

# The ABCs for a sole proprietor

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# Suspension and termination of business

## Sole proprietors' rights and obligations upon suspension and termination of business

### SUSPENSION OF BUSINESS

If persons wish to suspend their activities as a sole proprietor, they have to submit a relevant application to the **commercial register** in advance specifying the period of time when the business does not operate (**subsection 3 (3) of the Commercial Code**). The person is not considered a sole proprietor for taxation purposes during the period of suspension of the business. Likewise, advance payments of income tax and social tax need not be paid during the suspension period. As long as the business is not suspended, all the obligations prescribed in the legislation concerning taxes apply to the sole proprietor.

If a sole proprietor's activity has been suspended for more than 12 months, according to the **Taxation Act**, the assets the acquisition cost whereof the taxpayer has deducted from his/her business income are considered to be taken into personal use and the market price of the assets is added to business income (**subsection 36 (7) of the Income Tax Act**).

The business property that was on hold to continue business activities, but after 12 months, for some reason, the activity did not continue, then the moment of personal consumption of the property is 12 months after the start of the suspension. But if such property has been given for use to another person (or taken for the sole proprietor's own use) before 12 months have passed as of the beginning of the suspension, the time of giving the property to the other person is the moment of taking it into personal use. The moment of taxation would also have arisen at the time of doing business. The moment of taking the property into personal use is the earliest moment: either when the property started to be used for other purposes or 12 months have passed since the suspension of the activity.

The expenses made during the suspension of the business may not be deducted from the business income. Whereas business income is subject to taxation regardless of the time of receipt, the income received during the suspension of the business is considered the sole proprietor's business income.

Sole proprietors should know that pursuant to **subsection 10 (4) of the Health Insurance Act**, the health insurance cover of the person is suspended two months after the entry in the commercial register of the suspension of the activities. If the person continues business after the end of the suspension period, the commercial register will submit the information of the end of the suspension to the Health Insurance Fund within ten working days. Upon receipt of the data, the insurance cover of the person will continue without a waiting period.

### TERMINATION OF BUSINESS

If a person wishes to terminate activity as a sole proprietor, it is required to submit an application to the **commercial register** on the termination of the activities and deletion from the register. The deletion is made from the commercial register on the basis of an application by the sole proprietor. If the sole

proprietor is a person liable to value added tax, it is required to apply for deletion from the national VAT register prior to submission of the application for deletion from the commercial register.

A register entry on the termination is made by the person as at the date indicated in the application if the date has not come earlier. The commercial register makes a register entry not later than on the fifth working day after signing a ruling on entry, provided that the application and documents added thereto comply with law and have been submitted within the term permitted or prescribed by law (**§ 33 of the Commercial Code**).

If a person terminates activity as a sole proprietor, it is required to submit **Form E of the income tax return** on the last financial year by 30 April of the following year. The tax return should also be submitted in the cases when the sole proprietor had neither business activities nor any business income, or the income was less than the supply exempt from tax. Upon the termination of a sole proprietor's business, deductions relating to business are made from the business income of the period of taxation and the received amount is divided by 1.33 before it is multiplied by the tax rate. Any amount of income tax and social tax subject to payment additionally must be paid by 1 October of the year following the period of taxation.

The health insurance cover of the person terminates two months after the deletion entry's date in the commercial register (**subsection 10 (3) of the Health Insurance Act**).

If the sole proprietor actually terminates business activity, but will not submit an application for the deletion of the entry about it, it is still required to make advance payments concerning income tax and social tax.

Business income may be received after the termination of business as well.

## Taxation of assets on termination of business

Upon termination of business, sole proprietors may either transfer the property used in business or it is deemed to be taken into personal use.

### TAXATION OF GAINS RECEIVED FROM TRANSFER OF BUSINESS ASSETS

If a sole proprietor transfers business assets the acquisition cost of which has been entered in business expenses in part or fully, the sales price of the assets (or the market price of other assets received by means of exchange of assets) is considered business income and is subject to taxation.

### Example

A sole proprietor sold a drill acquired for business for 192 euros, which was bought in 2010 for 3500 kroons ( 223.69 euros). The purchase price was entered in the business expenses. The sole proprietor enters the amount received from the sale (192 euros) in the business income (in line 1.1.4 of Form E).

Had the acquisition cost been entered in the expenses in part, the income from the transfer of the asset should be indicated in the sole proprietor's income i.e. the income from sale in the same proportion as the acquisition cost entered in the expenses.

### Example

A sole proprietor acquired a smoke oven for 1278 euros. Intending to use it for own personal consumption as well, the proportion of the use in business was determined as 75 per cent, so 75 per cent (958.50 euros) of the acquisition cost was entered in the expenses related to business. The smokehouse was then sold for 1182 euros. 75 per cent of the sales income received (in the same proportion as used on purchasing), i.e. 886.50 euros ( $1182 \times 75 \div 100$ ) was added to the business income.

Likewise, pursuant to [sections 48 and 49 of the Income Tax Act](#), sole proprietors may increase the acquisition cost of the taxed property by the amount subject to income tax during the taxable period when the property is transferred or taken in personal use.

### Example

A sole proprietor buys a printing press for a market price, i.e. 15 000 euros from a legal person, paying 5 000 euros. The company has paid 20/80 income tax on the remaining 10 000 euros. Later, the sole proprietor decides to sell this property for 30 000 euros. The taxable income upon transfer or taking for personal use of the property is found as follows:  
on the acquisition of the asset, the sole proprietor entered 5 000 euros in the business-related expenses. In the case of transfer of the asset (or upon taking in personal use), the selling/market price would be decreased by 10 000 euros and 20 000 euros ( $30\ 000 - 10\ 000$ ) would be entered in the expenses related to business.

## TAKING ASSETS INTO USE FOR PERSONAL CONSUMPTION

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If a sole proprietor takes into personal use the assets used previously in business and the acquisition cost has been indicated as expenses related to business whether partly or in full, this is equated with the transfer of property and the market price of the assets is declared as the business income.

In the event of later transfer of assets taken for personal consumption, the gain is taxed in accordance with the general procedure and the acquisition cost of the assets is the amount added to business income.

More information: "[Taxation of personal consumption of business assets while being engaged in](#)

**business "**.

The transfer or bequeathing of the property belonging to business assets to a person who continues the business's activities is not regarded as personal consumption. ([subsection 37 \(7\) of the Income Tax Act](#) ).

More information: Chapter XI "**Transfer or bequeath of business assets to a person who continues the business activities of the sole proprietor**".

## DESTROYED ASSETS

The write-off of destroyed and lost assets entered in business expenses is necessary in order to prevent such assets from being considered to have been taken for personal consumption at the time of termination of the business and the market price of the property should not be added to business income.

**The write-off of assets in business must be carried out only on the basis of the documentation prepared pursuant to the rules concerning organisation of accounting and the provisions of other legislation.**

Whereas in the case of cash based accounting, there are no accounting policies and procedures establishing the procedure of writing-off of assets, the sole proprietor has to make an act or a certified statement on the writing-off of the destroyed or lost assets. The act or statement must contain the type of assets and their full name, acquisition time and acquisition cost entered in business expenses, information about the destruction or loss of the assets, the reason, etc. Where possible, the confirmation of the relevant authorities on the destruction or loss of the assets should be appended to the act or statement.