

The ABCs for a self-employed person

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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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Registration of natural person as self-employed person

Before starting business activities, all self-employed persons must apply for their entry in the **commercial register**. Self-employed persons are entered in the commercial register based on the application submitted by the person concerned (**§ 3 of the Commercial Code**).

To register a self-employed person with the commercial register, an application for entry in the register must be submitted (digitally signed or certified by a notary) to the commercial register. The application must contain the following information:

- ✓ business name (requirements for a business name in [sections 7 to 15 of the Commercial Code](#)), in case a name of farm is used, the reference to the number of the registered immovable property in the land register should be added;
- ✓ postal address of self-employed person (number of apartment and house; name of street or farm, name of settlement, local government, county and postal code);
- ✓ details of self-employed person (first name and surname, Estonian personal identification code or the birth date);
- ✓ beginning and end of the financial year (please note that irrespective of the self-employed person's financial year, a period of taxation is still a calendar year);
- ✓ if needed, information on the suspension of business activities, seasonal or temporary activity ([§ 3 \(3\) of the Commercial Code](#));
- ✓ means of communication (phone, fax, e-mail, website etc.);
- ✓ information on the planned principal activity. Unlike other self-employed persons, farmers may have two activities registered in the commercial register (for example, in a tourism farm the farmer may be engaged in production of agricultural products and accommodation services at the same time).
- ✓ receipt of the payment of state fee.

More information can be found on the website of the Ministry of Justice and Digital Affairs on the page [“Füüsilisest isikust ettevõtja” \(“Self-employed person”\)](#) (in Estonian).

Notaries are registered by the Estonian Chamber of Notaries whereas bailiffs are registered by the Estonian Chamber of Bailiffs and Trustees in Bankruptcy.

The tax authority uses the information on self-employed persons obtained from the commercial register, the Estonian Chamber of Notaries and the Estonian Chamber of Bailiffs and Trustees in Bankruptcy. Therefore, it is important that the information on self-employed persons entered in the register be correct. Hereby it should be borne in mind that self-employed persons must perform their tax liabilities as long as they are entered in the register as a self-employed person.

SELF-EMPLOYED PERSON AS A SALARIED WORKER

Being a self-employed person does not exclude working under an employer. Whereas a self-employed person and a natural person is the same person, the natural person may earn income in various ways (for example, income from employment, income from transfer of securities, business income, etc.), but they must differentiate their different kinds of income on the income tax return of natural person.

REGISTRATION OF A SELF-EMPLOYED PERSON IS PUBLIC INFORMATION

All interested persons may check out via the **Information System of the e-Commercial Register** whether the person has been registered as a self-employed person.

FOR YOUR INFORMATION

- ✓ The obligations arising from the tax legislation shall also extend to self-employed persons who have not registered themselves with the commercial register;
- ✓ the rights provided for in the tax legislation apply to self-employed persons as from the date of their registration in the commercial register. Thus, only the persons registered in the commercial register as a self-employed person may make deductions from their business income as specified in **Chapter 6 of the Income Tax Act**.
- ✓ Transfer of securities owned by a natural person does not constitute business. Purchase-sale of securities and gains therefrom shall always be taxed as gains from transfer of property.
- ✓ Taxpayers may, at their own discretion, include also rent and royalties in their business income.

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Obligations of self-employed persons

SELF-EMPLOYED PERSONS ARE OBLIGED TO:

- ✓ keep accounts on their activities;
- ✓ in addition to keeping accounts, self-employed persons must keep records of facts relevant for taxation purposes (accounting for taxation purposes);
- ✓ pay **income tax** and **social tax** on their business income and if they have joined the mandatory funded pension (II pension pillar), pay also **contribution to the mandatory funded pension**;
- ✓ in addition to form A of the **income tax return of natural person**, submit a business income return (form E) not later than by 30 April of the year following the period of taxation (calendar year). *(The Estonian Tax and Customs Board will calculate the social tax and contribution to the mandatory*

- ✓ *funded pension to be paid from the business income on the basis of form E and the income tax on the basis of forms A and E of the income tax return and send a corresponding tax notice not later than by 1 September; the taxes due by the tax notice must be paid by the self-employed person not later than by 1 October);*
- ✓ make **advance payments of social tax** during the period of taxation;
- ✓ make **advance payments of income tax** during the period of taxation beginning from the second business year;
- ✓ self-employed persons whose business is registered in the commercial register as temporary or seasonal and who have indicated the starting date and final date of the business in their registration application are not required to inform of the start or termination of business activities for each case. Self-employed persons have the right to notify the commercial register of the suspension of the activities in advance specifying the period of time when the business is suspended. During the period of suspension, the person concerned is not a self-employed person for taxation purposes.

PAY ATTENTION

If a self-employed person fails to pay taxes by the due date prescribed by law (including advanced payments), the person is required to calculate and pay interest on the amount of tax outstanding at the rate of 0.06% per day by the due date. Interest is calculated as of the day following the day on which payment of the tax was due pursuant to law until the date of payment or set-off, inclusive of the latter (**subsections 115** and 117 of the Taxation Act).

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Obligations of self-employed person as an employer

SELF-EMPLOYED PERSON AS AN EMPLOYER IS OBLIGED TO:

- ✓ register the employees in the employment register – this obligation arises to self-employed persons if they employ people under the employment contract or the law of obligations act (contract for services, authorisation agreement or any other contract concluded for the provision of services) and have to pay taxes on the employees' earnings;
- ✓ enter in the employment register also persons working for them voluntarily without remuneration

- ✓ (see more information in section "**Employment register**");
- ✓ withhold income tax, unemployment insurance premium and contribution to the mandatory funded pension (if the employee has joined the second pension pillar) from the payments made to the employees;
- ✓ calculate and pay social tax;
- ✓ pay unemployment insurance premiums on the payments made to the employees;
- ✓ submit a **tax return for income tax, social tax, contribution to the mandatory funded pension and unemployment insurance premium (form TSD)** together with the corresponding annexes to the Estonian Tax and Customs Board not later than by the 10th date of the month following the month when the payments were made, and transfer the above-mentioned taxes and payments into the bank account of the Estonian Tax and Customs Board not later than by the same deadline.

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Registration as a person liable to value added tax

If the taxable supply of a self-employed person has exceeded 40,000 euros as of the beginning of a calendar year, they are obliged to register themselves as a **person liable to value added tax**. Self-employed persons can register as a person liable to value added tax also before their supply reaches 40,000 euros.

If self-employed persons fail to register for VAT purposes on time, they will be registered retroactively. In such a case, self-employed persons will have to issue new invoices that include VAT to clients to whom they issued invoices after their supply had exceeded 40,000 euros.

SELF-EMPLOYED PERSONS WHO ARE LIABLE TO VAT ARE OBLIGED TO:

- ✓ submit to the Estonian Tax and Customs Board a **value added tax return (form KMD)** by the 20th day of the month following a period of taxation (calendar month);
- ✓ transfer the value added tax into the bank account of the Estonian Tax and Customs Board by the same date;

- ✓ submit to the Estonian Tax and Customs Board also a **report on intra-Community supply (form VD)** by the 20th day of the month following a period of taxation (calendar month), if the person liable to value added tax, i.e. the self-employed person, sells goods to the other persons liable to value added tax of the Member States of the European Union.

For more information, please see "**Self-employed person and value added tax**".

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