



MAKSU- JA TOLLIAMET

# Transfer of immovable property

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# Table of contents

<b>Introduction</b> .....	<b>3</b>
<b>Calculation of taxable gains</b> .....	<b>3</b>
<i>At sale of property</i> .....	<b>5</b>
<i>At exchange of property</i> .....	<b>5</b>
<i>Upon transfer of membership of a building association</i> .....	<b>6</b>
<b>Declaration of income and payment of income tax</b> .....	<b>7</b>
<b>Transfer of the place of residence</b> .....	<b>9</b>
<i>A dwelling with a storage room and parking space</i> .....	<b>10</b>
<i>A part of the legal share belonging to the physical share of the apartment ownership</i> .....	<b>11</b>
<i>A visitor's apartment located in business premises with visitors' apartments and on     commercial land</i> .....	<b>11</b>
<i>Inherited immovable property</i> .....	<b>12</b>
<b>Transfer of property returned in the course of the ownership reform</b> .....	<b>12</b>
<i>Transfer of inherited property returned in the course of the ownership reform</i> .....	<b>13</b>
<b>Transfer of property restituted after being unlawfully expropriated</b> .....	<b>14</b>
<i>Transfer of inherited property restituted after being unlawfully expropriated</i> .....	<b>15</b>
<b>Transfer of property privatised with the right of pre-emption</b> .....	<b>16</b>
<b>Transfer of a summer cottage or garden house</b> .....	<b>18</b>
<b>Expropriation payment and compensation for expropriation</b> .....	<b>19</b>
<b>Acquisition of immovable property by inheritance or gift</b> .....	<b>19</b>
<b>Transfer of movable property in personal consumption</b> .....	<b>20</b>

# Introduction

Gains derived from the transfer of immovable property are, as a rule, subject to income tax. Gains derived from the intermediation of immovable property and from the transfer or intermediation of real estate reservations are also taxed. Certain immovable property transactions are exempt from income tax.

## Definitions

- ❖ **Transfer** is a transaction as a result of which the property changes owner, such as purchase and sale, gift, exchange, etc.
- ❖ **An item of immovable property** is a delimited area of land (plot of land). The integral parts of an item of immovable property are the items of property that are permanently attached to it such as construction works, standing wood, other vegetation and unharvested fruit. The integral parts of immovable property together with the land form a registered immovable.
- ❖ **A movable** is a thing that is not immovable.

## Act

Income Tax Act

## Calculation of taxable gains

- ❖ Before taxation with income tax, **documented expenses directly related to the acquisition and transfer of property may be deducted** from the income received from the sale or exchange of property. In the absence of documentary evidence, the expenses made cannot be taken into account for tax purposes.
- ❖ General expenses related to the management of the property (for example, administrative expenses, utility costs, electricity bills, etc. of an apartment to be transferred) cannot be deducted from the gains.

### **The gains or loss from the transfer of property mean:**

- ✓ in case of sale – the difference between the sales price of the property and the acquisition cost, from which expenses directly related to the sale of the property have been deducted
- ✓ in case of exchange - the difference between the market price of the property received by exchange and the acquisition cost of the property exchanged, from which expenses directly related to the exchange of property have been deducted.

### **The acquisition cost of property is:**

- ✓ the expenses made for the acquisition of property (e.g. purchase price)
- ✓ the expenses made in order to improve (e.g. renovate a house) or supplement (e.g. repair) property
- ✓ brokerage fees and levies paid on acquisition of property (for example, notary fee paid by the buyer, state fee, or other cost included in the contract and related to the contract)
- ✓ in the case of property acquired under a finance lease (leasing), the total amount of lease or down payments actually paid, excluding interest
- ✓ in the case of a self-manufactured item, the total amount of costs incurred in manufacturing the item (for example, the construction cost of a building)
- ✓ the amount added to business income in the event that a person transfers property that has previously been taxed as property taken into personal consumption by him or her as a sole proprietor.

### **Expenses directly related to the transfer of property are:**

- ✓ expenses inevitable for concluding a transaction of transfer of property (for example, the notary fee paid by the seller, state fee, or other fee related to the contract)
- ✓ expenses for the purpose of making the transaction more successful (e.g. a broker's fee, property valuation fee)
- ✓ in case of the right to cut standing crop and felled timber, expenses relating to forest management
- ✓ in case of the sale of felled timber, service fees paid for harvesting the forest and transportation of

- ✓ timber.

## At sale of property

### FORMULA FOR CALCULATING TAXABLE GAINS DERIVED FROM SALE OF PROPERTY

sales price – acquisition cost – costs directly related to sale = gains taxable with income tax

#### EXAMPLE

A person bought an apartment for 625,864 Estonian kroons (acquisition cost) and sells it for 60,000 euros (sales price).

The apartment was not used as the person's actual place of residence. The expenses directly related to the sale (property valuation, costs related to the sales contract, etc.) were 3,000 euros, which can be deducted from the income.

However, the maintenance expenses made before the sale of the apartment in the total amount of 500 euros are not subject to deduction, irrespective of the fact that there are documents to certify these expenses.

When declaring income, the acquisition cost must be converted into euros:  $625,864 \div 15.6466 = 40,000$ .

**The gain** from the sale of the apartment **subject to income tax** is calculated as follows:  $60,000 - 40,000 - 3,000 = 17,000$  euros

**The income tax rate** is 20%.

**The income tax amount** is calculated as follows:  $17,000 \times 0.20 = 3,400$  euros.

## At exchange of property

#### **FORMULA FOR CALCULATING TAXABLE GAINS DERIVED FROM EXCHANGE OF PROPERTY**

market price of the property received by exchange – acquisition cost of the property exchanged – costs directly related to the exchange of property = gains taxable with income tax

#### **EXAMPLE**

*Years ago, a person purchased a two-room apartment for 55,000 euros, which he did not use as his residence, but hired out.*

*Now he is making an exchange transaction to swap his two-room apartment for a three-room apartment. The market price of both apartments at the time of the exchange, i.e. at the time of the transaction, is 90,000 euros. The costs related to the conclusion of the exchange agreement, including the state fee and notary fees, are 340 euros.*

**The gain subject to income tax** received from the exchange of the apartment is calculated as follows:  
 $90,000 - 55,000 - 340 = \mathbf{34,660 \text{ euros}}$ .

In the case of this example, it should be taken into account that the provisions of the contract of sale apply to the exchange contract and that both parties to the contract are both the seller and the buyer at the same time. In general, the prices of exchanged properties are equal.

## Upon transfer of membership of a building association

#### **FORMULA FOR CALCULATING TAXABLE GAINS UPON TRANSFER OF MEMBERSHIP OF A BUILDING ASSOCIATION**

sales price – acquisition cost – costs directly related to sale = gains taxable with income tax

The Income Tax Act does not provide tax exemptions for the gains derived from the transfer of membership of a building association (including garages).

As with other immovable property transactions, only gains are taxed when transferring membership, i.e. the difference between the selling price and the acquisition cost. The acquisition cost also includes the money actually paid by a member of the former garage cooperative for the acquisition of shares and the

construction of the garage box.

# Declaration of income and payment of income tax

## Taxable period

- ✘ Gains derived from the **sale of property** are taxed in the taxable period (calendar year) in which **money is received from the sales transaction**.
- ✘ Gains derived from the **exchange of property** are taxed in the taxable period in which **the ownership is transferred according to the record of the land register**.

## Declaring income

Income from the transfer of property, intermediation of immovable property and transfer of immovable property reservations is declared in the income tax return of a resident natural person. The income tax return has to be submitted to the Tax and Customs Board **no later than April 30 of the year following the year in which the gain was derived**.

Read more: [Where and how to submit the income tax return](#)

## Payment of income tax

Income tax has to be paid to the bank account of the Tax and Customs Board **no later than 1 October of the year of submission of the tax return**.

Read more: [Tax payment options](#)

# How to declare



## GAINS DERIVED FROM TRANSFER OF PROPERTY

Gains derived from the transfer of property are declared in the **income tax return form A** of a resident natural person.

If the seller of the property receives the money **during several different taxable periods**, the acquisition cost and the costs directly related to the sale are taken into account when calculating the gains of different periods according to the proportion of money received during that taxable period.

At the taxpayer's request, it is also possible to take into account the acquisition cost and the costs related to the sale to the extent of the money received during the taxable period, i.e. the gains are taxed if the income received exceeds the acquisition cost and the costs related to the transfer.

If the transfer of property is a taxable transaction, but during the taxable period no gain is derived when taking account of the acquisition cost, such transaction must still be declared in order to take the acquisition cost into account.



## INCOME RECEIVED FROM INTERMEDIATION OF IMMOVABLE PROPERTY

Income from intermediation of immovable property is generally declared and taxed as business income of a natural person. If the intermediation of immovable property is the business of a natural person, the income received must be declared in the business income declaration form E. A sole proprietor entered in the commercial register can deduct business-related expenses from income. Both income and social tax must be paid on business income.

If the activity of intermediation of immovable property does not correspond to the characteristics of business activity, the income received is declared in the income tax return form A. Income tax is paid on the income, no social tax must be paid.



## INCOME RECEIVED FROM TRANSFER OR INTERMEDIATION OF REAL ESTATE RESERVATIONS

Income received from the transfer or intermediation of real estate reservations is taxed:

- ✓ as business income (declared on form E) or
- ✓ gains from transfer of property (declared on form A) or
- ✓ as other income (declared on form A).

## Transfer of the place of residence

If a person transfers a dwelling, which he or she **used until the transfer as his or her place of residence**, the gains derived from the transfer are exempt from tax and income tax is not charged.

The tax exemption can be used for one sales transaction within two years. The two years between transactions are counted from the day following the date of entry of the sales transaction in the land register.

### **EXAMPLE 1**

*In January 2018, a person sold her apartment, which she had been using as her place of residence. The notarial purchase and sale contract was signed on 23 January 2018 and the entry in the land register was made on 26 January 2018.*

*The person sold her new place of residence in January 2020. The notarial purchase and sale contract was signed on 15 January 2020 and the entry in the land register was made on 18 January 2020.*

*The period between the sale of the first and second place of residence is shorter than two years, so the sale of the second residence must be declared in the income tax return of 2020. In this example, the two-year period starts on 27 January 2018.*

If a loss arises from the sale of the second place of residence, such a transaction is not taken into account at taxation and does not have to be declared, but the documents of the transaction (concerning costs of acquisition and sale) must be kept for at least five years.

**The concept of "residence" is important here.** According to subsection 1 of § 14 of the General Part of the Civil Code Act, the residence of a person is the place where he or she permanently or primarily lives. The taxpayer's place of residence is first defined by its connection with his or her personal and economic interests. Therefore, the determination of a place of residence in each case of tax exemption

is a matter of proving facts. According to the guidelines of the Supreme Court, the actual residence of a person is the determining factor in the implementation of tax exemptions.

Since the transfer of residence is exempt from income tax, it does not matter how the dwelling was acquired - whether inherited, gifted, purchased, returned or privatised with the right of pre-emption.

If the transferred dwelling has been partly used for other purposes (e.g. rented out, used in business, etc.) until the transfer, the exemption is granted in proportion to the ratio of the surface area of the premises used as a residence and for other purposes.

#### EXAMPLE 2

*Until transfer, a sole proprietor used 70% of her apartment with the total surface area of 100 m<sup>2</sup> as a residence and 30% for entrepreneurship. Acquisition and improvement costs of the apartment have not been deducted from business income.*

*The sales price of the apartment is 100,000 euros. 30%, i.e. 30,000 euros, of it is the taxable part.*

*The acquisition cost is 70,000 euros, 30% of it, i.e. 21,000 euros, is taken into account. The expenses related to the transfer make up 10,000 euros, 30% of this amount, 3,000 euros, is taken into account. Gain is declared as follows: 30,000 – 21,000 – 3,000 = 6,000 euros.*

## A dwelling with a storage room and parking space

Tax and Customs Board treats these situations of transferring housings equally in taxation where:

- ✓ a dwelling with a storage room and a parking space which belong to the dwelling, are entered in the land register as **one apartment ownership**; and
- ✓ a dwelling with a storage room (non-residential premise) and a parking space (non-residential premise) are entered in the land register as **independent apartment ownerships**.

If a dwelling with a storage room and parking space registered as independent apartment ownerships are transferred by one sales transaction, the transaction will be subject to the tax exemption of the transfer of dwelling. With reference to the two-year-rule, it is considered as one sales transaction as well.

If a storage room or a parking space is transferred separately from the dwelling by another sales transaction (e.g. before or after the sale of the dwelling), or if the storage room or parking space were not used as parts of the dwelling but for commercial purposes (e.g. rented out or used for business), the

sale will be subject to income tax.

### **EXAMPLE**

*A person owned an apartment with a parking space and a storage room. He decided to give up the parking space and sold it in January 2020. The purchase price of the parking space was 10,000 euros and the sales price was 12,500 euros.*

*There were no costs related to the transfer.*

*In March 2020, the person decided to move to a larger apartment and sold the apartment used as a residence. Together with the apartment, the storage room was also sold.*

*Since the parking space was transferred two months earlier than the residence, the gain from the sale of the parking space must be declared and income tax must be paid. However, the sale of the residence and the storage room is exempt from tax.*

## **A part of the legal share belonging to the physical share of the apartment ownership**

If a part of the legal share which belongs to the physical share of a separate apartment ownership is transferred (e.g. with the aim of increasing the physical share of an apartment ownership or creating a new apartment ownership at the expense of the basement or attic), such an assignment for charge will be subject to taxation. This is because a legal share in a plot of land or parts and equipment of a building is not individually considered as a dwelling of a taxpayer.

The mentioned parts of apartment ownership do not belong to the physical part of apartment ownership (taxpayer's dwelling), instead, these are legal shares of common ownership of the apartment house which belong to the physical share (**subsection 1 of § 1 of the Apartment Ownership and Apartment Associations Act**).

## **A visitor's apartment located in business premises with**

## visitors' apartments and on commercial land

Visitor's apartment means an accommodation establishment that is rented out entirely (**subsection 8 of § 18 of the Tourism Act**).

A visitor's apartment/holiday apartment is used for commercial purposes and therefore it is not exempt from income tax. The Law of Obligations Act distinguishes dwellings from business premises and practically rules out the possibility to use dwellings as business premises, and vice versa. Within the meaning of the Law of Obligations Act, a dwelling is a residential building or apartment that is used for permanent habitation. Business premises are premises used in economic or professional activities (**§ 272 of the Law of Obligations Act**).

The Supreme Court has agreed in its judgement that it is reasonable to assume that a building will be used for the purposes specified in the detailed spatial plan or building permit. At the same time, it is important to know that the classification of purpose for use of construction works which distinguishes residential buildings from non-residential buildings in construction law differs from the classification between dwellings and business premises within the meaning of subsection 1 of § 272 of the Law of Obligations Act. Thus, the legislative or regulatory provisions of construction law do not forbid the usage of residential building or an apartment that is located in a residential building for temporary residence. Likewise, an apartment that is located in a residential building may be used for providing accommodation services, i.e. in economic activity (**RKHK 3-3-1-47-15**, in Estonian).

Unlike ordinary apartments that are meant for use as places of residence, the purpose for use of holiday apartments is business activity. If a taxpayer has really been using a holiday apartment as his or her place of residence until its transfer and it is proven, the application for tax exemption to the sale of such an apartment may be justified in exceptional cases.

## Inherited immovable property

- ✘ If a person inherits an apartment or a house and decides to transfer (sell or exchange) it promptly, the gain received is subject to income tax.
- ✘ If a person uses the inherited apartment as his or her permanent and main residence, he or she can use the tax exemption when transferring real estate.

# Transfer of property returned in the course of the ownership reform

Gains derived from the **first transfer** of property returned in the course of the ownership reform (incl. returned forest land), is exempt from income tax. This is also the case if the property (plot of land) is divided into several parts and transferred as separate plots.

**NB!** However, gains from the transfer of standing crop of the returned forest land is taxed.

## Transfer of property returned in the course of the ownership reform, if...

### ...THE LAND IS INHERITED

In the case of inheritance, it is legal succession arising from the law and the tax exemption can be used by the person **who transfers the land returned in the course of the ownership reform for the first time**. If the owner of the property returned in the course of the ownership reform bequeaths the property to a successor and the successor transfers it, he or she does not have to pay income tax on the gains received.

### ...THE LAND IS RECEIVED AS A GIFT

Gifts are a transfer transaction and the tax exemption cannot be used upon transfer of land returned in the course of the ownership reform, which has been received as a gift. If the owner of the land returned in the course of the ownership reform gives the land away as a gift and the recipient of the gift transfers it, then income tax must be paid on the gains received.

### ...THE LAND IS RECEIVED AS A LEGACY

If the property returned in the course of the ownership reform has been obtained by a contract for the transfer of a legacy, it is deemed to be the first transfer transaction. If the legatee transfers the immovable property returned in the course of ownership reform, income tax must be paid on the gains received.

## Transfer of inherited property returned in the course of

## the ownership reform

Pursuant to clause 5 of subsection 4 of § 15 of the Income Tax Act, income tax is not charged on the income from the transfer of land returned in the course of ownership reform. In the opinion of the tax authority, the wording of subsection 4 of § 15 of the Income Tax Act supports the application of the tax exemption with respect to the successor on the ground that clause 5 of the provision does not make the exemption conditional on a particular person, but is based solely on the means of acquisition of the land. Therefore, it can be concluded that the tax exemption applies to the first transfer of the land returned in the course of the ownership reform. According to the guidelines of the Supreme Court, succession does not constitute a transfer transaction but is a legal succession arising from the law, so the exemption applies to the person who transfers the land returned in the course of the ownership reform for the first time. In the opinion of the tax authority, it is not a proprietary right inseparably related to the person of the bequeather.

A legacy is a right of claim against successors and arises automatically on the basis of a will if the right is not waived within three months. A notarised contract for the transfer of a legacy is entered into for the transfer of a legacy. If the legatee is a legal successor at the same time, tax exemptions apply to the transfer of the property received as a legacy, which would have applied to the bequeather. If the legatee is not the legal successor, the tax exemptions of the bequeather do not apply to the transfer of the property received as a legacy.

In the opinion of the tax authority, according to the guidelines issued by the Administrative Law Chamber of the Supreme Court in the **judgment of 25 May 2018 (administrative matter No. 3-16-903)**, the transfer of the tax exemptions provided for in clauses 2 and 5 of subsection 5 of § 15 of the Income Tax Act to the successors is possible, as the legislator has not at present restricted the transfer of the tax exemption to the successors. Thus, it is possible for successors to apply the above tax exemption upon the first transfer of immovable property, if the property transferred for the first time has become the property of the bequeather by returning the unlawfully expropriated property.

Please note that for the application of the tax exemption provided for in clauses 3 and 5 of subsection 5 of § 15 of the Income Tax Act, there is a prerequisite that the immovable property has become the property of the taxpayer by privatisation with the right of pre-emption. Thus, if the person who acquired the property by way of privatisation with the right of pre-emption does not use the tax incentive granted to him or her, but decides to bequeath it, his or her successors cannot benefit from the tax incentive provided for in clauses 3 and 5 of subsection 5 of § 15 of the Income Tax Act (**administrative matter No. 3-14-50711**).

# Transfer of property restituted after being unlawfully expropriated

Income tax is not charged on the gain received from the transfer of an immovable, if the 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 (for example, a house that was returned as a movable and registered and transferred as an immovable).

If a person has been restituted a plot of land larger than the part of the right of claim, then the income from the sale of this plot of land is also exempt from tax.

However, gains from the transfer of standing crop of the restituted forest land **is taxed with income tax**.

## Transfer of property restituted after being unlawfully expropriated if...

### ...THE PROPERTY IS INHERITED

In the case of inheritance, it is legal succession arising from the law and the tax exemption can be used by the person who transfers the land for the **first time**. If the owner of the property restituted after being unlawfully expropriated bequeaths the property to a successor and the successor transfers it, he or she does not have to pay income tax on the gains received.

### ...THE PROPERTY IS RECEIVED AS A GIFT

Gift-giving is a transfer transaction and the tax exemption cannot be used upon transfer of property, which has been restituted after being unlawfully expropriated and received as a gift. If the owner of property restituted after being unlawfully expropriated gives this property as a gift and the recipient of the gift sells it, then he or she must pay income tax on the gain received.

### ...THE PROPERTY IS RECEIVED AS A LEGACY

If the property restituted after being unlawfully expropriated has been obtained by a contract for the transfer of a legacy, it is deemed to be the first transfer transaction. If the legatee transfers the property, he or she must pay income tax on the gains received.

## Transfer of inherited property restituted after being unlawfully expropriated

Pursuant to clause 5 of subsection 4 of § 15 of the Income Tax Act, income tax is not charged on the income from the transfer of land returned in the course of ownership reform. In the opinion of the tax authority, the wording of subsection 4 of § 15 of the Income Tax Act supports the application of the tax exemption with respect to the successor on the ground that clause 5 of the provision does not make the exemption conditional on a particular person, but is based solely on the means of acquisition of the land. Therefore, it can be concluded that the tax exemption applies to the first transfer of the land returned in the course of the ownership reform. According to the guidelines of the Supreme Court, succession does not constitute a transfer transaction but is a legal succession arising from the law, so the exemption applies to the person who transfers the land returned in the course of the ownership reform for the first time. In the opinion of the tax authority, it is not a proprietary right inseparably related to the person of the bequeather.

A legacy is a right of claim against successors and arises automatically on the basis of a will if the right is not waived within three months. A notarised contract for the transfer of a legacy is entered into for the transfer of a legacy. If the legatee is a legal successor at the same time, tax exemptions apply to the transfer of the property received as a legacy, which would have applied to the bequeather. If the legatee is not the legal successor, the tax exemptions of the bequeather do not apply to the transfer of the property received as a legacy.

In the opinion of the tax authority, according to the guidelines issued by the **Administrative Law Chamber of the Supreme Court in the judgment of 25 May 2018 (administrative matter No. 3-16-903)**, the transfer of the tax exemptions provided for in clauses 2 and 5 of subsection 5 of § 15 of the Income Tax Act to the successors is possible, as the legislator has not at present restricted the transfer of the tax exemption to the successors. Thus, it is possible for successors to apply the above tax exemption upon the first transfer of immovable property, if the property transferred for the first time has become the property of the bequeather by returning the unlawfully expropriated property.

Please note that for the application of the tax exemption provided for in clauses 3 and 5 of subsection 5 of § 15 of the Income Tax Act, there is a prerequisite that the immovable property has become the property of the taxpayer by privatisation with the right of pre-emption. Thus, if the person who acquired the property by way of privatisation with the right of pre-emption does not use the tax incentive granted to him or her, but decides to bequeath it, his or her successors cannot benefit from the tax incentive provided for in clauses 3 and 5 of subsection 5 of § 15 of the Income Tax Act (**administrative matter No. 3-14-50711**).

# Transfer of property privatised with the right of pre-emption

Gains from the transfer of immovable property are **not subject to income tax** if the essential part of the immovable or the object of apartment ownership or the right of superficies is a dwelling and all the following three conditions are met:

1. the dwelling has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption
2. the land adjacent to the dwelling has been transferred to the taxpayer's ownership through privatisation with the right of pre-emption
3. the size of the registered immovable property does not exceed 2 hectares.

## **EXAMPLE**

*The dwelling house was inherited; 0.6 hectares of land was privatised with the right of pre-emption, and the owner did not use the house as a residence.*

*The total costs related to the inheritance process and improving or upgrading the dwelling were 19,670 euros.*

*The costs of privatising the land with the right of pre-emption were 1,800 euros. The registered immovable was sold for 70,000 euros.*

*Taxable income is calculated as follows:  $70,000 - 19,670 - 1,800 = 48,530$  euros.*

Since one of the above-mentioned conditions is not met in this example (the dwelling is not privatised with the right of pre-emption), the income tax exemption cannot be applied and the income received is taxed.

## Transfer of property restituted after being unlawfully expropriated if...

### **...THE PROPERTY IS INHERITED**

If a person inherits and transfers a property privatised with the right of pre-emption, he or she cannot benefit from the tax incentive and income tax is payable on the gains received, unless he or she used the property (dwelling) as his or her place of residence. Only the costs incurred by the successor are the acquisition costs of the property, which may be deducted from the taxable gains (subsection 1<sup>1</sup> of § 38 of the Income Tax Act).

### **...THE PROPERTY IS RECEIVED AS A GIFT**

Gifts are a transfer transaction and the tax exemption cannot be used upon transfer of property privatised with the right of pre-emption and received as a gift. If the owner of such property gives this property as a gift and the recipient of the gift transfers it, then he or she must pay income tax on the gains received.

### ...THE PROPERTY IS RECEIVED AS A LEGACY

If the property privatised with the right of pre-emption has been obtained by a contract for the transfer of a legacy, it is deemed to be the first transfer transaction. If the legatee transfers the property, he or she must pay income tax on the gains received.

## Transfer of a summer cottage or garden house

Income tax is not charged on the income derived from the transfer of a summer cottage or garden house if both of the following conditions are met:

1. the summer cottage or the 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
2. the size of the registered immovable does not exceed 0.25 hectares.

If the summer cottage or garden house has been acquired by a leasing contract, the beginning date of the ownership is the date on which the leasing contract was concluded.

### **EXAMPLE**

*A person bought a garden house for 15,000 euros. 10 years later, only the foundation remained of the garden house. She decided to sell the empty plot and sold it for 30,000 euros. Since at the time of sale an essential part of the immovable, i.e. the garden house, no longer existed and it is not a sale transaction of a garden house but of land, this transaction is not exempt from tax.*

Transfer of a summer cottage or garden house, if...

### ...THE SUMMER COTTAGE OR GARDEN HOUSE IS INHERITED

The successor can only sell the inherited cottage or garden house exempt from tax if both conditions are met: **the summer cottage or garden house has been in the successor'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.**

If at least one of the conditions is not met, the sale of a cottage or garden house must be declared and income tax must be paid on the gains received. Only the costs incurred by the successor are the

acquisition costs of the property, which may be deducted from the taxable gains (subsection 1<sup>1</sup> of § 38 of the Income Tax Act).

### ...THE SUMMER COTTAGE OR GARDEN HOUSE IS RECEIVED AS A GIFT

The recipient of the gift can only sell the cottage or garden house received as a gift exempt from tax if both conditions are met: **the summer cottage or garden house has been in the person'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.**

#### **EXAMPLE**

*In 2019, grandmother gave her granddaughter a summer cottage with the land belonging to it as a gift. In 2020, the granddaughter sold the cottage. Since the cottage was owned by the granddaughter for only one year, she must pay income tax on the gains received.*

*It is possible to deduct from income the costs that in the case of immovable property received as a gift, are only the expenses incurred.*

## Expropriation payment and compensation for expropriation

The following are not taxed with income tax:

- ❖ the consideration and compensation paid for acquisition, including expropriation, and the establishment of compulsory possession (pursuant to the Acquisition of Immovable in Public Interest Act), and
- ❖ the received income and compensation from the exchange of immovable property and land management carried out under the Acquisition of Immovable in Public Interest Act.

# Acquisition of immovable property by inheritance or gift

The property received by inheritance or gift (for example land, house, apartment etc. inherited or received as a gift in Estonia or abroad) is **not subject to income tax at the moment of acquisition**.

If you transfer immovable property inherited or received as a gift, income tax is payable on the gains received, **except if the inherited property is exempt from income tax**, e.g. in the case of immovable property returned in the course of the ownership reform.

Only the costs incurred by the recipient of the gift or the successor are considered the acquisition costs of immovable property acquired by inheritance and by way of gift, and these may be deducted from the taxable gains.

# Transfer of movable property in personal consumption

Income derived from the transfer of consumer goods, which have been in personal use, is exempt from tax.