

Conditions for payment of daily allowance to long distance drivers

Business trip and tax-exempt daily allowance for a business trip abroad

Long distance drivers working in an Estonian company (resident and non-resident employees) can temporarily work in another country:

- ✓ as on a business trip based on the Estonian Employment Contracts Act or
- ✓ as a posted worker on the basis of Directive 96/71/EC of the European Parliament and of the Council.

Additional information from the website of the Labour Inspectorate

Business trip Third country worker as a posted worker

Both an employee on a business trip within the meaning of the Employment Contracts Act and a posted employee within the meaning of the Directive have the right to receive compensation for the additional costs associated with the business trip, such as travel, accommodation and meal expenses.

The Estonian Employment Contracts Act applies to long distance drivers

As a general rule, the Estonian Employment Contracts Act applies to an employment contract concluded between an Estonian company (employer) and a resident or non-resident long distance driver (employee).

This position is supported by § 35 of the Private International Law Act, the subsection 1 of which states that in the case of an employment contract, the choice of law must not lead to an employee being deprived of the protection guaranteed to them by the mandatory provisions of the law of that country, which would be applicable when no choice of law has been made according to subsection 2 of § 35.

Subsection 2 of § 35 of the Private International Law Act states that where no choice of law has been made, the employment contract is governed by the law of the State where:

1. the employee habitually carries out their work to perform the contract, even if they are temporarily working in another State;

2. the place of business through which the employee was hired is situated, if the employee does not habitually work in any one State.

Subsection 3 of the same section further adds that the provisions of subsection 2 are not applied if, in their entirety, the circumstances show that the employment contract has a closer connection with another State. In such a situation, the law of the other State is applied.

In practice, the most common situation is where the place of business of the Estonian company (employer) **is located in Estonia** and the long distance driver is employed through the place of business in Estonia. Also, long distance drivers usually do not work in the same country but drive in different countries.

A long distance driver can be formalised to a business trip from Estonia and be paid a tax-exempt daily allowance for a business trip abroad based on the Estonian rules

The Estonian Employment Contracts Act stipulates that an employment contract must contain the place of performance of work, among other things (clause 8 of subsection 1 of § 8). The Employment Contracts Act only talks about one place where the work is performed, and this with the assumption that the place of performance of work is agreed upon with the precision of the local government (§ 20).

An Estonian company (employer) and a resident or non-resident long distance driver may indicate in the employment contract that the place of work is the Republic of Estonia, and specifically the employer's place of business. Therefore, the employer can also formalise a business trip from Estonia for a long distance driver (§ 21 of the Employment Contracts Act) and pay them a tax-exempt daily allowance for a business trip abroad within the limits set out in the Estonian Income Tax Act.

This is also in the situation where the employment contract of a non-resident long distance driver is subject to the Estonian Employment Contracts Act, but they work outside Estonia and therefore their remuneration is subject to income tax in their country of residence.

For example, a long distance driver who is a resident of Ukraine works in an Estonian company and whose employment contract specifies the place of business of the Estonian company (employer) as the place of work, and they make trips between Poland, Belarus, Ukraine and do not stay in Estonia at all.

The long distance driver can be formalised to a business trip from Estonia by the Estonian company and be paid tax-exempt daily allowance for a business trip abroad based on the Estonian rules.

NB! The Estonian Income Tax Act does not apply only if the long distance driver's employment relationship is governed by the law of a foreign country.

The daily allowance for a business trip abroad must compensate for additional costs resulting from the

business trip, in particular cover higher catering costs, but also compensate for other unforeseen travel and accommodation costs that the long distance driver may incur while away from home and which cannot be proven with an expense document.

The tax-exempt rate of daily allowance for a business trip abroad is:

- ✓ 75 euros per day for the first 15 days of the business trip abroad, but no more than 15 days per calendar month, and
- ✓ and 40 euros per day for each subsequent day.

Upon agreement between the employer and the employee, the daily allowance can be paid in a larger amount, but in this case the part exceeding the limit is taxed as remuneration.

For business trips within Estonia, there is no tax-exempt daily allowance limit, because the business trip is shorter in time and being away from home does not cause so many additional costs. On a business trip within Estonia, the employer cannot reimburse the employee for food expenses related to the business trip exempt from tax on the basis of expense documents.

Additional information

[Posting of a long distance driver](#)

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