Starting a business and overview of liabilities

What is business

For the purpose of the Income Tax Act, business is a person's independent economic or professional activity (including the professional activity of a notary or bailiff and the creative activity of a creative person engaged in a liberal profession), the aim of which is to derive income from the production, sale or mediation of goods, provision of services, or other activities, including creative or scientific activity (**subsection 2 of § 14 of the Income Tax Act**).

For the purpose of the Value-Added Tax Act (VAT Act), business means the independent economic activity of a person in the course of which goods are transferred or services provided, whatever the purpose or results of that activity. The professional activities of a notary and bailiff are also deemed to be business (**subsection 2 of § 2 of the VAT Act**).

According to the regulatory legislation about their activities as regards accounting and taxation, notaries and bailiffs are deemed to be self-employed persons.

Who is self-employed person

Self-employed person is a natural person who is engaged in business. Any natural person can be a self-employed person, including a minor of at least 15 years of age to whom his/her parent has granted consent or a court has extended his/her active legal capacity to engage in economic activity **(sections 9 to 11 of an Act on the General Part of the Civil Code**).

A self-employed person and their business as an economic entity through which they operate **is not a legal person**.

A self-employed person may operate in areas of activity in which operation is not prohibited by law. The laws may provide for areas of activity for which a licence is required or in which only a particular class of undertaking may operate (**subsections 1 and 2 of § 4 of the Commercial Code**).

Organisation of business includes the following characteristic features:

- ✓ self-employed persons themselves decide how, to whom, where and when they provide their services;
- ✓ self-employed persons provide goods or services in their own name (independently) to other persons (purchasers/contracting entities;
- ✓ self-employed persons may employ other persons, that is, they may be employers to other persons;

- self-employed persons acquire and repair the devices, work equipment and the like used in their business, on own account;
- self-employed persons organise their accounting pursuant to the Accounting Act;
- self-employed persons determine the proportion of the part of their assets used in their business and the proportion of use of these assets in business;
- self-employed persons acquire materials, goods and services for their business on own account;
- self-employed persons cannot be their own employer, send themselves to a business trip, pay themselves a salary or a compensation for the employment related use of a personal automobile or grant themselves fringe benefits;
- self-employed persons may not conclude transactions with themselves (for example, enter into a loan agreement, an asset sale contract with themselves);
- self-employed person as an undertaking bears the risk related to economic activities, assuming responsibility for their activity with all of their assets, that is, with both of the assets used in business and their personal property;
- self-employed persons submit to the Estonian Tax and Customs Board form E of the income tax return reflecting the income and expenditure derived from their business as a self-employed person.

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