided for in the Funded Pensions Act, increased basic exemption for pensions (§ 23²) in the amount of that pension shall, before calculation of income tax to be withheld, be deducted from the pension, although this deduction shall not exceed one-twelfth of the amount provided for in § 23² in each calendar month.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(1²) In the case of payment of compensation for an accident at work or occupational disease made to a resident natural person, increased basic exemption for compensation for accidents at work and occupational diseases (§ 23³) in the amount of that compensation shall, on the basis of a single written application from a taxpayer, be deducted from the payment before calculation of income tax to be withheld, although this deduction shall not exceed one-twelfth of the amount provided for in § 23³ in each calendar month.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(2¹) Before calculation of the income tax to be withheld, the portion of basic exemption specified in subsections (1) and (1¹) of this section which has not been used for withholding income tax from a pension paid pursuant to an Act may be deducted from the mandatory funded pension. Before calculation of the income tax to be withheld, the portion of basic exemption which has not been used for withholding income tax from

payments made on the basis of a pension contract provided for in the Funded Pensions Act may be deducted from the payments from mandatory pension fund.

(23.10.2008 entered into force 14.11.2008 - RT I 2008, 48, 269)

(2²) In order to calculate the basic exemption provided for in subsection (2¹) of this section, the registrar of the Estonian Central Register of Securities, the Social Insurance Board and insurers providing pension insurance shall exchange data pursuant to the procedure established by a regulation of the Minister of Finance.

(23.10.2008 entered into force 14.11.2008 - RT I 2008, 48, 269)

(3) If payments subject to income tax are not made to a taxpayer in each month or if the payments made in some of the months are smaller than one-twelfth of the basic exemption provided for in § 23, 23² or 23³, the same withholding agent has the right to carry the unused part of the deduction of basic exemption specified in subsection (1), (11) or (12) for such months forward to the subsequent months of the same calendar year. When pension paid by the Estonian state pursuant to Acts and the mandatory funded pension provided for in the Funded Pensions Act are paid to a resident natural person, the basic exemption specified in subsections 42 (1) and (1¹) can be calculated in total from the beginning of the calendar year.

(20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(4) Before calculation of the income tax to be withheld, maintenance support in compliance with the conditions specified in § 24 which has been withheld from a payment, if income tax has been withheld from such maintenance support pursuant to clause 41 (6), and amounts paid to satisfy claims for support which have been transferred to the state may be deducted from a payment made to a resident natural person in accordance with § 41.

(21.02.2007 entered into force 01.01.2008 - RT I 2007, 25, 130)

(5) The unemployment insurance premium withheld pursuant to clause 42 (1) 1) of the Unemployment Insurance Act from a payment made to a resident natural person in accordance with § 41 shall be deducted from the payment before calculation of the income tax to be withheld.

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662; 14.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 252)

§ 43. Rates of withheld income tax

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

1) from payments specified in clauses 1)–7) and 11) pursuant to the provisions of subsection 4 (1) according to the time the payment is made;

(20.06.2005 entered into force 01.01.2006 - RT I 2005, 36, 277)

2) from payments specified in clauses 8)-10) and 12) – 10 per cent;

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

3) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(2) If an international agreement prescribes lower rates for withholding income tax from a payment made to a non-resident than the rates specified in subsection (1), the rates prescribed by the international agreement are applied if the withholding agent submits a document certifying the recipient of income and the residency of the recipient of income

to the regional structural unit of the Tax and Customs Board together with the tax return specified in subsection 40 (5). The document need not be submitted if data on the recipient of income and the residency of the recipient of income have been entered in the register of taxable persons provided for in the Taxation Act.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

Chapter 9

Declaration of Income and Payment of Income Tax

§ 44. Income tax returns

(1) A resident natural person is required to submit an income tax return to the regional structural unit of the Tax and Customs Board concerning the income of a period of taxation not later than by 31 March of the year following the period of taxation. It is possible to submit an income tax return through the e-service of the Tax and Customs Board as of 15 February of the year following the period of taxation.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(1¹) The Tax and Customs Board shall complete the income tax return concerning the income of a resident natural person during a period of taxation and the deductions made therefrom on the basis of §§ 23, 23² and 23³, § 28 and subsections 28¹ (1) and (2), and concerning the transfer of the securities specified in subsection 57¹ (5²) on the basis of the data at the disposal of the Tax and Customs Board and make the pre-completed tax return available to the taxpayer through the e-service of the Tax and Customs Board and at the regional structural unit of the Tax and Customs Board as of 15 February of the year following the period of taxation. If the taxpayer uses the pre-completed tax return, he or she is required to verify the correctness of the data contained in the tax return and submit an amended and supplemented tax return in event of incorrectness or deficiency of the data.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(1²) A natural person who has not been resident during the whole period of taxation shall submit an income tax return concerning only income received during the period when the person was resident and may make deductions allowed under Chapter 4 for the same period of time. Deductions provided for in §§ 23, 23¹, 23² and 23³ may be made and the limit on deductions specified in § 28² shall be taken into account in proportion to the number of months during which the person was resident.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(1³) A resident natural person who received income which, pursuant to subsection 13 (4), 18 (1¹) or an international agreement is exempt from income tax in Estonia is required to declare such income.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(2) Resident spouses may submit a joint income tax return if they were married to each other as of the last day of the period of taxation . If one of the spouses died during the period of taxation or after the period of taxation but before the submission of the income tax return, a joint income tax return may be submitted by the surviving spouse. A joint income tax return may also be submitted if one of the spouses is a resident and the other spouse is the non-resident specified in § 28³, or if both of the spouses are residents of a Member State the European Union and their entire income meets the conditions provided in § 28³.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(4) A non-resident is required to submit an income tax return concerning gains subject to taxation during the calendar year pursuant to subsections 29 (4) and (5) to the Tax and Customs Board not later than by 31 March of the following year. In the case of transfer of an immovable, the income tax return shall be submitted after receiving the gains. The income tax return shall be submitted to the regional structural unit of the Tax and Customs Board.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 2.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

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

1) a resident natural person whose income does not exceed the rate of basic exemption provided in §§ 23, 23² and 23³ or whose income of the period of taxation is not subject to additional income tax, except in the case specified in subsection (6¹);

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

2) persons specified in subsection 43 (4);

3) (Repealed - 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

(6¹) Sole proprietors, taxpayers specified in subsection 22 (6) or (1³) of this section and persons who have transferred securities during the period of taxation who wish to use the right provided by subsection 39 (3), shall submit an income tax return regardless of the provision of clause (6) 1).

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

§ 45. Calculation of income tax paid abroad

(1) If a resident taxpayer has derived income from abroad during a period of taxation, all income derived from abroad is included in the taxable income of the person and income tax paid or withheld on such income abroad is deducted from the income tax to be paid, in accordance with the conditions specified in subsections (2)–(6). Income tax is calculated separately for income derived in Estonia and for income derived in each foreign country. Income tax paid in a foreign country on income which is not subject to tax in Estonia shall not be taken into account.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

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

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

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

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

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

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

(20.05.2004 entered into force 01.01.2005 - RT I 2004, 45, 319)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 46. Payment and refund of income tax

(1) The regional structural unit of the Tax and Customs Board shall calculate any additional amount of tax due (additional amount due) and issue a written tax notice to this

effect to the taxpayer. Spouses who submit a joint income tax return are solidarily liable for payment of any additional amount of tax due and a common tax notice is issued to them. Tax notices are not issued to non-residents.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

(5) A non-resident who derived taxable business income, gains specified in subsection 44 (4) or income specified in subsection 44 (5¹) shall pay any additional amount of tax due into the bank account of the Tax and Customs Board within three months after the due date for submitting income tax returns specified in subsection 44 (4), (5) or (5¹). If property is paid for in instalments, income tax must be paid within a period of three months after derivation of the gains subject to taxation.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

§ 47. Advance payments

(1) A sole proprietor who derived business income during a previous period of taxation is required to make advance payments of income tax during the period of taxation. The size of an advance payment is one-quarter of the total amount of income tax calculated on the business income derived by the person during the previous period of taxation.

(31.05.06 entered into force 01.07.06 - RT I 2006, 28, 208)

(2) Advance payments shall be made into the bank account of the Tax and Customs Board in equal amounts by the fifteenth day of the third month of each quarter, starting from the quarter following the due date for submitting the income tax return. Advance payments need not be paid if the quarterly payment does not exceed 64 euro.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(4) A sole proprietor whose business is registered in the commercial register as temporary or seasonal is not required to make advance payments of income tax.

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

Chapter 10

Special Cases of Payment of Income Tax

§ 48. Income tax on fringe benefits

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

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

(3) For the purposes of subsection (1), an employee is a person employed under an employment contract, a public servant (subsection 13 (1)), a member of the management or controlling body (§ 9), or a natural person who sells goods to an employer during a period longer than six months. A natural person who works or provides services on the basis of a contract for services, authorisation agreement or any other contract under the

law of obligations is also deemed to be an employee within the meaning of subsection (1).

(24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544; 11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 24.10.2001 entered into force 01.01.2002 - RT I 2001, 91, 544; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

1) full or partial covering of housing expenses;

2) the use of a vehicle or other property of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business;

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

3) payment of insurance premiums, unless such obligation is prescribed by law;

4) compensation for official travel expenses and payment of daily allowances during assignments abroad, in so far as they exceed the limits provided for in clause 13 (3) 1) (clause 13 (3) 1) and clause 31 (1) 7)) or in force in the place where the work is performed if the work is performed in a foreign state (clause 13 (3) 1¹));

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

5) compensation for use of a private automobile, in so far as it exceeds the limits provided for in clause 13 (3) 2) (clauses 13 (3) 2) and 2¹) and clause 31 (1) 8));

(26.02.2009 entered into force 01.07.2009 - RT I 2009, 18, 109)

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

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

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

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

10) coverage of expenses relating to formal or informal education acquired in the adult education system within the meaning of § 3 of the Adult Education Act (RT I 1993, 74, 1054; 1998, 71, 1200; 1999, 10, 150; 60, 617; 2002, 90, 521; 2003, 20, 116; 71, 473; 2004, 41, 276), except for the expenses relating to the formal education acquired within the adult education system by an official of a security authority.

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(6) Benefits specified in subsection (4) which an employer grants to the spouse, parent or child of a person specified in subsection (3) are also deemed to be fringe benefits.

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(8) The maximum price of a fringe benefit for the use of an automobile of the employer free of charge or at a preferential price for activities not related to employment or service duties or to the employer's business is 256 euro per month for each automobile used for the activities specified. The price of such fringe benefit shall be determined according to the use of the automobile as a fringe benefit and on the basis of the records maintained pursuant to the procedure established by the Minister of Finance. If no records are maintained, the maximum price shall be taken as the basis for taxation.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(1) Resident legal persons, except persons included in the list specified in subsection 11 (1) and persons specified in subsection 11 (10), shall pay income tax on gifts and donations on which income tax has not been withheld on the basis of § 41 or not been paid on the basis of § 48, taking into consideration the specifications provided in subsections (2) and (4). Lottery prizes received from a commercial lottery with the prize fund of up to 10 000 euro are also deemed to be gifts. Income tax is not charged on goods transferred or services provided for the purposes of advertising whose value excluding value added tax is up to 10 euro. Gifts and donations made by persons included in the list specified in subsection 11 (1) and persons specified in subsection 11 (10) are subject to taxation pursuant to the procedure provided in subsection (6).

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

(2) Income tax is not charged on gifts and donations made to persons included in the list specified in subsection 11 (1), persons specified in subsection 11 (10), to a person who owns a hospital, to a state or local government scientific, cultural, educational, sports, law enforcement or social welfare institution, or a manager of a protected area in a total amount not exceeding one of the following limit values:

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

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

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

(4) Income tax is not charged on payments by persons included in the list specified in subsection 11 (1) and persons specified in subsection 11 (10) made in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners. In the case of other resident legal persons, income tax is not charged on such payments in the amount of up to 32 euro per calendar month. In addition, if such legal person is making payments subject to individually registered social tax, the legal person may make, in a calendar month, payments exempt from income tax in connection with the provision of catering, accommodation, transportation or cultural services to guests and business partners in the amount of up to 2 per cent of the total amount of the payments subject to individually registered social tax made by the legal person during the same calendar month.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(6) Persons included in the list specified in subsection 11 (1) and persons specified in subsection 11 (10) shall pay income tax on all gifts and donations on which income tax has not been withheld on the basis of § 41 or not been paid on the basis of § 48, except the following gifts and donations made in pursuance of the objectives set out in their articles of association:

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

1) gifts and donations made to persons included in the list specified in subsection 11 (1) and specified in subsection 11 (2), or to a person who owns a hospital;

- 2) gifts and donations made to a state or local government scientific, cultural, educational, sports, law enforcement or social welfare institution, or a manager of a protected area;
- 3) material assistance granted to a natural person for subsistence, including financial assistance to the extent of the amount of average monthly expenses of a member of a household per calendar month according to the latest information disseminated by the Statistical Office;

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

- 5) souvenirs presented at a sports event to the participants in the event, in the amount of up to 32 euro per participant in event.

(22.04.2010 entered into force 01.01.2011 - RT I 2010, 22, 108)

- (7) (Repealed - 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

§ 50. Income tax on dividends and other profit distributions

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

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

- (1¹) The income tax provided in subsection (1) is not charged on dividends if:

- 1) the resident company paying the dividend has derived the dividend which is the basis for the payment from a resident company of a Contracting State or the Swiss

Confederation which is taxable with income tax (except for companies located within a low tax rate territory) and at least 10 per cent of such company's shares or votes belonged to the company at the time of deriving the dividend;

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

5) the dividend is paid from the portion of payments specified in (2¹).

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(1²) In the cases specified in clauses (1¹) 3) and 4), only the income tax subject to payment pursuant to law or an international agreement shall be taken into account.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(2¹) Taking account of the percentage of holding provided for in subsection (1¹) and subsection (1²), income tax is not charged on payments specified in subsection (2) the bases for which are the dividends specified in subsection (1¹) or the portion of the payments specified in subsection (2) which are received by the company if the dividends or portion of the payments are or the share of profit which is the basis of the dividends or portion of the payments is subject to income tax. In the case of several recipients of a payment specified in subsection (2) and forward payment, tax exemption is applied to the received portion of payment which is proportional to the portion of the payment subject to tax.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(2³) If an enterprise belonging to a permanent establishment of a non-resident legal person is transferred to a resident company, the property brought into Estonia for the

purposes of the permanent establishment before the transfer of the enterprise is also deemed to be monetary and non-monetary contributions paid into the own capital of the company.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(3) (Repealed - 06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(4) If the value of a transaction conducted between a resident legal person and a person associated with the resident legal person differs from the value of similar transactions conducted between non-associated persons, the tax administrator may, upon determining the income tax, use the values of transactions applied by non-associated independent persons under similar conditions.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(5) In the case specified in subsection (4), income tax is charged either on the income which the taxpayer would have derived or the expense which the taxpayer would not have incurred if the value of the transaction conducted with the associated person had been such as applied by non-associated independent persons under similar conditions.

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

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

§ 51. Income tax on expenses not related to business

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

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

(4) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

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

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

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

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

1) acquisition of property not related to business;

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

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

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

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

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

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

1) payments specified in clauses 2 (1) and (2);

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

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

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

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

- (1) A non-resident legal person who has a permanent establishment registered in Estonia (§ 7) shall pay income tax pursuant to §§ 48-52, taking into consideration the specifications provided in this section.
- (2) All fringe benefits granted by a non-resident to its employees or members of the management or controlling body through or on account of its permanent establishment are subject to income tax pursuant to § 48, irrespective of whether the recipient of fringe benefits is a resident or non-resident.
- (3) Gifts and donations made and costs of entertaining guests incurred by a non-resident through or on account of its permanent establishment are subject to income tax pursuant to § 49, irrespective of whether the recipient of the gifts or donations, or the guest or business partner is a resident or non-resident. Representatives of the non-resident's head office or other structural unit located outside Estonia are also deemed to be guests or business partners.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

- (4) On the basis of § 50, income tax is imposed on:
 - 1) the cost of property which is taken out of a permanent establishment, in the amount which exceeds the total amount of the cost of property of the permanent establishment located in Estonia before the entry into force of this Act and the cost of property brought into Estonia for the purposes of the permanent establishment after the entry into force of this Act, unless other property or a service is provided in return for such property;
 - 2) payments made through or on account of a permanent establishment to the head office or other structural units of the non-resident, if no goods or services are received in return for such payments;

3) payments made to third parties through or on account of its permanent establishment, if no goods or services are received in return for such payments.

(24.10.2001 entered into force 01.01.2003 - RT I 2001, 91, 544)

(4¹) The income tax provided in subsection (4) is not charged on payments made by a non-resident through its permanent establishment or out of the profit derived from its permanent establishment provided that at the time the dividend was derived, the recipient of the dividend owned at least 10 per cent of the shares or votes of the company paying the dividend, and if:

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4²) In the cases specified in clause (4¹) 2), only the income tax subject to payment pursuant to law or an international agreement shall be taken into account.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4³) If a resident company is deleted from the commercial register without liquidation and the economic activities of the company are continued in Estonia through the company's permanent establishment, then the part of the cost of the property taken out of the permanent establishment based on clause (4) 1) in excess of the amount specified in the clauses below is subject to taxation:

- 1) the own capital of the resident company as at 31 December 1999;
- 2) monetary and non-monetary contributions paid into the own capital as of 1 January 2000;
- 3) the cost of property brought to Estonia for the permanent establishment after the deletion of the company from the commercial register.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4⁴) Clause (4) 1) does not apply in the case of transfer of an undertaking belonging to the permanent establishment to another company in the form of non-monetary contribution, or in the course of merger, division or transformation if economic activities are continued in Estonia through such enterprise. If the undertaking is acquired by a non-resident company, then the cost of the property brought in for the permanent establishment by the company which transferred the undertaking is deemed to be the cost of the property brought in for the permanent establishment. If the transferred undertaking belongs to a permanent establishment which was created in the manner indicated in subsection (4³) then the total of the amounts specified in clauses (4⁴) 1)-3) is deemed to be the cost of the property brought in for the permanent establishment.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4⁵) Property to be taken out is subject to tax in the part for which no other property or service is provided in return.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4⁶) Subsections 50 (4)-(8) also applies to transactions concluded through or on account of the permanent establishment of a non-resident legal person.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4⁷) Taking account of the percentage of holding provided for in subsection (4¹) and subsection (4²), the income tax provided in subsection (4) is not charged on payments the basis for which is the portion of the payments specified in subsection 50 (2¹) which is received through or on account of a permanent establishment of a non-resident.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

§ 54. Declaration and payment of income tax

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(2) Resident legal persons and non-resident legal persons specified in § 53 are required to submit a tax return regarding the expenses and payments specified in §§ 49-53 concerning the previous calendar month to the regional structural unit of the Tax and Customs Board by the tenth day of the calendar month following the period of taxation. A taxpayer who is a registered person liable to value added tax as defined in the Value Added Tax Act is required to submit a return regardless of the obligation to pay income tax during that period of taxation.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

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

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

(5) If a resident company or a non-resident has received income specified in subsection 50 (1¹) or (2) from a non-resident company through a permanent establishment registered in Estonia and the income fails to meet the requirements specified in subsection (1¹) or (2¹), or has received income not specified in subsection 50 (1¹) or (2) in a foreign state, the recipient of income may deduct the income tax paid or withheld from such income abroad from the income tax payable on the basis of subsection 50 (1) or (2) or subsection 53 (4). The income tax of a foreign state may be deducted only in the amount which it is mandatory to pay pursuant to the law of the state or an international agreement. Income tax paid in each state shall be recorded separately. Income tax paid in a foreign state on income which was the basis of the payment not taxable according to the subsections 50 (1¹) or (1²) or 53 (4¹) or (4⁷) shall not be taken into account.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(5¹) (Repealed - 20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(5²) (Repealed - 20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(5³)–(5⁴) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(6) If a taxpayer applies the calculation in total specified in subsections 49 (3) and (5) or if circumstances which are the bases for taxation pursuant to clauses 51 (2) 3)–5) or subsections 51 (3), 52 (2) and (3) or 53 (4) cease to exist, the taxpayer has the right to recalculate the income tax and demand a refund of overpaid amounts of income tax. Such recalculations are made in the tax return specified in subsection (2). Overpaid amounts of income tax are refunded pursuant to the procedure provided for in the Taxation Act.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

Chapter 11

Notification Requirement

§ 55. Submission of annual reports

(1) A resident company, non-profit association, foundation, legal person entered in the register of religious associations or legal person in public law is required to submit a signed original copy of its annual report to the regional structural unit of the Tax and Customs Board within six months following the end of the financial year. The person who is obliged to submit the annual report to the commercial register or the non-profit associations and foundations register pursuant to legislation, need not submit the report.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

§ 56. Notification of payments made to shareholders

(1) Upon reduction of dividends paid and other profit distributions, liquidation distributions, share capital or contributions and upon redemption or return of shares or contributions or in other cases, a resident company is required to submit a tax return to the Tax and Customs Board concerning the amount and the recipients of payments made from own capital during the period of taxation. The tax return shall also be submitted concerning the received dividends specified in subsection 50 (1¹) and the amount of payments and payers specified in subsection 50 (2¹).

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(2) A notice shall set out the name, personal identification code or registry code, and address of the recipient of a payment, the size of the payment made to the person, and the nominal value of the person's share or contribution before and after the payment is made.

(2¹) (Repealed - 20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

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

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

§ 56¹. Notification of compensation for use of personal automobile

A resident legal person, state agency or local government agency, employer who is a sole proprietor, or a non-resident who has a permanent establishment in Estonia or who is acting as an employer in Estonia who has made, during a calendar year, the payments specified in clauses (3) 2) or 2¹) to a natural person is required to submit a tax return concerning such payments by 10 April of the year following the calendar year to the Tax and Customs Board. The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 57. Notification of register entries

(1) The land registries and registration departments of courts, the registrar of the national civil aircraft register, the registrar of the national motor vehicle register and the registrar of the national tractor register are required to submit to the Tax and Customs Board within one month after making a registry entry a tax return concerning the following:

- 1) transactions by which a foreign legal person or a foreign citizen or stateless person without a residence permit in Estonia has transferred immovable property, limited real rights or a movable entered in a register or has assigned the ranking of a limited real right;
- 2) transactions by which an immovable or a movable entered in a register is encumbered with a limited real right in favour of a foreign legal person or a foreign citizen or stateless person without a residence permit in Estonia.

(2) The format of the tax return and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

§ 57¹. Notification requirement relating to tax incentive

(1) Resident credit and financial institutions and branches of non-resident credit institutions entered in the Estonian commercial register may submit declarations to their regional structural units of the Tax and Customs Board concerning the interest paid by natural persons during a calendar year on loans one aim of which is acquisition of housing (including construction of housing).

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(2) State or local government educational institutions, universities in public law and private schools holding education licences, registered in the Estonian Education Information System or having the right to provide instruction of higher education, are required to submit declarations concerning training expenses specified in § 26 and paid during a calendar year by natural persons to the Tax and Customs Board.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(3) Persons included in the list specified in subsection 11 (1), political parties, universities in public law and persons operating a hospital are required to submit declarations to a regional structural unit of the Tax and Customs Board concerning the gifts and donations received during a calendar year and concerning the use of such gifts, donations and other income.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

(4) An insurer is required to submit a declaration to a regional structural unit of the Tax and Customs Board concerning the part of insurance premiums the purpose of which is to pay an insured sum as a pension and which are received from natural persons during a calendar year under insurance contracts of supplementary funded pension which meet the conditions of § 63 of the Funded Pensions Act.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 14.04.2004 entered into force 01.05.2004 - RT I 2004, 37, 252; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(5) A management company of a voluntary pension fund established in accordance with the procedure prescribed in the Funded Pensions Act is required to submit to a regional structural unit of the Tax and Customs Board a declaration concerning the units of voluntary pension funds acquired by natural persons during a calendar year, the amounts paid to acquire these units and the pension fund units redeemed in the course of changing pension funds.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(5¹) The Social Insurance Board shall submit the names and personal identification codes of the persons receiving the child support specified in subsection 23¹ (3) as at 1 December and the names and personal identification codes of their children to the Tax and Customs Board.

(19.11.2008 entered into force 01.01.2009- RT I 2008, 51, 283)

(5²) The registrar of the Estonian Central Register of Securities shall submit the following information concerning resident natural persons who transferred securities during the period of taxation to the Tax and Customs Board:

- 1) the given name, surname and personal identification code;
- 2) name of the issuer of the securities;

- 3) type and ISIN code of securities;
- 4) amount of securities;
- 5) selling price;
- 6) date of transfer.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(6) The declarations and information specified in subsections (1)–(5²) shall be submitted by 1 February of the year following the given calendar year. The declarations concerning the use of gifts, donations and other income specified in subsection (3) shall be submitted by 1 July of the year following the given calendar year. The format of the declarations and the procedure for submission of the declarations shall be established by a regulation of the Minister of Finance.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

§ 57². Duty to give notice of the interest

(1) A resident legal person, an association of persons or pool of assets established in Estonia without the status of a legal person (hereinafter association), a non-resident having a permanent establishment in Estonia, an Estonian state or local government authority or a sole proprietor (hereinafter the interest payer) who has during a calendar year paid interest referred to in subsection 17 (1) or subsection (3²) of this section to a natural person residing in other member state of the European Union, is required to submit a declaration (hereinafter the interest declaration) concerning the payment of interests to the Tax and Customs Board. The following information shall be set out in the interest declaration:

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

- 1) name, state of residence and address in the state of residence of the recipient of the interest;
- 2) number or code used to identify the recipient of the interest in the register of taxable persons of the state of residence, or in case such number or code is not indicated on the document proving the identity or residency of the person, the date and place of birth of the recipient of the interest;
- 3) data on the residency of the recipient, if the recipient has submitted to the interest payer a document proving his/her residency.
- 4) the name or title, address and personal identification code or registry code of the interest payer;
- 5) the number of account in an Estonian credit institution where the money, for which interest is paid, is deposited, or in case other debt obligations, the type of obligation for which interest is paid;
- 6) the amount of the interest paid.

(2) The interest payer shall submit the interest declaration also in the case if he/she has paid interest for the benefit of a natural person residing in another member state of the European Union to an association founded in the other member state. In that case the name, country of location and address of the recipient of the payment and the total amount of the interest paid shall be stated in the interest declaration. An interest declaration shall not be submitted if the recipient of the payment certifies that:

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

- 1) the recipient is a legal personality, except for *avoin yhtiö* or *kommandiittiyhtiö* founded in Finland and *handelsbolag* or *kommanditbolag* founded in Sweden;
- 2) the taxation of the recipient's profit shall be pursuant to the provisions for the taxation of profit of companies;
- 3) the recipient is the UCITS within the meaning of § 4 of the Investment Funds Act.
- 4) the recipient is deemed to be the UCITS and the corresponding certificate has been issued by a competent authority of the country of its location.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(3) For the purposes of this section, an interest payer is a person, institution or association who paid the interest directly to the actual beneficiary (hereinafter “the beneficiary”) If the person who made the payment has a reasonable doubt that the natural person to who receives the payment is not the actual beneficiary, the person who made the payment shall take measures to identify the actual beneficiary; If it is impossible to identify the beneficiary with a reasonable expenditure of time and money, the recipient of payment shall be considered the beneficiary. The recipient of the payment is not deemed to be the beneficiary if the recipient proves to meet at least one of the following conditions:

- 1) the recipient itself is the interest payer;
- 2) the recipient is acting in the name of the association or legal person specified in the first sentence of subsection (2) or clauses (2) 1)-3);
- 3) the recipient is a representative of the beneficiary and submits the data specified in clauses (1) 1) and 2) concerning the beneficiary to the interest payer.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(3¹) If the recipient of the payment is operating in the name of the association specified in the first sentence of subsection (2), the recipient shall communicate the name, home country, address and the amount of interest paid to the interest payer and the interest payer shall set out such data in the interest declaration.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(3²) In addition to the amounts specified in subsection 17 (1), the following is also deemed to be interest within the meaning of this section:

- 1) amounts accrued for the time of repurchase, retrieval or redemption of the debt obligation;

2) payment made out of interest payments derived from an association specified in subsection (2) 3) or 4) or directly from an investment fund established in a third country, or through the association specified in the first sentence of subsection (2);

3) payment derived from the repurchase, retrieval or redemption of shares in an association specified in clauses (2) 3) or 4) or an investment fund established in a third country if, at the time of transfer of the participating interest in the assets such association or investment fund, more than 40 per cent has been invested in debt obligations either directly or through an association specified in clauses (2) 3) or 4) or an investment fund established in a third country.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(3³) The rate specified in (3²) shall be determined on the basis on the fund rules or articles of association of the fund or if this is not possible, based on the actual composition of the assets. If the interest payer possesses no such information, the rate shall be presumed to be 40 per cent.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(4) The interest payer shall verify the data referred to in subsection 1 on the basis of valid identity document issued by a foreign state and, where appropriate, on the basis of document proving the residency. If the document does not bear any information about the address of the recipient of interest in the state of residence, it will be ascertained on the basis of other data available to the interest payer. The state of residence of the recipient of interest shall be the state of issuance of the identity document or a territory with an independent tax jurisdiction in a foreign state, except in case the person presents a document proving the residency of any other state or territory.

(5) The interest declaration shall be submitted by 10 April of the year following the year of payment of the interest. The format of the declarations and the procedure for completing the forms shall be established by a regulation of the Minister of Finance.

(6) The Tax and Customs Board shall send the information submitted by interest declarations to the tax authority of the recipient's country of residence, or if this is not

known, to the recipient's state of residence or the country of location of the association specified in subsection (2) by 30 June of the year following the year of payment of the interest.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(7) Subsections (1)-(6) also apply to interest paid to a natural person residing within a territory with an independent tax jurisdiction of a member state or to an association specified in subsection (2) established within such territory if an agreement on exchange of information on interests between such territory and Estonia so prescribes. The agreements for the exchange of information on interests shall be published on the website of the Tax and Customs Board.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(8) A person specified in subsection (1) who, within a calendar year, has paid interest to a non-resident not specified in subsections (1) and (2), is required to submit a declaration to the Tax and Customs Board by 10 April of the year following the year of payment of the interest. The format of the declaration and the procedure for completing the form shall be established by a regulation of the Minister of Finance.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

Chapter 12

Implementing Provisions

§ 58. Taxation of income of year 1999

(1) The income of all taxpayers derived during the year 1999 shall be declared and subject to taxation, and income tax shall be paid and refunded, pursuant to the provisions

of the Income Tax Act (RT I 1993, 79, 1184; 1998, 9, 111; 28, 353 and 354; 34, 485 and 489; 40, 612; 51, 757; 61, 979; 103, 1699; 1999, 4, 51; 10, 150; 16, 270 and 273; 27, 383 and 393; 101, 902) which was in force before the entry into force of this Act.

(2) In the case of a resident legal person or a branch of a foreign company whose financial year does not coincide with the calendar year, the part of the financial year preceding the date of entry into force of this Act is deemed to be an independent period of taxation for which an income tax return shall be submitted and income tax paid pursuant to the provisions of subsection (1). The percentage rates prescribed in subsection 17 (4) and subsection 20 (1) of the Income Tax Act in force before the entry into force of this Act are applied in proportion to the number of months in the period of taxation.

(3) Income tax which is calculated on the basis of the Act in force before the entry into force of this Act and which is received by the Tax and Customs Board after the entry into force of this Act is transferred by the Tax and Customs Board to state and local budgets pursuant to § 8 of the Income Tax Act in force before the entry into force of this Act.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591)

(4) A taxpayer who is a natural person and who owns fixed assets on which he or she has calculated depreciation on the basis of § 17 of the Income Tax Act in force before the entry into force of this Act may deduct the adjusted cost of the fixed assets from the business income of the year 2000. If the acquisition cost of the fixed assets has not been paid in full, the amount deducted from income shall not exceed the amount paid for the fixed assets. The adjusted cost of each fixed asset shall be calculated pursuant to subsection 59 (1).

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

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

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

(2) If a taxpayer who is a natural person has made deductions from taxable income on the basis of subsection 18¹ (1) of the Income Tax Act in force before the entry into force of this Act, the provisions of subsection 18¹ (4) of the Income Tax Act in force before the entry into force of this Act are applied to the transfer or taking into personal use (subsections 37 (4) and (5)) of such fixed assets within two years after their acquisition, improvement or supplementation. The amount of the deductions made from taxable income is added to business income derived during the period of taxation in which the fixed assets were transferred or taken into personal use.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(3) If a taxpayer has, in addition to the acquisition cost of fixed assets, also deducted the depreciation of the fixed assets on the basis of § 17 of the Income Tax Act in force before the entry into force of this Act from the taxable income of the taxpayer, the provisions of subsections 37 (3), (4) or (5) are applied to the transfer or taking into personal use of such fixed assets in addition to the provisions of subsection (2).

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(4) If a resident legal person or a non-resident specified in subsection 6 (4) has made deductions from taxable income on the basis of subsection 18¹ (1) of the Income Tax Act in force before the entry into force of this Act, and if the resident legal person or non-resident transfers such fixed assets within two years after their acquisition, improvement or supplementation, the taxpayer is required to pay income tax in the amount of 26 per cent of the acquisition, improvement or supplementation costs of the transferred fixed asset, which the taxpayer had deducted from taxable income during an earlier period of taxation. If the taxpayer has deductions which can be carried forward on the basis of subsection 21 (1¹) of the Income Tax Act in force before the entry into force of this Act, the taxpayer may reduce the amount subject to income tax in accordance with this subsection by the deductions to be carried forward. The balance of deductions to be carried forward on the basis of subsection 21 (1¹) of the Income Tax Act in force before the entry into force of this Act is also reduced by the total amount of the deductions specified in the previous sentence.

(5) Income tax specified in subsection (4) shall be declared in an income tax return specified in subsection 54 (2) during the calendar month in which the fixed assets were transferred. Income tax shall be paid by the due date specified in subsection 54 (4).

§ 60. Specifications for taxation of dividends

(1) A company, the income tax paid by whom pursuant to subsection 32 (2) of the Income Tax Act in force before the entry into force of this Act has not been fully deducted on the basis of an income tax return submitted with regard to the last period of taxation which ended before the entry into force of this Act from the income tax payable on the basis of the same Act, may deduct the overpaid amount of income tax from the income tax payable on the basis of subsection 50 (1) or (2). If the overpaid amount of income tax exceeds the income tax payable during a period of taxation on the basis of subsection 50 (1) or (2), the remaining part of the overpaid amount, which has been

reduced on the basis of the right of deduction transferred to another resident company pursuant to subsection (3), may be carried forward to subsequent periods of taxation.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(2) If a resident company pays dividends from the net profit of financial years which ended during the years 1994–1999, the company may deduct the part of income tax paid during the years 1994-1999 on the part of the profit which corresponds to the dividends from income tax payable on the basis of subsection 50 (1), but not more than by the amount of income tax payable during the period of taxation on the basis of subsection 50 (1). The income tax deductible is determined such that the total amount of income tax of the company, calculated on taxable income and adjusted by incentives in the income tax returns submitted for the periods of taxation of the years 1994-1999, is divided by the total amount of the lines “net profit of the accounting year” in the balance sheets of the company’s annual reports of the years 1994-1999, from which the size of bonus issues carried out in the years 1994-1999 on account of the net profit of the same years is deducted, and the resulting amount is multiplied by the amount of the dividends paid.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(3) (Repealed - 24.10.2001 entered into force 01.01.2003 - RT I 2001, 91, 544)

(4) (Repealed - 24.10.2001 entered into force 01.01.2003 - RT I 2001, 91, 544)

(5) (Repealed - 24.10.2001 entered into force 01.01.2003 - RT I 2001, 91, 544)

(6) A company to which the right to deduct income tax provided for in subsections (1) and (2) has been transferred by another resident company before 1 January 2003 may, in addition to the income tax specified in subsection (2), also deduct the transferred income tax from the income tax payable pursuant to subsection 50 (1), but the deduction is limited to the total amount of income tax payable pursuant to subsection 50 (1) during the period of taxation. The remaining amount of transferred income tax resulting from

such deduction may be deducted from the income tax payable pursuant to subsection 50 (1) during subsequent periods of taxation.

(24.10.2001 entered into force 01.01. 2003 - RT I 2001, 91, 544)

(7) (Repealed - 24.10.2001 entered into force 01.01.2003 - RT I 2001, 91, 544)

(8) Income tax prescribed in subsection 50 (1) is not charged on dividends paid on a dividend account opened on the basis of subsection 32 (4) of the Income Tax in force before the entry into force of this Act.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

§ 61. Other implementing provisions

(1) Companies whose income is fully or partly exempt from income tax on the basis of § 17 of the Republic of Estonia Corporation Tax Act (RT 1991, 36, 446; 1992, 34, 442; 1993, 6, 95; RT I 1993, 79, 1184) shall pay income tax on objects of taxation prescribed in §§ 48-52.

(2) The provisions of § 35 also apply to expenses carried forward on the basis of § 21 of the Income Tax Act in force before the entry into force of this Act. Expenses prescribed in subsection 21 (1¹) of the Income Tax Act in force before the entry into force of this Act may be carried forward to up to seven subsequent periods of taxation.

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

(4) The provisions of subsection 34 (1) also apply to income tax payable under the Income Tax Act in force before the entry into force of this Act.

(5) Employers shall withhold income tax pursuant to clause 41 (1) of this Act on medical insurance benefits payable by employers until 1 July 2000 on the basis of subsection 5 (3) of the Republic of Estonia Health Insurance Act, Republic of Estonia Employment Contracts Act, Public Service Act and State Fees Act Amendment Act (RT I 1998, 111, 1829; 113/114, 1876).

(6) Subsection 54 (5) applies to income tax withheld or paid abroad after the entry into force of this Act. Income tax withheld or paid abroad before the entry into force of this Act shall be deducted from the income tax payable by the taxpayer in Estonia, pursuant to § 30 of the Income Tax Act in force before the entry into force of this Act.

(14.06.2000 entered into force 01.01.2001 - RT I 2000, 58, 377)

(7) Amounts paid on the basis of a life insurance contract with an investment risk entered into before 1 January 2001 are subject to taxation on the basis of subsection 20 (3) if the amounts are received within five years as of the insurance contract being entered into.

(06.12.2000 entered into force 01.01.2001 - RT I 2000, 102, 667)

(8) (Repealed - 20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

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

(20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(10) The income tax rate of 10 per cent is applicable to payments made by an insurer to a policy holder on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policy holder has attained 55 years of age or becomes totally and permanently incapacitated for work or upon the liquidation of the insurer.

(20.02.2002 entered into force 01.03.2002 - RT I 2002, 23, 131)

(11) Income tax is not charged on a pension paid to a policy holder periodically under an insurance contract for a supplementary funded pension entered into before 1 May 2002, after the policy holder has attained 55 years of age or after his or her permanent and total incapacity for work has been verified and on the condition that the insurance contract prescribes that corresponding payments are made in equal or increasing amounts at least once every three months until the death of the policy holder.

(20.02.2002 entered into force 01.03.2002 - RT I 2002, 23, 131)

(12) The income tax rate provided for in the subsection 4 (1) of this Act is applicable to insurance indemnities paid in the event of death on the basis of an insurance contract for a supplementary funded pension entered into before 1 May 2002, regardless of the provisions of subsection 20 (5) and 21 (5).

(20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(13) Payments made by a voluntary pension fund to a unit-holder after the unit-holder has attained 55 years of age or becomes totally and permanently incapacitated for work or upon the liquidation of the pension fund are also subject to the income tax rate of 10 per cent before five years have passed since the initial acquisition of units if the units of the fund are initially acquired before 1 May 2002.

(20.02.2002 entered into force 01.03.2002 - RT I 2002, 23, 131)

(13¹) Payments made by a voluntary pension fund to a unit-holder has attained 55 years of age are also subject to the income tax rate of 10 per cent before five years have passed since the acquisition of units which are redeemed, if the first acquisition of units of the fund has taken place before May 1, 2004 and at least five years since the first acquisition have passed.

(20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

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

(20.02.2002 entered into force 01.03.2002 - RT I 2002, 23, 131)

(15) The right to deduct specified in subsection (14) shall apply to the corresponding parts of the insurance premiums paid after 1 January 2001.

(15.05.2002 entered into force 07.06.2002 - RT I 2002, 44, 284)

(16) Subsection 28 (1¹) does not apply to contracts for a supplementary funded pension entered into before 1 May 2002.

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

(17) The provisions of subsection 11 (2) apply to a legal person entered in the Estonian register of churches, congregations and associations of congregations until entry of the legal person in the register of religious associations or until compulsory dissolution of the person pursuant to the provisions of the Churches and Congregations Act.

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

(18) A taxpayer shall submit the application specified in subsection 42 (1) by 31 March 2003 unless the taxpayer has already submitted the application.

(11.12.2002 entered into force 01.01.2003 - RT I 2002, 111, 662)

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

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

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

(17.12.2003 entered into force 01.05.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2005 - RT I 2003, 88, 587)

(21) In addition to the provisions of subsection 31 (3), income tax is not charged on any interest paid to a non-resident financial institution if all the following conditions are met:

- 1) according to the legislation of its home country, the recipient of the interest qualifies as an institution corresponding to an Estonian financial institution;
- 2) the income tax rate applicable to interest in the country of residence of the recipient of the interest is not lower than two-thirds of the Estonian income tax rate applicable to interest;
- 3) interest is paid on loans taken and securities issued before 1 January 2004.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(22) Persons entered in the register of trade unions shall submit first declarations to a regional structural unit of the Tax and Customs Board concerning the entrance and membership fees paid by natural persons by 1 February 2005.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587; 17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 591; 12.10.2005 entered into force 18.11.2005 - RT I 2005, 57, 451)

(23) Any additional amounts due determined on the basis of the income tax returns of resident natural persons submitted concerning income received in 2003 shall be received by the state and overpaid amounts of tax shall be returned out of that part of income tax which is received by the state.

(17.12.2003 entered into force 01.01.2004 - RT I 2003, 88, 587)

(24) If the contractual relationship has started before 1 January 2004, the information concerning the recipient of interest provided in subsection 57² (1) may be limited to the name, state of residence and address in the state of residence of the recipient of interest. The information is verified on the basis of data available to the interest payer.

(20.05.2004 entered into force 27.05.2004 - RT I 2004, 45, 319)

(25) Pursuant to subsection 50 (1) or (2) or subsection 53 (4), the amount of income tax to be deducted pursuant to subsection 54 (5) shall not exceed the amount which forms 21/79 of the amount of the payment made by the non-resident correspondingly to the date on which the tax liability arises.

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 59, 391)

(26) Subsections 50 (1¹), 53 (4¹) and 54 (5) are applicable to the payments made on account of dividends received since January 1, 2005.

(20.04.2005 entered into force 01.07.2005 - RT I 2005, 25, 193)

(27) If resident company or a non-resident through its permanent establishment registered in Estonia has received dividends from resident company before January 1, 2000 or in the year 2003 or 2004, and the recipient of the dividends owns, at the time of payment of the dividends, at least 20 per cent of the shares or votes of the payer of the dividends, the recipient of the dividends may deduct from the income tax payable pursuant to subsection 50 (1) or (2) or 53 (4) an amount that forms 21/79 of the dividends received from resident company, correspondingly to the date on which the tax liability arises pursuant to subsection 50 (1) or (2) or 53 (4).

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 59, 391)

(28) If a resident company or a non-resident through its permanent establishment registered in Estonia has received dividends from a non-resident company before January 1, 2005, the recipient of dividends may deduct the income tax withheld from such dividends abroad from the income tax payable on the basis of subsection 50 (1) or (2) or 53 (4). If the resident company who has received dividends owns, at the time of payment of the dividends, at least 20 per cent of the shares or votes of the non-resident company which paid the dividends, the recipient of the dividends may deduct also the income tax paid on the share of profit abroad which was the basis for the dividends in addition to the income tax withheld from the dividends from the income tax payable on the basis of subsection 50 (1) or (2) or 53 (4). On the basis of subsection 50 (1) or (2) or 53 (4), the amount of income tax to be deducted pursuant to this subsection shall not exceed $\frac{21}{79}$ of the amount of the dividends paid by the non-resident correspondingly to the date on which the tax liability arises. The income tax of a foreign state may be deducted only in the amount which it is mandatory to pay pursuant to the law of the state or an international agreement. Income tax paid in each state shall be recorded separately.

(26.11.2009 entered into force 01.01.2010 - RT I 2009, 59, 391)

(29) If by 1 July 2007, a non-profit association or foundation entered in the list does not conform to the requirements for entry in the list of non-profit associations and foundations benefiting from income tax incentives provided by subsection 11 (2) or if the circumstances specified in subsections 11 (4) or (7) become evident, such association or foundation shall be deleted from the list as of 1 July 2008.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

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

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(31) Clause 13 (3) 8), subsection 17 (2), subsections 21 (2), (3) and (4), § , subsection 25 (1), subsection 26 (3), clauses 28 (1) 1) and 2), subsection 31 (4), subsection 44 (2), subsection 45 (8), subsection 49 (1) and subsection 51 (4) retroactively apply as of 1 January 2006.

(31.05.06 entered into force 01.01.07 - RT I 2006, 28, 208)

(32) Subsection 50 (2¹) and 53 (4⁷) apply to payments specified in these subsections which have been received as of 1 January 2009.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(33) Subsection 50 (1¹) or 53 (4¹) and subsections 54 (5)-(5⁴) of the Income Tax Act in force until 1 January 2009 apply to income received by a resident company or a non-resident through a permanent establishment registered in Estonia before the specified date.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(34) If a resident company has carried out a bonus issue before 2000:

1) tax is charged on the portion of the payments specified in subsection 50 (2) which exceed the amount of the monetary and non-monetary contributions paid into the own capital of the company and of the profit used for the bonus issue before 2000;

2) tax is charged on the part of the own capital of the company provided for in subsection 50 (2²) which exceeds the amount of the monetary and non-monetary contributions paid into own capital and of the profit used for the bonus issue before 2000.

(20.11.2008 entered into force 01.01.2009 - RT I 2008, 51, 286)

(35) The provisions of this Act regarding sole proprietors entered in the commercial register also apply to sole proprietors registered in a regional structural unit of the Tax

and Customs Board during the period of re-registration from 1 January 2009 until deletion of the sole proprietor from the register of taxable persons.

(11.12.2008 entered into force 01.01.2009 - RT I 2008, 60, 331)

(36) Subsections 57¹ (2) and (3) which were in force until 31 December 2009 apply upon submission of returns concerning student loan interest and trade union entrance and membership fees paid during the year 2009.

(29.10.2009 entered into force 01.01.2010 - RT I 2009, 54, 362)

§ 62. Entry into force of Act

This Act enters into force on 1 January 2000.

Chapter 13

Amendment of Legislation Currently in Force

§ 63. Amendment of Local Taxes Act

Clause 5 2) and § 7 of the Local Taxes Act (RT I 1994, 68, 1169; 1996, 49, 953; 1999, 16, 269; 101, 903; 2000, 33, 196; 81, 515; 2001, 11, 49; 2002, 44, 284; 110, 654; 2003, 88, 591; 2004, 45, 319) are repealed.

§ 64. Amendment of Accounting Act

The Accounting Act (RT I 1994, 48, 790; 1995, 26–28, 355; 92, 1604; 1996, 40, 773; 42, 811; 49, 953; 1998, 59, 941; 1999, 55, 584; 101, 903; 2001, 87, 527; 2002, 23, 131) is amended as follows:

1) subsection 2 (1) is amended and worded as follows:

“(1) Subject to the specifications prescribed in subsections (2)–(8) of this section, this Act extends to all legal persons in private law and sole proprietors registered in Estonia, to foreign legal persons who have a registered branch or other permanent establishment in Estonia and to legal persons in public law founded in Estonia (hereinafter accounting entities), with the exception of the Bank of Estonia. The procedure for accounting and reporting for taxation purposes is established by other legislation.”;

2) In subsection 2 (10), the words "branch of a foreign company" are substituted by the words "foreign legal person who is required to maintain accounting".

§ 65. Amendment of Social Tax Act

The Social Tax Act (RT I 1998, 40, 611; 61, 982; 113/114, 1875 and 1876; 1999, 29, 397; 71, 685; 82, 749; 87, 789; 88, 806; 97, 857; 591) is amended as follows:

1) the following text is omitted from clause 2 (1) 4): "(RT I 1993, 79, 1184; 1998, 9, 111; 28, 353 and 354; 34, 485 and 489; 40, 612; 51, 757; 61, 979; 103, 1699; 1999, 4, 51; 10, 150; 16, 270 and 273)";

2) clause 2 (1) 8) is amended and worded as follows:

“(8) on fringe benefits within the meaning of the Income Tax Act, expressed in monetary terms, and on income tax payable on fringe benefits.”;

3) clause 6 (1) 4) is amended and worded as follows:

“4) disabled persons employed working in a company, non-profit association or foundation included in a list established by the Minister of Social Affairs, and”;

4) in subsection 6 (2), the words “manufacturing enterprise of an association of disabled persons” are substituted by the words “company, non-profit association or foundation specified in clause (1) 4) of this section”;

5) in clauses 10 (1) 4) and 5), the words “by the fifth” are substituted by the words “by the tenth”;

6) subsection (5¹) is added to § 10 worded as follows:

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

§ 66. Amendment of Value Added Tax Act

In subsection 5 (4) of the Value Added Tax Act (RT I 1993, 60, 847; 1996, 63, 1149; 76, 1344; 81, 1447; 1997, 11, 96; 40, 621; 42, 679; 48, 773 and 776; 72, 1187; 74, 1231 and 1232; 1998, 23, 321; 57, 863; 86/87, 1410; 103, 1702; 1999, 18, 302; 27, 392; 52, 558; 92, 823), the words "and non-profit associations and foundations registered in Estonia and included in the list approved by the Government of the Republic on the basis of clause 5 (1) 2¹ of the Income Tax Act (RT I 1993, 79, 1184; 1998, 9, 111; 28, 353 and 354; 34, 485 and 489; 40, 612; 51, 757; 61, 979; 103, 1699; 1999, 4, 51; 10, 150; 16, 270 and 273; 27, 383 and 393)” are substituted by the words ", or non-profit associations or foundations benefiting from income tax incentives entered in the corresponding list approved by the Government of the Republic on the basis of the Income Tax Act, or legal persons entered in the Estonian register of churches, congregations and associations of congregations".

§ 67. Repeal of Income Tax Act

The Income Tax Act (RT I 1993, 79, 1184; 1998, 9, 111; 28, 353 and 354; 34, 485 and 489; 40, 612; 51, 757; 61, 979; 103, 1699; 1999, 4, 51; 10, 150; 16, 270 and 273; 27, 383 and 393; 101, 902) is repealed.

¹ Council Directive 90/434/EEC on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States (OJ L 225, 20.08.1990, pp 1–5), last amended by Council Directive 2005/19/EC (OJ L 058, 04.03.2005, pp 19–27);

Council Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (OJ L 225, 20.08.1990, pp 6–9), last amended by Council Directive 2003/123/EC (OJ L 007, 13.01.2004, pp 41–44);

Council Directive 2003/48/EC on taxation of savings income in the form of interest payments (OJ L 157, 26.06.2003, pp 38–48), last amended by Council Directive 2004/587/EC (OJ L 257, 04.08.2004, p 7);

Council Directive 2003/49/EC on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (OJ L 157, 26.06.2003, pp 49–54), last amended by Council Directive 2004/76/EC (OJ L 157, 30.04.2004, pp 106–113).

(31.05.2006 entered into force 01.01.2007 - RT I 2006, 28, 208)

² RT = *Riigi Teataja* = *State Gazette*

³ Riigikogu = the parliament of Estonia

