

# 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 14 (2) of the Income Tax Act 2** ).

For the purpose of the Value-Added Tax 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 (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 sole proprietors.

## WHO IS SOLE PROPRIETOR

**Sole proprietor** is a natural person who is engaged in business. Any natural person can be a sole proprietor, 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 the general part of the Civil Code Act**).

A sole proprietor and their business as an economic entity through which they operate **is not a legal person**.

A sole proprietor 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 4 (1) and (2) of the Commercial Code**).

**Organisation of business includes the following characteristic features:**

- ✓ sole proprietors themselves decide how, to whom, where and when they provide their services;
- ✓ sole proprietors provide goods or services in their own name (independently) to other persons (purchasers/contracting entities);
- ✓ sole proprietors may employ other persons, that is, they may be employers to other persons;
- ✓ sole proprietors acquire and repair the devices, work equipment and the like used in their business,

- ✓ on own account;
- ✓ sole proprietors organise their accounting pursuant to the Accounting Act;
- ✓ sole proprietors determine the proportion of the part of their assets used in their business and the proportion of use of these assets in business;
- ✓ sole proprietors acquire materials, goods and services for their business on own account;
- ✓ sole proprietors 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;
- ✓ sole proprietors may not conclude transactions with themselves (for example, enter into a loan agreement, an asset sale contract with themselves)
- ✓ sole proprietor 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;
- ✓ sole proprietors 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 sole proprietor.