Republic of Estonia
Tax and Customs Board

Fringe benefits

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About fringe benefits

Fringe benefits, according to subsection 4 of § 48 of the Income Tax Act, are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to a person specified in subsection 3 of § 48 of the Income Tax Act in connection with an employment or service relationship, membership in the management or controlling body of a legal person, or a long-term contractual relationship, regardless of the time at which the fringe benefit is granted. This means that fringe benefits may not always be linked to valid contracts. In summary, a fringe benefit is a part of salary or wages that is usually paid in a non-monetary form. As an exception, individual cash payments are also treated as a fringe benefit, and these cases are precisely specified in the Income Tax Act.

Section 48 of the Income Tax Act provides a sample list of fringe benefits, which is not final. Therefore, if the benefit provided by the employer meets the conditions of a fringe benefit, it is subject to taxation as a fringe benefit, even though the specific benefit is not listed by name in § 48 of the Income Tax Act.

Example 1
The employee is retired, but the former employer remembers him on his jubilee and gives him a gift. It is still considered a fringe benefit because the employer gives a gift because it was a former employee.

A benefit can be treated as a fringe benefit if the following conditions are met, i.e., it is a benefit granted by the employer to the employee due to an employment relationship and it is financially assessable for the employee.

If the benefit provided to the employee is treated as a fringe benefit, then it does not matter whether the employer has incurred expenses for the benefit provided.

Section 65 of the Act on the General Part of the Civil Code provides for the value of a property object, which is the usual value of such an object, unless otherwise prescribed by law or transaction. The usual value of an object is its average local selling price (market price).

Example 2
The employer receives free concert tickets from their contract partner and gives them to their employees. The foregoing is regarded as a fringe benefit, the taxable value of which is the market price of such concert tickets. Therefore, the price of the fringe benefit is usually determined on the basis of the market price of the goods or services granted as fringe benefit.

The services and goods purchased by employers for employees from both sole proprietors and users of the business account are considered as fringe benefit.

Example 3
The employer orders food for their employees via an app and also pays for the courier service.

Regardless of the fact that the courier is a business account user or a sole proprietor (FIE), tax liability arises on the fringe benefit, i.e., the costs of food and courier services.

Fringe benefits do not include cash payments normally considered to be wages or salaries, additional payments or similar payments on which income tax has to be withheld or which are not subject to income tax.

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Employer

According to subsection 2 of § 48 of the Income Tax Act, an employer is:

- a resident legal person
- a resident natural person
- a state or local government authority
- a non-resident who has a permanent establishment in Estonia (§ 7) or whose employees work in Estonia.

A RESIDENT LEGAL PERSON

A legal person is a resident in Estonia, according to subsection 2 of § 6 of the Income Tax Act, if it is established pursuant to Estonian law. European public limited companies (Societas Europaea, SE) and European associations (Societas Cooperativa Europaea, SCE) whose registered office is registered in Estonia are also residents.

According to § 24 of the Act on the General Part of the Civil Code, a legal person is either a private legal person or a public legal person. According to subsection 1 of § 25 of the Act on the General Part of the Civil Code, a private legal person is a legal person founded in private interests on a basis provided by the law concerning that type of legal person. A private legal person is a **general partnership, limited partnership, private limited company, public limited company, commercial association, foundation and non-profit association.**

According to subsection 2 of § 25 of the Act on the General Part of the Civil Code, a public legal person is the State, the municipality or any other legal person founded in the public interest under the law concerning the legal person in question.

A RESIDENT NATURAL PERSON

According to subsection 1 of § 6 of the Income Tax Act, a natural person is a resident if his or her place of residence is in Estonia or if he or she stays in Estonia for at least 183 days over the course of a period of 12 consecutive calendar months. A person is deemed to be a resident as of the date of his or her arrival in Estonia. Estonian diplomats who are in foreign service are also residents. A resident natural person is a taxable person on the basis of § 48 of the Income Tax Act if he or she acts as an employer (subsection 2 of § 2 of the Income Tax Act).

If the residency of a legal or natural person determined on the basis of an international agreement differs from the residency determined on the basis of law or if the international agreement prescribes more favourable conditions for taxation of income than provided by law, the international agreement will apply.

A STATE OR LOCAL GOVERNMENT AUTHORITY

According to § 38 of the Government of the Republic Act, the authorities of executive power are governmental authorities and state authorities administered by governmental authorities. Governmental authorities are ministries, the Estonian Defence Forces and the Government Office as well as executive agencies and inspectorates and their local authorities with authority to exercise executive power. Other governmental authorities may also be prescribed by law.

State authorities administered by governmental authorities are formed, reorganised and their activities are terminated pursuant to law.

Governmental authorities and state authorities administered by governmental authorities are registered in the state register of state and local governmental authorities.

Local government authorities are authorities and institutions administered by authorities.

A NON-RESIDENT WHO HAS A PERMANENT ESTABLISHMENT IN ESTONIA OR WHOSE EMPLOYEES WORK IN ESTONIA

The creation of a permanent establishment of a non-resident in Estonia is regulated by § 7 of the Income Tax Act. If an international agreement provides for more favourable conditions for the taxpayer with regard to the creation of a permanent establishment, the international agreement will apply.

If a non-resident has a permanent establishment in Estonia, fringe benefits granted to employees of the non-resident (regardless of the residence of the employees) will be taxed at the expense of the permanent establishment. Where an international agreement provides for more favourable conditions for the taxation of fringe benefits, the international agreement will apply. The benefits granted by a non-resident to its employees in Estonia are also subject to taxation as a fringe benefit.

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Employee

Employee as a beneficiary of a fringe benefit is a broader term than only within the meaning of the Employment Contracts Act. From the perspective of the fringe benefit, it is not important which law regulates employment relationships. According to subsection 3 of § 48 of the Income Tax Act, an employee is:

- ✓ a person employed under an employment contract
- ✓ an official (subsection 1 of § 13)
- ✓ a member of the management or controlling body (§ 9)
- ✓ a natural person who sells goods to an employer during a period longer than six months
- ✓ a natural person who works or provides services on the basis of a contract for services, authorisation agreement or any other contract under the law of obligations

Pursuant to subsection 6 of § 48 of the Income Tax Act, benefits which an employer grants to the spouse, cohabitee or direct blood or collateral relative of the mentioned person or which are granted by a person that belongs to the same group as the employer are also taxed as fringe benefit.

A PERSON EMPLOYED UNDER AN EMPLOYMENT CONTRACT

All persons who have entered into an employment contract with an employer will be deemed to be persons employed on the basis of an employment contract.

The workload the person employed, whether the employment contract has been suspended at the moment of granting the fringe benefit, whether the benefits are prescribed in the employment contract or collective agreement, etc., do not matter at the taxation of fringe benefits granted to a person employed on the basis of an employment contract.

AN OFFICIAL

According to the Civil Service Act, an official is a person who is in the public-law service and trust relationship with the state or local government.

The persons specified in subsection 3 of § 2 of the Civil Service Act (members of the Riigikogu, members the European Parliament, the President of the Republic, members of the Government of the Republic, judges, the Chancellor of Justice, the Auditor General, the Public Conciliator, members of local government councils, members of rural municipalities or city governments, elders of rural municipalities or city districts) are treated as officials for the purposes of the Income Tax Act (subsection 1 of § 13).

A MEMBER OF THE MANAGEMENT OR CONTROLLING BODY

Pursuant to § 9 of the Income Tax Act, a management or controlling body of a legal person is any authorised body or person who, pursuant to an Act governing the legal person, a partnership agreement, the articles of association or any other legislation regulating the activities of the legal person, has the right to participate in managing the activities of the legal person or in controlling the activities of the management body of the legal person.

Management or controlling bodies include management boards, supervisory boards, partners authorised to represent general or limited partnerships, procurators, founders until registration of the legal person, liquidators, trustees in bankruptcy, auditors, controllers and revision committees, etc. Directors of branches of foreign companies and managers of other permanent establishments of non-residents are also deemed to be management bodies (§ 9 of the Income Tax Act).

A NATURAL PERSON WHO SELLS GOODS TO AN EMPLOYER DURING A PERIOD LONGER THAN SIX MONTHS

Upon the sale of goods to an employer, a natural person is deemed to be an employee for the purposes of § 48 of the Income Tax Act if the goods are sold for a longer period than 6 months. The time criterion will be assessed on the basis of the length of the period during which the goods are sold. If the sale of goods is agreed for a period of more than 6 months, the natural person will be deemed to be an employee as of the beginning of such an agreement (regardless of the frequency of the sale of individual goods). The fringe benefit must therefore be granted to a person with whom the grantor of the fringe benefit has or has had an business relationship.

A NATURAL PERSON WHO WORKS OR PROVIDES SERVICES ON THE BASIS OF A CONTRACT FOR SERVICES, AUTHORISATION AGREEMENT OR ANY OTHER CONTRACT UNDER THE LAW OF OBLIGATIONS

A person providing services to an employer on the basis of a contract under the law of obligations is deemed to be an employee for the purposes of § 48 of the Income Tax Act regardless of the duration of the provision of such services.

In granting benefits to the mentioned natural persons, after the end of the supply of the services or goods provided by them, it is necessary to assess, in the case of those persons, whether or not the benefit was granted as a result of the contractual relationship.

The benefits granted or given by the employer to the spouse, registered cohabitee, cohabitee or direct blood or collateral relative of the employee are also taxed as a fringe benefit.

A cohabitee is an unspecified legal term and, as beneficiaries of fringe benefits, a cohabitee is granted the same meaning as a spouse and registered cohabitee, assuming a common economic interest regardless of the formal connection. Direct blood and collateral relatives are terms arising from the Family Law Act.

Direct blood relatives are parents and children (also grandparents, grandchildren) and collateral blood relatives are sisters, brothers, aunts, uncles.

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A person that belongs to the same group as the employer

A FRINGE BENEFIT GRANTED BY A PERSON THAT BELONGS TO THE SAME GROUP AS THE EMPLOYER

A benefit granted by a person belonging to the same group as the employer is considered a fringe benefit granted by the employer.

According to the Commercial Code, a parent company together with subsidiaries is considered to be a group. Thus, in the case of a group, it is necessary to distinguish between the employees of companies belonging to the group where the payer of taxes on fringe benefits is not the formal grantor but the company employing the person receiving the benefit.

We point out that branches are not groups. A branch is provided for in § 384 of the Commercial Code and the provisions of § 53 of the Income Tax Act apply to taxation.

An employee must notify the employer of the receipt of a fringe benefit from a person belonging to the same group as his or her employer. How the employee informs the employer of the benefit received from another company belonging to the group must be regulated by the employer itself, no such procedure has been established in the Income Tax Act. As a rule, companies belonging to a group communicate with each other and report within the group the benefits granted to employees of another company and the amount thereof.

In the case of a group, it is important to distinguish between three different cases when taxing fringe benefits.

a. The entire group is located in Estonia

For example, an Estonian parent company organises an information day within the group and bears the entire cost of the event. Catering is organised for the event.

The materials distributed on the information day (including pens) are not financially valuable benefits to the employee – they are necessary for work.

However, for the catering of employees (fringe benefit), taxes are paid by each employer itself, despite the fact that the parent company incurred the full cost. Thus, the parent company pays taxes on the fringe benefit granted to its employees and the subsidiary pays taxes on the fringe benefit granted to its employees and incurred by the parent company.

There are two main ways to find out the amount of the fringe benefit:

- ✓ the parent company submits an invoice to the subsidiary by reselling or making a claim for reimbursement of the costs of catering to its employee. In this case, the subsidiary has incurred both the costs and the taxes paid on it

- ✓ the parent does not invoice but notifies the subsidiary of the amount to be treated as a fringe benefit. How the information process takes place is decided by the group companies themselves. A subsidiary pays taxes on its employees' fringe benefits, even though it has not actually incurred the cost. The cost to the parent company will be treated as linked to its business and no double tax liability will arise.

b. An employee of a company belonging to a group located in Estonia receives a fringe benefit from a company belonging to the group and located in a foreign state

For example, an Estonian subsidiary sends its employee abroad to the parent company. The employee attends a reception, meeting, or other event where, among other things, there is catering, cultural service. Taxation in a foreign state is carried out pursuant to the laws of that state and if the expenses incurred by the parent company are subject to taxation in the foreign state (i.e., are included in taxable income, despite the fact that the specific expenses may be exempt to a certain extent), the Estonian subsidiary does not incur double tax obligations on such expenses. An Estonian subsidiary will incur tax on the special benefit granted to its employee only if the benefit is not included in the taxable income of the parent company in the foreign state (e.g., it would be taxable at the level of a natural person).

c. An employee of a foreign company belonging to a group who has come to Estonia receives a benefit from a company located in Estonia and belonging to the group

Section 48 of the Income Tax Act regulates the benefits granted by Estonian employers to their employees, which are treated as fringe benefits. Although it is a person belonging to the same group, the company belonging to the group is located in a foreign state and § 48 does not regulate the taxation of employees of companies belonging to a group and located in a foreign state in Estonia as a fringe benefit. According to Estonian law, this employee is treated as a guest and taxation is carried out in accordance with the provisions of § 49 of the Income Tax Act. Thus, there are no changes in taxation compared to the previous – these are costs of entertaining guests or gifts given to them.

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Occupational health care

TAXATION OF OCCUPATIONAL HEALTH COSTS

The occupational health obligations of employers are provided for in the Occupational Health and Safety Act and legislation issued on the basis thereof. According to these, expenses incurred by the employer for the health of employees and for ensuring the safe and secure working environment of employees (i.e., expenses incurred by the employer for the performance of its duties) are treated as business-related expenses.

The taxation of expenses related to the provision of occupational health services will distinguish between the cases in which the expenses are mandatory by the employer, when the expenses are fringe benefits, or expenses not related to business.

According to **subsection 2 of § 32 of the Income Tax Act**, expenses are related to business if the expenses are incurred for the purpose of obtaining business income subject to taxation or are necessary or appropriate for the preservation or development of such business and the connection of the expenses to business is clearly justified and also if it arises from **subsection 1 of § 13 of the Occupational Health and Safety Act**, other sections of this Act or occupational health legislation.

The expenses incurred in the activities listed in § 13 of the Occupational Health and Safety Act (including carrying out a risk assessment and taking measures arising from the latter) **are business-related expenses** and are not subject to taxation as a fringe benefit or non-business-related expenses.

If the expenses are not made on the basis of the Occupational Health and Safety Act, the expenses will be taxed as a fringe benefit.

Example
The employer has vaccinated 10 employees and paid for the vaccination of these 10 employees. Due to the nature of the work and according to the recommendations of the occupational health doctor, the employer was obliged to vaccinate only 6 employees. Thus, the cost of vaccinating 4 employees is a fringe benefit.

In certain cases, where the cost incurred is not related to the transfer of the benefit to the employee, it may be an expense not related to business.

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Obligation to spend on working environment

An employer must make expenses on the working environment in the following cases:

1. the work of officials and persons employed on the basis of employment contracts;
2. the conditions of service of servicemen in active service and the work of the employees of the Defence Forces, the Defence League, the police authorities, the Estonian Internal Security Service and rescue service agencies, insofar as not otherwise provided by specific laws or legislation established on the basis thereof do not provide otherwise;
3. the work of prisoners in prison with the specifications provided for in the Imprisonment Act;
4. the work of pupils and students in study practice;
5. the work of the management board or a member of the management body substituting for the management board of a legal person;
6. the work of a sole proprietor in the extent provided in subsections 7 and 8 of § 12 of the Occupational Health and Safety Act (§ 1 of the Occupational Health and Safety Act).

The Occupational Health and Safety Act provides for the obligations between employers and employees. The law also provides for persons who are not treated as employees but who are subject to the law equally to employees. Consequently, if the employer has incurred expenses e.g., for a person working on the basis of a contract for services, or for a sole proprietor who does not work for the employer on the basis of an employment contract, the above does not apply and the expenses incurred for such persons are taxed as a fringe benefit.

SUPERVISION OVER COMPLIANCE OF REQUIREMENTS

Supervision over compliance with **occupational health and safety requirements** in a company is exercised by the **Labour Inspectorate.**
The rights and obligations of the tax authority are provided for in the Taxation Act and supervision of compliance with the Occupational Health and Safety Act does not fall within the competence of the Tax and Customs Board.

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Areas where tax liability may arise

Tax liability may arise in the following main areas related to occupational health:
risk assessment and action plan, first aid equipment and medicinal products, vaccination, spectacles, occupational health doctor's recommendations, work clothes, non-workrooms and drinking water.

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Risk assessment and action plan

The obligations of an employer are provided by **subsection 1 of § 13 of the Occupational Health and Safety Act** and all expenses related to the performance of such obligations are exempt from tax.

In order to be able to treat expenses incurred on the working environment and arising from the

Occupational Health and Safety Act as business-related expenses, the employer must:

1. **organise risk assessment of the working environment and prepare the results of the risk assessment in writing.**
   Risk analysis will identify occupational hazards, risk factors and workers at risk, assess the magnitude of risks and the likelihood of occurrence. A risk assessment of the working environment may be carried out by a person authorised by the employer, or it may be purchased as an occupational health service. The results of the risk analysis must be preserved for 55 years.

2. **prepare a written action plan** in a format which can be reproduced, which includes measures necessary to improve working conditions and prevent damage to the health of employees and preserve work ability.

   Measures applied to ensure occupational health and safety are organisational measures, general protection measures, personal protection measures, medical measures for the implementation of which a contract is entered into with a licensed occupational health doctor.

   An occupational health service provider is a legal person or sole proprietor registered with the Health Board or holds an activity licence issued by the Health Board and who provides occupational health services.

3. **carry out internal control of the working environment,** the purpose of which is to ascertain on an ongoing basis the adequacy of the measures implemented, changes in the working environment and the need for additional risk assessment/action plan or medical examination.

The recommended measures are discussed between a specialist of the Labour Inspectorate, a working environment specialist or a competent external specialist and the employer and are included in the action plan with the consent of the employer.

The risk assessment identifies hazards in the working environment and the action plan provides for the necessary measures to reduce and prevent occupational safety and health risks to employees in each workplace, i.e., in all areas of activity of the company. Thus, these documents reveal the need and nature of the expenses incurred by a specific employer to ensure the safety of work at each workplace and the occupational health of the employee employed at that workplace, and it is easier to explain the need for a specific expense and its involvement in business to the tax authority.

The existence or non-existence of a risk assessment or action plan does not in itself create a tax liability or exempt from a possible tax liability, the tax liability still arises on the basis of the content of the expenditure. For example, if an employer has incurred occupational health expenses that cannot be attributed to its business or to the needs arising from the nature of the work of a particular employee, then such expenses are not deemed to be related to business even if they are specified in the risk assessment and action plan.

Also, if the necessity of the expense is not specified in the risk assessment or action plan, but the company is able to explain the necessity of the cost due to the legislation regulating occupational health, the cost is deemed to be related to business. In the latter case, it must be taken into account that the tax authority decides on the involvement of expenses in business based on the circumstances known to the tax authority.

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First aid equipment and medicinal products

In order to prevent or reduce health risks, the workplace must be equipped with protective, rescue and first aid equipment, safety signs and other safety equipment (**subsection 4 of § 4 of the Occupational Health and Safety Act**).

An employer must ensure that the employee has access to first aid and first aid equipment at the workplace. The expenses incurred on first aid equipment must be related to business – the equipment must be necessary and reasonable according to the nature of the work of the employee. In such case, performance of the obligation does not result in tax liability.

If the quantity of stocked first aid equipment exceeds a reasonable limit (e.g., significantly less first aid equipment has been acquired for the same number of employees in previous years), the tax authority will have a legitimate question as to the purpose for which such quantity of first aid equipment has been acquired.

The acquisition of medicinal products by an employer for employees is not included in the first aid means. If an employer acquires medicinal products for employees, the expenses incurred are not deemed to be business-related expenses and the employer is subject to tax liability.

If a company is required to acquire medicinal products pursuant to legislation, no tax liability arises upon acquisition of medicinal products.

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Vaccination

If the results of the risk analysis show that the working environment is affected by biological hazard factors, the employer must prevent the employee's health from being endangered by biological hazard factors. The employer must provide vaccination for employees exposed to biological hazards for which an effective vaccine is available. An employer must consult an occupational health doctor about the necessity and suitability of vaccination of employees. (Subsection 1, clause 7 of subsection 2 and subsection 3 of § 6 of the regulation No 144 „**Occupational health and safety requirements for working environments affected by biological hazards**" of the Government of the Republic of 5 May 2000).

The vaccination of employees is carried out at the expense of the employer and the vaccination certificate must be available. If the employer acts as described above, there will be no tax liability.

Tax liability arises when workers whose working environment is not affected by the biological risk factor against which they are vaccinated are vaccinated. For example, in case office workers are vaccinated against tick-borne encephalitis, but these office workers are not at risk of contracting tick-borne encephalitis at the workplace on the basis of a risk assessment.

If the employer sends an employee to a country where it is necessary to vaccinate the employee in advance against possible health damage, it is not important if this risk is indicated in the risk assessment. As a rule, at the time of preparing a risk assessment, there is no sufficient overview of where employees may be sent, so such risks cannot be indicated in the risk assessment. However, the expenses incurred are related to the employer's business and no tax liability arises.

ON THE TAXATION OF THE COSTS OF COVID-19 TESTING

The employer must assess the risks arising in the working environment (risk analysis, action plan). If one of the risks is infection with the coronavirus (employees encounter other employees, clients, perform duties in an infectious place, etc.), the employer will be able to compensate for the coronavirus testing costs of employees, exempt from tax, to prevent the spread of the virus and prevent other employees and clients from getting sick.

Not all costs of coronavirus testing can be reimbursed exempt from tax. For example, if an employee works in home office and wishes to take a test, then this cost is not done according to the interests of the employer. If the employer compensates the employee for the cost of testing, it is a fringe benefit.

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Spectacles

Regulation No 362 of the Government of the Republic „**Occupational health and safety requirements for working with a monitor**" of 15.11.2000 regulates the areas of activity where the regulation can be applied, the obligations of the employer, including the obligation to carry out eye and vision and musculoskeletal system condition checks, the requirements for the working environment and places of work.

The purchase cost of spectacles or other acuity-correcting aids (e.g., lenses suitable for working with a monitor) intended for working with a monitor is considered a business-related expense if the conditions specified in the above-mentioned regulation are met, i.e., if the cost is necessary for working with the monitor.

If, in agreement with the employer, the employee has been examined by an occupational health doctor, ophthalmologist or optometrist and it turns out that the employee needs spectacles or other visual acuity-correcting aids to work with the monitor, then the employer must obtain them or, in agreement with the employee, reimburse their cost. The employer reimburses the employee for expenses on the basis of the corresponding certificate – a prescription from an optometrist or ophthalmologist or a decision from an occupational health doctor.

An employer can refer an employee to an ophthalmologist or optometrist in between medical examinations carried out by an occupational health doctor and to compensate for the spectacles if the employee has developed visual disturbances.

The employer can also compensate exempt from tax for expenses related to the examination (e.g., the visit fee of an ophthalmologist or optometrist), unless the employee visited an ophthalmologist or optometrist without agreeing with the employer.

Please note that eye surgery is not an aid to correct visual acuity, but a surgical surgery or operation, which is why tax exemption does not apply to the reimbursement of such costs. It is also possible to reimburse spectacles exempt from tax for employees who do not work with a monitor, but whose work causes strain on the eyes (seamstresses, cashiers, drivers, etc.). For spectacles to be reimbursed exempt from tax, there must be a clear connection between the need for spectacles and the working environment (Occupational Health and Safety Act):

1. in the risk analysis of the working environment, the risks present in the working environment and the impact of the risks on the employee's health and safety have been assessed;
2. the risk analysis of the working environment has revealed the strain on the employee's eyes;
3. as a risk mitigation measure, the obligation to check by an occupational health doctor/ophthalmologist/optometrist and compensation for spectacles necessary for work are provided for;
4. during a health check-up by the occupational health doctor, the necessity of spectacles for work or

at the request of the employee in case of visual impairment is indicated in the decision as a recommendation, and upon agreement with the employer, the ophthalmologists/optometrists visit fee, and the cost of spectacles are reimbursed based on the prescription of the spectacles.

If spectacles or other visual acuity-correcting aids intended for work with or without a monitor are also used for activities not related to work, the proportions of work-related and non-work-related activities must be found, and the purchase cost of the aids is considered a business-related expense only partially, according to the principles established in **subsection 3 of § 32 of the Income Tax Act**. The part that is not related to business is considered fringe benefit, which is taxed accordingly to **subsection 4 of § 48 of the Income Tax Act**. If the cost of the non-business-related part is paid by the employee, the employer does not have additional tax obligations.

You can read more about compensation of spectacles on the page **„Compensation for spectacles"** of the Tööelu portal.

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Recommendations of an occupational health doctor

An employer must ensure that the health of an employee does not deteriorate while working for the employer, which is why the expenses incurred for the performance of this obligation are related to business. Thus, costs incurred for the health of an employee, the need for which arises directly from the employee's employment with that employer, regardless of whether the costs have been incurred for the organisation of rehabilitation of the employee, the planning and implementation of preventive measures, to avoid or reduce health risks, are exempt from tax.

Employer is not obliged to cover the health costs that an employee would incur if he or she did not perform the agreed work with that employer. If the employer does so, the expenditure is treated as a fringe benefit and is subject to taxation.

Based on a recommendation of an occupational health doctor, expenses made to an employee for prevention or rehabilitation due to the nature of his or her work are not subject to taxation. In accordance with good practice, the doctor clearly determines the recommendations in his or her decision (duration of treatment, number of procedures, etc.), which helps to understand the doctor's requests and accurately comply with the instructions.

Thus, the **doctor's recommendation must be understandable and enforceable** and related to the prevention or reduction of possible health damage due to the nature of the work of a particular employee (e.g., the recommendation given to an employee working with a computer to undergo a shoulder massage 10 times within a month). If the doctor's recommendation is general, the expenses are considered to be a fringe benefit. The courts have taken the same position as the tax authority, view the decision of the Tallinn Circuit Court judgement No 3-08-1465 of 24.11.2010.

Usual health expenses are not deemed to be occupational health expenses exempt from tax. Taking care of one's own health (gym, aerobics, swimming, etc.) is the employee's own responsibility and the employer has no obligation to cover such expenses. If the employer covers these costs (including on the basis of the recommendation of an occupational health doctor), it is necessary to ensure that the costs do not exceed the tax-exempt limit for sports and health expenses (400 euros in a year per employee).

Read more: **About the taxation of health and sports expenses**.

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Work clothes

An employer is required to provide, at the employer’s expense, an employee with personal protective equipment, special work clothes, and cleaning and washing means if the nature of the work so requires, and arrange training for the employee in the use of personal protective equipment (**clause 11 of subsection 1 of § 13 of the Occupational Health and Safety Act**).

Thus, work clothes, protective clothing and personal protective equipment provided by an employer are not considered to be a fringe benefit for the purposes of the Income Tax Act in a situation where, due to the nature of performance of work, it is necessary to wear the required work clothes in the performance of the duties.

As a rule, suitable clothing based on the nature of work is deemed to be work and protective clothing, which also considers the safety of work.

Employers must provide dressing rooms for employees wearing work clothes and must also provide a rooms for warming up and drying room for clothes to employees working outdoors (**subsection 3 of § 11 of the Occupational Health and Safety Act**).

If an employer establishes rules to its employees regarding wearable clothing at work (for example, employees must attend clients in respectful clothing) which cannot be regarded as the above-mentioned work or protective clothing, the employer must take into account the tax liability. If the employer reimburses the costs of acquiring the so-called respectful clothing or pays for it, then it is considered the employer providing the employee with a financially valuable benefit, which is treated as a fringe benefit according to **subsection 4 of § 48 of the Income Tax Act**.

If, for example, the employer prescribes uniform, so-called corporate clothing (formal suits, blouses, vests, shoes, etc.) for employees working in service halls, salons, etc., which is generally used at work, but which employees can also use outside of working hours, then taxation must be based on the principles set out in **subsection 3 of § 32 of the Income Tax Act**.

This means that the employer must determine the proportion of use of work clothes in business and personal consumption. If the employee pays for the part of personal consumption, there is no tax liability. If the employer pays for it, it is a fringe benefit. If the employer ensures that such clothing is only used at the place of work (employees change their clothes to work clothes before starting work and after the end of working time), there is no tax liability.

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Non-workrooms and drinking water

NON-WORKROOMS

Non-workrooms are dressing rooms, washrooms, lavatories, resting rooms, rooms for warming up in outdoor work, dining rooms and other non-workrooms. Non-workrooms must be constructed and furnished taking into account the working conditions (**subsections 1 and 2 of § 11 of the Occupational Health and Safety Act**)

If the employer acquires furniture for the resting room, furnishes a kitchenette, acquires a refrigerator, microwave oven or the like, it is not a fringe benefit, and these are business-related expenses. It also makes no difference whether, for example, drink machines are owned or held by the employer. If the employer pays rent for cold and warm drink machines, the rental cost is business-related.

So, it does not matter how the employer acquires the equipment, but what they are used for. All this provided that the mentioned things are located at workplaces. If an employer acquires furniture or kitchen equipment which is not located in the workplace but in someone's personal household, tax liability arises.

DRINKING WATER

Employers must provide the employees with quality drinking water and disposable or washable drinkware (**subsection 8 of § 11 of the Occupational Health and Safety Act**).

As this is an obligation of employers arising from the law, ensuring drinking water either by bottle, water machine or tap is a business-related expense, and no tax liability arises. Natural mineral water and unflavoured carbonated water are also considered drinking water.

Flavoured water is not drinking water, as high-quality drinking water is tasteless, colourless, and odourless.

Coffee and other beverages from the hot drink machine are treated differently. If the employees do not pay for drinks themselves, but the employer does, this is a fringe benefit.

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Occupational health care - FAQ

1. Is preventive action for the health of employees a fringe benefit?

If it does not arise from the Occupational Health and Safety Act and legislation issued on the basis thereof, it is deemed to be a fringe benefit if it creates a benefit for the employee.

2. If a company invests more in the health of its employees than the law prescribes, is it a fringe benefit?

Yes, it is a fringe benefit if the employee receives a benefit (excluding health and sports expenses **subsection 5^5 of § 48 of the Income Tax Act**).

3. Is the existence of a risk assessment and an action plan in a company absolutely necessary in making the expenses of promoting the working environment and the health of employees so that these are not treated as a fringe benefit or are these taxed on the basis of common sense and the nature of the activity of the company?

According to **subsection 2 of § 32 of the Income Tax Act**, an expenditure is considered to be related to business if this expenditure results from **subsection 1 of § 13 of the Occupational Health and Safety Act**. In any case, common sense is the starting point, but since occupational health care is a specific field, the decision-makers in this field are specialists in the relevant field (occupational health doctors).

4. If the occupational health doctor recommends muscle-relaxing exercises to the employee, for example, and the employer decides to pay for the employee's use of swimming pool, is this a fringe benefit?

If these are procedures prescribed to the employee, these are not subject to taxation. Good custom requires that the doctor clearly prescribes the treatment (duration of treatment, number of procedures, etc.) in such a way that the doctor's request is understandable and the treatment instructions can be complied. To reimburse expenses, the employer must understand the necessity of the expense and its connection with business.

The employer can reimburse the employee for the cost of using the swimming pool exempt from tax in the extent of up to 400 euros per year if the reimbursement of health and sports costs is offered to all employees (**subsection 5^5 of § 48 of the Income Tax Act**).

5. If the employer performs the obligations arising from law to check and restore the health of employees, e.g., vaccinate employees against influenza without the recommendation of an occupational health doctor, is it a fringe benefit?

According to **subsection 2 of § 32 of the Income Tax Act** an expenditure is considered to be related to business if this expenditure results from subsection 1 of § 13 of the Occupational Health and Safety Act. According to subsection 1 of § 13 of the Occupational Health and Safety Act, an employer is required to organise risk assessment of the working environment, during which the risk factors of the working environment are identified.

According to § 8 of the Occupational Health and Safety Act, biological hazards are bacteria, viruses, fungi, etc., and other biological agents which may cause an infection, allergy or intoxication. An employer must implement measures to provide protection from biological hazards present in a workplace, taking into account the infectiousness of the hazard. Occupational health and safety requirements for the work environment affected by biological hazards have been approved by Regulation No 144 of the Government of the Republic of 05.05.2000, according to **subsection 3 of § 6** of which the employer must **consult with an occupational health doctor** about the necessity and suitability of the employee's vaccination. Therefore, if the health care physician finds that vaccination of the employees is necessary, these costs are not subject to taxation as a fringe benefit.

6. Does the Tax and Customs Board treat the reimbursement of glasses by the employer to its employee as a fringe benefit?

An employer may compensate an employee for the cost of acquiring glasses or other visual acuity correction aids (e.g., lenses suitable for working with a computer) exempt from tax in case all the following conditions are met by the employer:

1. the action plan arising from the risk assessment sets out measures for preventing the reduction of visual acuity arising from working with a monitor;
2. the conditions set out in Regulation No 362 of the Government of the Republic of 15.11.2000 **„The occupational health and safety requirements for working with a monitor"** are met;

3. the employer can prove that the spectacles or other visual acuity correcting aids intended for working with the monitor are not used by the employees for non-work-related activities;
4. the employees have been referred to an occupational health doctor, ophthalmologist or optometrist for eye examination.

The cost of acquisition of the specified technical aids can be compensated exempt from tax if the obligation to acquire the technical aids arises from law or other regulatory acts, the choice, cost and use of the technical aids is regulated by the employer and the cost is necessary for the employee to work with a monitor.

If spectacles or other visual acuity-correcting aids intended for work with or without a display are also used for activities not related to work, the proportions of work-related and non-work-related activities must be found, and the acquisition cost of aids can be compensated for only partially pursuant to the principles provided for in subsection 3 of § 32 of the Income Tax Act. The part of expenses not related to work is deemed to be a fringe benefit if the employee does not compensate the employer for the part.

Please note that eye surgery is not an aid to correct visual acuity, but a surgical surgery/operation, which is why tax exemption does not apply to the reimbursement of such costs.

7. Can the costs of the medical examination of employees be included in the expenses regardless of the amount and the fringe benefit tax not be paid?

The law does not provide for limits for the medical examination of employees organised by employers, but it does limit obligations. The connection of expenditure with business must be justified and documented.

8. The regulation on working with a monitor states that if an employee needs spectacles for working with a monitor, the employer is required to compensate for the cost of the spectacles. In-use spectacles become unusable in time – they are scratched, broken, they fade, etc. How does the employer compensate for spectacles if the employee wishes to exchange the spectacles for new ones?

The employer has the possibility to compensate for spectacles if the employee wishes to replace the existing spectacles with new ones because they have become unusable.

When compensating for the cost of spectacles, the employer must proceed from the principle of reasonableness and reimburse the cost of spectacles if the employee has vision problems and new glasses or other visual acuity correcting aids are necessary to perform tasks with a monitor.

9. Is the purchase of drinking water for employees and the rental of a drinking machine a fringe benefit?

Pursuant to subsection 8 of § 11 of the Occupational Health and Safety Act, an employer must ensure that employees have high-quality drinking water and disposable or washable drinking utensils which comply with the requirements. When it comes to taxation, it does not matter whether the employer provides drinking water with running water from a tap or water containers, it is important that it is drinking water that meets the requirements.

Therefore, providing employees with high-quality drinking water is not a fringe benefit, just like purchasing drinking utensils. However, the tax exemption does not extend to flavoured water, because high-quality drinking water is colourless, odourless and tasteless.

Renting a drinking water machine, like renting a coffee machine, is a business-related expense and is not subject to taxation. If the employer pays for drinks from a coffee machine, this is a fringe benefit. If the employees pay for the drinks themselves, it is not a fringe benefit.

10. A company rents hot drink machines for its employees, and there is also a canteen for employees in the office building, with rented kitchen equipment. Are the rent payments considered fringe benefit?

According to subsection 1 of § 11 of the Occupational Health and Safety Act, dining rooms are considered non-workrooms, and according to subsection 2 of the same section, non-workrooms (including dining rooms) must be furnished. Therefore, the rental of hot drink machines and canteen kitchen equipment cannot be treated as a fringe benefit. If the employer pays for drinks from a coffee machine (coffee, tea, etc.), this is a fringe benefit. If the employees pay for the drinks themselves, it is not a fringe benefit. Also, the acquisition of refrigerators, microwave ovens, etc., is not treated as a fringe benefit.

11. Can an employee be reimbursed for blue light protection glasses for working with a monitor to protect the eyes and reduce eye strain?

If, on the basis of a risk assessment of the working environment, the employer has established that, in order to reduce the employee's fatigue and eye strain, it would be necessary to use blue light blocking spectacles for working with a monitor or blue light blocking spectacles have been recommended by an occupational health doctor in a medical examination decision, the employer is able to compensate for the glasses with a tax exemption.

If the occupational health doctor has made a corresponding recommendation in his or her decision, the employee cannot claim compensation for glasses based on this, because compliance with the occupational health doctor's recommendations is optional for the employer. However, the employee can demand that health risks are mitigated. Thus, the employer can mitigate risks with some cheaper, but equally effective, measures that give the same result as spectacles.

12. Can the employer reimburse the cost of eye drops (moisturisers) tax-free (for employees who work with monitors)?

The employer must purchase artificial tears or reimburse their cost if:

1. in the risk assessment of the working environment, the employer has seen artificial tears as one of the possible measures to reduce the dryness of the employees' eyes;
2. the risk assessment of the working environment does not set it out as one measure, but the occupational health doctor has prescribed the need for artificial tears in the medical examination decision;

3. the need is set out in the risk assessment of the working environment as well as in the medical examination decision.

In the above case, the cost of the artificial tears purchased/compensated to the employees is considered to be business-related expenditure which is not taxed (subsection 1 of § 13 of the Occupational Health and Safety Act).

The employer does not have to compensate for artificial tears if the corresponding measure is not included in the risk assessment or the occupational health doctor has not deemed it necessary as part of the medical examination.

The employer may also accept a certificate from an optometrist/ophthalmologist stating that the employee would need artificial tears to reduce dry eyes and provide or compensate employees for their cost tax-free. The optometrist/ophthalmologist makes decisions with the goal of improving the employee's vision, so if the doctor recommends the use of artificial tears, it is for the benefit of the employee's eyes and vision.

In a situation where the employer does not accept the decision of the optometrist/ophthalmologist or there is doubt whether the employee still needs artificial tears, the employer has the right to refer the employee to an occupational health doctor.

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Employer’s car

Fringe benefit arises when the employer's car is allowed to be used for private rides. This means that it is not important to use the employer's car for private rides, but to enable the use of the car. Reimbursement of private rides when using the employer's car is also not important, because it does not change the taxation of the fringe benefit.

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Taxation procedure of fringe benefits

The price of a fringe benefit for enabling the use of an automobile in the ownership or possession of the employer for activities not related to employment or service duties or to the employer's business is:

- 1.96 euros per month for a new car (for an engine power unit kW)
- in the case of a car older than five years, the price of a fringe benefit is 1.47 euros for an engine power unit (kW).

The motor power (kW) of a passenger car can be found in the **motor register of the Transport Administration** or in the passenger car registration certificate (technical passport).

In the case of hybrid passenger cars, the basis is the maximum power (kW) of the internal combustion engine stated in the motor register of the Transport Administration or in the technical passport.

In the case of electric and gas-powered cars, the basis is the maximum power (kW) of the internal combustion engine stated in the motor register of the Transport Administration or in the technical passport.

The price of the fringe benefit can also be calculated on a kilowatt basis for a van (category N1 vehicle) which the employer allows to use for private driving.

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Keeping driving records

It is not possible to reimburse private rides based on accounting and therefore keeping a logbook of driving records is not necessary. However, if the employer wants to prove that the car is used only for business purposes and business rides, it is possible to keep a logbook (for example, electronic GPS-driving records or the like).

If it is certified that the employer allows the car to be used only for business rides, no fringe benefit will arise. As the taxation of fringe benefits does not depend on the use of the car for private rides and private journeys cannot be compensated based on accounting, then even in the case the employer leases out the car to an employee at a preferential or market price, the tax liability on fringe benefits, nevertheless, arises on the kilowatt-based calculation.

If a car rental company or a lessor leases out a car to its employee as a customer with the rental market price, then the car rental company or the lessor will not have a tax liability on fringe benefits.

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Notifying the Transport Administration

If an employer does not enable the use of its car for private rides, the employer has to notify the Transport Administration about it.

If a company leases out a car to another company or a private person, then a notation must be made in the motor register of the Transport Administration that the car is used only for the performance of work duties. A lessor cannot guarantee that the lessee only makes business trips with the car. If the lessee allows its employees to use the car for private rides as well, regardless of the notation in the motor register of the Transport Administration, the lessee must declare and pay taxes on fringe benefits for the car.

The Transport Administration can be notified through the **e-service** and at the **Transport Administration's service bureaus**.

The Transport Administration must be notified only about the use of M1 category vehicles (passenger cars) for business rides. The use of N1 category vehicles (vans) does not need to be reported.

If, according to the Transport Administration, the company owns or uses cars with valid insurance and these are used only for the performance of work duties, please check that the persons doing the work are registered in the employment register and their wage payments are declared in Annex 1 and 2 of the Form TSD. To make business rides, the company must have registered employees.

If the Transport Administration has not been notified/there is no corresponding notification, it is considered that the employer allows employees to use the company car for private rides. Therefore, it is necessary to fill in code 4040 (“The enabling of a use of a vehicle of the employer for activities not related to employment or service duties or to the employer’s business") in Annex 4 of the form TSD and pay the tax liability.
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Declaration and tax liability

DECLARATION OF FRINGE BENEFITS

Fringe benefits are declared on Annex 4 of tax declaration Form TSD by the tenth day of the following month. Enabling the use of the employer's car is declared in Annex 4 of the Form TSD under code 4040 "The enabling of a use of a vehicle of the employer for activities not related to employment or service duties or to the employer’s business". The tax liability on fringe benefits is usually paid on the basis of Form TSD.

TAX LIABILITY ON FRINGE BENEFITS

The tax liability of the fringe benefit is calculated on the engine power of cars (1.96 euros per kW or, if the car is older than five years, 1.47 euros per kW).

Example 1
For a new 190 kW passenger car, the price of the fringe benefit is 1.96 × 190 = 372.40 euros, and taxes are calculated on it as follows:
income tax 372.40 × 22/78 = 105.04 euros
social tax (372.40 + 105.04) × 33% = 157.56 euros
total tax liability is 105.04 + 157.56 = 262.60 euros.

Example 2
For a new 90 kW passenger car, the price of the fringe benefit is 1.96 × 90 = 176.40 euros, and taxes are calculated on it as follows:
income tax 176.40 × 22/78 = 49.75 euros
social tax (176.40 + 49.75) × 33% = 74.63 euros
total tax liability is 49.75 + 74.63 = 124.38 euros.

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Using a passenger car exclusively for business purposes

If a company wishes to deduct 100% input value added tax on the acquisition and use of a passenger car and not pay taxes on the fringe benefit, it must be ensured that the passenger car cannot be used for a non-business purpose.

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Proof of using a passenger car in business

The statement that a car is used exclusively for business purposes can also be made by the company representative only orally, and this is one of the pieces of evidence in the inspection of the circumstances related to the use of the car. However, such a statement can be considered general if it is not possible to determine how and in what way the use of the car exclusively for business purposes is specifically guaranteed. Although the law does not explain what evidence the taxpayer must use to prove that the expenditure is related to business (and taxable supply), the courts have explained that the taxpayer must organise its business activities in such a way that economic transactions are properly documented and important circumstances for determining tax liability are verifiable [1]. In addition, the court has stated that economic transactions may be certified only by invoices, but in this case they must be clear, credible and specific [2].

[1] Decision No. 3-3-1-15-13 of the Supreme Court of Estonia of 04.06.2013
[2] Decision No. 3-09-773 of the Tallinn Circuit Court of 22.10.2010

The same conditions apply to the deduction of input value added tax on the expenses related to passenger cars (including acquisition) and to proving the use of the passenger car exclusively in business – this means that the use of the passenger car during the taxation period must be verifiable and, at the request of the tax authority, certified by the taxpayer (there is a company decision, employees have been informed and the use is monitored).

The following are simplified questions to which the owner/responsible user of a passenger car used exclusively for business must **pay attention** if the tax authority wishes to check the purpose of use of the passenger car. The list of questions is not exhaustive.

- How is it ensured that the car is not used for private rides?
- What is the monthly mileage of the car?
- Where is the car kept during non-working hours?

- Who uses/can use the car?
- What is the fuel consumption of the passenger car (in a situation where the company has several vehicles, it is important to understand the fuel consumption of each passenger car)?
- Which rides have been made with the car – how is the mileage related to business?
- Has (have) the driver(s) of the car been fined during the inspection period (traffic fines, parking fines)?
- If there are more vehicles than employees, there must be a reasonable explanation.

The fact that it is not a car used exclusively in business is indicated by the following circumstances:

- persons not related to the company are indicated in the passenger car's technical passport;
- non-business-related equipment is installed in the car (ski box, bike rack for cars, safety seat, etc.);
- the company has more cars than users, and it cannot be reliably explained that the cars were acquired based on business rather than following the interests of related parties;
- in a company with only one board member (who can be the sole shareholder at the same time) and no employees, the board member or his or her family does not have another vehicle with which to make private rides.

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Keeping records

KEEPING RECORDS OF CARS USED EXCLUSIVELY IN BUSINESS

To make it easier for an entrepreneur to prove the use of a passenger car only in business, the following calculation may help. This is not the only option, and the company may use another credible way to prove it.

- ※ The entrepreneur decides whether private rides can be made with the cars he or she owns or not. Employees must also be informed of the decision.

- ※ The entrepreneur establishes rules for using cars exclusively in business. This is an internal document of the company, in which the topic related to passenger cars is clearly fixed, and the company must submit it immediately during an inspection.
  The rules of using cars establish:
  - ✓ that personal rides are not permitted;
  - ✓ the location where the car is kept when it is not used for business rides, and if the location is different from the company's place of business, then an economic justification is provided as to why it is expedient to store the vehicle in the specified location;
  - ✓ the users of the car, and whether and how the use is organised (e.g., whether contracts have been drawn up with the employees regarding the use, where the conditions are stated; if the vehicle is used by several employees, how is the return of the keys organized, etc.).

In addition to establishing the usage regime, the actual use of the cars must also be monitored. For example, if the rules of use stipulate that company-owned cars may not be used for private rides and that they must be parked in the company's parking lot at the end of the working day, then it must be possible for the company to check this.

To ensure verifiability, records of the passenger car can be kept, for example, based on GPS placed in the car or the following indicators:

- ✓ monthly fixation of the initial and final mileage of the odometer so that it is possible to determine the monthly mileage;
- ✓ the names and addresses of customers, cooperation partners, etc., to whom the employees drove in a month (if this information can be found elsewhere, double counting is not necessary);
- ✓ an explanation of work rides if these partly overlap with personal interests. For example, going home or parking at home (if it is a car used exclusively for business, but one night the employee needs to go home, because he or she needs to go directly to a business assignment early in the morning from home).

There are several ways to keep records, such as using automatic journey accounting systems/applications or driving logbooks, from which or with the evidence added to it, it is possible to show the connection of the rides with business (for example, the names of customers related to the purpose of the ride are indicated, the information on refuelling is included so that the number of fuel receipts and the number of refuelling can be compared).

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Emergence of fringe benefit on employer's vehicles

According to subsection 4 of § 48 of the Income Tax Act, fringe benefits are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to an employee in connection with working for an employer. Among other things, the use of a vehicle of the employer free of charge or at a preferential price is considered fringe benefit.

The purpose of taxation of fringe benefits is equally to tax both monetary and non-monetary benefits given to an employee. It is important to note that the employee's monetary income is taxed as a fringe benefit, not the employer's expense. Therefore, it can sometimes happen that the employer has not (directly) made an expenditure, but a fringe benefit has still been granted and the tax liability has arisen.

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What is considered a vehicle?

An employer's vehicle is considered to be a vehicle in the employer's possession – whether it is owned by the employer, acquired on the basis of a lease agreement, rented, in use (free of charge) on the basis of a usufruct agreement, etc. It is important that while the vehicle is put at the employee's disposal, it is owned or held by the employer.

As the Income Tax Act does not specifically address what is considered to be a vehicle, the definition of a vehicle is based on the legislation in which that concept is set out. According to the Road Traffic Act, a vehicle means a device powered by a motor or in another way, designated for road traffic or driving on the road. Therefore, when a fringe benefit arises, it does not matter what type/category of vehicle is involved. Whether it is a car, truck, bus, ATV, motorcycle, tractor, etc., if the employer allows the employee to use the vehicle owned or in the possession of the employer for free or at a preferential price for the employee's private rides, a fringe benefit arises and, also, a tax liability.

For employer's passenger cars (M1 and M1G category vehicles), the legislator has established specific rules for calculating the tax liability. The reason is the fact that enabling the employee to use the employer's car is very common and calculating the tax liability according to the general rules for giving property to use would be too burdensome for the taxpayer.

In the case of the employer's van (N1 category vehicle), the legislator has given the taxpayer the opportunity to choose whether the price of the fringe benefit for private rides is calculated:

1. based on the rental market price,
2. based on the difference between the rental market price and the preferential price or
3. the calculation of the fringe benefit is based on the power of the vehicle's engine and the age of the vehicle. With new cars, the price of the fringe benefit is 1.96 euros per month for an engine power unit (kW) of the automobile as indicated in the motor register. In the case of an automobile older than five years, the price of the fringe benefit is 1.47 euros for an engine power unit (kW) of the automobile.

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Taxation procedure of fringe benefits

WHAT IS THE PROCEDURE FOR CALCULATING THE FRINGE BENEFIT FOR VEHICLES OTHER THAN PASSENGER CARS?

In order to calculate the tax liability correctly, the **procedure for determining the price of fringe benefits** established by the Minister of Finance must be followed. Pursuant to clause 1 of § 2 of the regulation, if the fringe benefit is the grant, free of charge or at a preferential price, of an asset, incl. a vehicle (except a passenger car), owned or held by the employer, for the use of work, official or service tasks or for activities not related to the employer’s business, **the price of the fringe benefit is deemed to be the market price for the rent of such asset or the difference between the market price for the rent and the preferential price.** Market price is the price used by independent parties in their transactions under similar conditions, such as in the case of vehicles, the price and conditions with which vehicles are rented to their customers by vehicle rental companies. The full price of the fringe benefit is taxed.
The regulation of the Minister of Finance does not stipulate how the employer should document enabling

the use or not enabling the use of vehicles owned by the employer for personal rides. General documentation requirements apply here, i.e., the employer must be able to prove with sufficient documents whether and how the rides made with this vehicle are/were related to its business or not. If there are enough documents to make sure that all rides made with the vehicle were related to business and that personal rides (free or with a preferential price) of employees were not made, then no tax liability arises.

Example
The employer owns an N1 category van with which the employee also makes personal rides. However, since the employer does not charge the employee for these rides, the employee has received a fringe benefit – the opportunity to use the car for free.
To calculate the price of the fringe benefit and the tax liability, the employer chose the market price of renting the van.
For example, if the rental conditions and the rental price for such van in vehicle rental companies is 32 euros per day for long-term rental, regardless of the actual mileage, the employer can calculate the price of the fringe benefit based on it. If the employee used the van for a whole month, i.e., 30 days, the price of the fringe benefit is 32 × 30 = 960 euros.
The income tax liability is 960 × 22/78 = 270.77 euros, and the social tax liability is (960 + 270.77) × 33% = 406.15 euros. Therefore, in the case of giving such van to an employee for free use for a month, the employer must consider the income and social tax liability of 676.92 euros.

Of course, the rental conditions and prices of the rental companies are not always the same, and to determine the market price, it must be based primarily on conditions like those of the employer itself.

Since, pursuant to the Income Tax Act and the regulation of the Minister of Finance, a fringe benefit arises from giving any employer's property to an employee for personal use free of charge or at a preferential price, the use of employer's property that is not a vehicle in the sense of the Road Traffic Act (e.g., boats, launches, etc.) may also give rise to a fringe benefit. For the use of such assets, fringe benefit is calculated in the same way as for the use of vehicles.

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Value added tax calculation related to passenger cars

A procedure applies to passenger cars and the goods and services purchased for their use, according to which instead of taxing the self-supply of a passenger car, **the deduction of the value added tax (VAT) paid on the purchase of the passenger car** (including renting, leasing) **and the goods and services for its**

use is limited. The overall limit for the deduction of input VAT is 50%.

Therefore, when **purchasing a car to use in business-related activities** or **using it based on a usage agreement** and **receiving goods and services for this car, 50% of the input VAT is generally deducted** from the calculated VAT. Essentially, 50% is considered to be the percentage of using a car in business.

The limitation of deducting input VAT applies to a vehicle of category M1 (including M1G) the gross weight which does not exceed 3,500 kilograms and which does not have more than 8 seats in addition to the driver's seat.

If a taxable person also has **supply exempt from tax or activities that are not considered business,** then these circumstances must also be taken into account when deducting input VAT.

Car-related costs are, for example, motor fuel, spare parts, maintenance, repairs, parking fees, costs for car transport (ferry tickets).

The following **are not considered as the costs** of a passenger car:

- the costs of placing advertisements on vehicles – these costs are not related to using vehicles, but to advertising;
- purchase or rent of a trailer.

If, **in addition to business rides, private rides** are made **with a passenger car purchased for a company,** then 50% of input VAT (or less, for example, if part of the company's supply is exempt from tax) is deducted from VAT upon the purchase or use of a passenger car used for business under a contract of use and upon receipt of goods and services for it. Therefore, regardless of the extent to which the vehicle used for business is used for private consumption, the input VAT can be deducted to the extent of 50%.

The transport of employees between the place of residence and the place of work with the employer's passenger car **is not deemed to be use of a passenger car for private purposes (i.e., it is deemed to be use of a passenger car for business purposes), if the conditions provided for in subsection 5^1 of § 48 of the Income Tax Act are met.** Read more from the article „**Transport of employees to work and home pursuant to subsection 5^1 of § 48 of the Income Tax Act**".

EXAMPLES OF DEDUCTING INPUT VAT

Example 1
A passenger car is **both in business and in private consumption.** The car is used for taxable supply in the extent of 60% and for tax-exempt supply in the extent of 40%.

Motor fuel was bought at a price of 50 euros + VAT 11 euros.
3.30 euros of input VAT can be deducted (11 × 0,5 × 0,6).

Example 2
A passenger car is used **exclusively for business purposes.** The car is used for taxable supply in the extent of 60% and for tax-exempt supply in the extent of 40%.
Motor fuel was bought at a price of 50 euros + VAT 11 euros.
6.60 euros of input VAT can be deducted (11 × 0,6).

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Exceptions

Subsection 4 of § 30 of the Value-Added Tax Act provides exceptions when the deduction of VAT paid for a car and receiving goods and services for its use is not limited.

Exception applies in the following cases.

- The car is purchased for **sale** or **rental.**
  It is important that cars purchased for sale or rental are **not taken into use by themselves.**
  When a car purchased for sale is put into use for another purpose, the **input VAT deducted at the time of purchase must be adjusted.** The correction must be made in the taxable period, when the taxable person takes the car purchased for sale to its own use. If the taxable person is also involved in granting vehicles into use and, for example, a car purchased for sale is rented out, the 2-year period starts counting from the car rental.

- The passenger car is mainly used for **passenger transportation** or **driving practice for a fee.** Taxable person has the right to **deduct input VAT in full** for the vehicle used for business and the goods and services purchased for its use, even if the vehicle is mainly used for the carriage of passengers for a charge on condition that the taxable person has a **Community licence** and a **certified copy** of the Community licence or, in the case of the provision of taxi service, a **taxi licence and a licence card**.
  Private consumption is taxed as self-supply according to **subsection 7^1 of § 12 of the Value-Added Tax Act**.
  According to **subsection 7^1 of § 12 of the Value-Added Tax Act** the taxable value of self-supply for the use of these passenger cars is: the price of the fringe benefit calculated on the basis of the Income Tax Act ÷ 1.22.

- Therefore, granting your employee the use of a car that is mainly used for the provision of a paid passenger transport service or driving practice is taxed. Unlike other passenger cars, it is possible to deduct 100% of the input VAT on these vehicles even if the car is used for private consumption. It is important that the vehicle meets the conditions set out in **clauses 3 or 4 of subsection 4 of § 30 of the Value-Added Tax Act**.

  The taxable value, including VAT, of the self-supply resulting from the use of a car used mainly for passenger transport or for educational purposes and an N1 category truck (van) with a gross weight of up to 3,500 kilograms for private rides is the price of fringe benefit calculated on the basis of the Income Tax Act. According to the Value-Added Tax Act, self-supply cannot arise from the use of other passenger cars for private rides.

- The car is used **exclusively for business purposes.**
  The exception is applied only if the passenger car is directly necessary for business and this car is used exclusively for business.

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Keeping records of the use of the car

A taxable person who applies the aforementioned exceptions and has fully deducted the input VAT on the car and related expenses **must ensure** that t**he use of the passenger car in question for non-business rides is not possible** and may continue to keep records of the use of the car.

The entrepreneur decides which way to keep records – the goal is to ensure that the entrepreneur's passenger car is used only for business purposes. For example, an entrepreneur can, among other things, keep a **detailed record, i.e., a driving log,** or use a **GPS service** provided by a third party.

In general, a car used exclusively for business purposes should be **parked at the company during non-working hours.**

The company must decide:

- how a car is used,

- how such use is secured, and

- how it is possible to check the use of the car both by the management and the tax authority.

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Private use of cars

If a car used in business is also **for private use**, regardless of whether the employee reimburses the costs related to the use of the car or not, the use of such a car **is not considered to be used exclusively for business purposes.**

This procedure also applies to companies the field of activity of which is granting cars to use, and which provide **cars for their employees to use for a charge.**

To avoid double taxation, the **private use of a car is not taxed as self-supply** and granting **the use of a car for a charge** to an employee, servant or member of a management and control body of the taxable person **is not considered supply.**

The use of a company car for personal rides is taxed with a fringe benefit based on the **vehicle's capacity.**

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Business trips

The rights and obligations of sending employees to business trips are stipulated in the **Employment Contracts Act**.
The Regulation No. 110 of the Government of the Republic „**Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment**” (hereinafter the Business Trip Regulation) of 25 June 2009 provides for the

formalisation of business travel and reimbursement of tax-exempt expenses.

- The employer may send the employee to perform work duties outside the place of work specified in the employment contract. A business trip cannot last more than 30 days unless the employer and the employee have agreed on a longer period.

- The employee's consent is not required if they are sent to a business trip for a period not exceeding 30 days. A pregnant woman and an employee who is raising a child under the age of three or a child with a disability may be sent on a business trip only with the employee's consent. An employee who is a minor may be sent on a business trip only with the prior consent of the minor and their legal representative (§ 21 of the Employment Contracts Act).

REIMBURSEMENT OF EMPLOYEE'S EXPENSES

Employees have the right to demand reimbursement of the costs associated with business trips in accordance with clauses 2-4 of § 628 of the Law of Obligations Act. An agreement on reimbursement of expenses at the expense of wages is void. An employee has the right to demand compensation for the costs associated with a business trip. In the case of a business trip abroad, an employee also has the right to demand daily allowance related to the business trip abroad on the conditions and to the extent of the minimum rate, unless the parties have agreed upon compensation at a higher rate (subsections 1 and 2 of § 40 of the Employment Contracts Act).

An employee has the right to demand compensation for possible expenses relating to a business trip within a reasonable time before the beginning of the business trip.

An employee has the right to refuse to go on a business trip if the employer has not made an advance payment within a reasonable time (subsection 4 of § 40 of the Employment Contracts Act).

Since the term „reasonable time„ is an undefined legal concept, it should be based on the principle that the employer's advance payment should reach the employee by the time the employee needs to buy tickets, exchange currency, etc.

It is not considered a business trip, and no compensations or daily allowances are paid as established by the Business Trip Regulation if the employee makes trips between the place of residence and the place specified in the employment contract.

All expenses related to business trips are reimbursed on the basis of documents certifying the expenses. The legislator has not set limits for the expenses related to a business trip (except for the tax-exempt daily allowance). Pursuant to subsection 3 of § 2 of the Business Trip Regulation, the employer makes a written decision to reimburse the costs of the business trip and pay the daily allowance, which indicates the destination, duration and task of the business trip, as well as the rates of the reimbursed costs and daily allowance of the business trip abroad.

If there is no written decision of the employer, or if it turns out that it was not a business trip, the payments made on the basis of expense documents must be taxed and declared as a fringe benefit given by the employer to the employee. Monetary transfers to employees are taxed as income from employment.

The Employment Contracts Act and the Business Trip Regulation cannot be applied to sole proprietors. A sole proprietor cannot be reimbursed tax-exempt for expenses incurred when travelling outside of their usual location, as the expenses incurred due to work duties are expenses related to their business.

Expenses are not taxed if the employer cancels the employee's business trip abroad due to the spread of the coronavirus.

Prepaid transport costs, accommodation costs, etc. are treated as business-related costs.

When cancelling a business trip abroad, the employer protects the health of its employee, which results from the **Occupational Health and Safety Act** (the employer is obliged to take preventive measures to avoid health risks). The costs of various disinfectants are also treated as non-taxable business expenses.

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Business trips within Estonia

An employee is on a business trip if an employer sends the employee to perform their duties to a place other than their usual place of work, including both within Estonia and outside Estonia (a business trip abroad).

In the case of a business trip within Estonia, it is not possible to pay tax-exempt daily allowance for a business trip to an employee. If the employer does decide to pay a daily allowance on a domestic business trip, this payment is considered part of wages and must be taxed and declared as wages (Annex 1 to the TSD).

Employees must be reimbursed for all reasonable expenses incurred by them in the performance of their duties. Costs that are considered reasonable are those that are necessary for the performance of duties, i.e. without which the duties could not be performed or the quality would suffer significantly.

Examples of **business trip costs**:

- travel expenses to the destination,
- accommodation,
- parking costs, etc.

More information on business trips within Estonia can be found from **the "Tööelu" portal** (the Labour Inspectorate's information channel).

Last updated on 07.08.2025

Daily allowance of a business trip abroad

The minimum daily allowance for a business trip abroad is 40 euros.

The daily allowance for a business trip abroad in the rate of 75 euros for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day is not subject to taxation (clause 3 of subsection 1 of § 7 of the Business Trip Regulation).

Example 1
An employee is on a business trip abroad on 3 February. The business trip lasts one day, and the employee is paid the daily allowance of a business trip abroad in the amount of 75 euros.
The same employee is on a business trip abroad from 7 February until 22 February. The business trip lasts for 16 days, and the daily allowance of a business trip abroad is paid as follows:
75 euros per day for the period from 7 to 20 February (14 days)
40 euros per day for the period from 21 to 22 February (2 days).

Example 2
An employee is on a business trip abroad from 20 January until 27 January. The business trip lasts 8 days and the employee is paid the daily allowance of a business trip abroad in the amount of 75 euros.
The same employee is on a business trip abroad from 28 January until 12 February. The business trip

lasts for 16 days, and the daily allowance of a business trip abroad is paid as follows:
75 euros per day for the period from 28 to 31 January (4 days)
75 euros per day for the period from 1 to 11 February (11 days)
40 euros per day for 12 February (1 day).

Example 3
An employee is on a business trip abroad from 4 March until 18 March. The business trip lasts 15 days and the employee is paid the daily allowance of a business trip abroad in the amount of 75 euros. The next business trip of the same employee lasts for 18 days (from 28 March until 14 April) and the daily allowance of a business trip abroad is paid as follows:
40 euros per day for the period from 28 to 31 March (4 days)
75 euros per day for the period from 1 to 11 April (11 days)
40 euros per day for the period from 12 to 14 April (3 days).

Example 4
An employee is on a business trip abroad from 25 April until 8 July. The business trip lasts for 75 days and the daily allowance of a business trip abroad is paid to the employee as follows:
75 euros per day for the period from 25 to 30 April (6 days)
75 euros per day for the period from 1 to 9 May (9 days)
40 euros per day for the period from 10 May to 8 July (60 days).

According to subsection 4 of § 4 of the Business Trip Regulation, an employer **may** (but does not have to) reduce the daily allowance rate for a business trip abroad by up to 70 percent if free meals are provided to the person sent on a business trip during the stay at the business trip location. The possibility to reduce the daily allowance provided in the subsection 4 of § 4 of the Business Trip Regulation is not related to the taxation of daily allowance and it is, by its nature, an employment law provision which allows the employer to reduce the daily allowance up to 12 euros (40 x 70% = 28; 40 – 28 = 12) in case the employee is provided with catering.

When paying daily allowance above the limit, the part exceeding the limit must be declared and taxed in the same way as employment income (codes 10-13 of Annex 1 of form TSD).

Last updated on 06.08.2025

Sending an employee on a business trip by several employers

If an employee has several employers who send them on a business trip at the same time, the employee is required to notify the employer of the decision to send them on a business trip and of the daily allowance assigned to them (§ 6 of the Business Trip Regulation).

If an employee is sent on a business trip abroad by several employers at the same time, the employee must be guaranteed at least the minimum daily allowance of 40 euros per day. At the same time, a maximum tax-exempt rate applies to daily allowances paid by several employers, which is 75 euros for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day.

In order to ensure the clarity of the taxation of the daily allowance paid by several employers at the same time, the **employee is obliged** to inform their employer of the decision to send them on a business trip and of the daily allowance assigned to them. If one employer pays a daily allowance to the employee and the other employer receives information about the payment of the daily allowance, the second employer does not have to pay daily allowance if the assignment takes place during the same period. This is because the daily allowance paid by the employer who made the decision to send the employee on a business trip first is taken into account first. If the notified employer still decides to pay the employee daily allowance, the fact must be taken into account that the maximum tax-exempt rate of daily allowance paid by several employers is 75 euros for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day. The notified employer can calculate the part of the daily allowance that exceeds the maximum tax-exempt rate in case of payment of the daily allowance. It is subject to taxation as employment income by the notified employer.

If the employee sent on a business trip is a **member of the board of all the legal entities sending them to the business trip** and makes a decision about sending them on the business trip at the same time on behalf of all persons, then they have the decision-making authority over which company formalises the business trip first and can pay daily allowance up to the tax-exempt limit. The tax-exempt rate of the daily allowance paid by several companies to a board member is also the same: 75 euros for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day.

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Conditions for payment of daily allowance

If an employee must go to another business trip abroad on the day of their arrival from a business trip, they can be paid tax-exempt daily allowance in the amount of a single rate. Pursuant to subsection 4 of § 4 of the Business Trip Regulation, this kind of a situation is not possible where an employee receives tax-exempt daily allowance at a double rate when coming from one business trip and going to another business trip on the same day.

For the time spent on travelling and at the place of the business trip, the employee is paid the daily allowance for a business trip abroad, if the business trip location is in a foreign country and at least 50 kilometres from the border of the settlement where the place of work is located (subsection 1 of § 4 of the Business Trip Regulation).

According to the Employment Contracts Act, it is assumed that the place of work is agreed upon with the precision of a local government unit. The minimum distance of the destination of a business trip from the border of the settlement where the place of work is located, provided for in the Business Trip Regulation, has been established primarily for the purpose of defining a certain minimum distance between the workplace and the destination of the business trip, for which the employee has the right to receive a daily allowance from the employer. Otherwise, for example, travelling to another country even a few kilometres away from a workplace near the border would give the right to apply for daily allowance.

The distance between the border of the settlement where the workplace is located, and the destination of a business trip can theoretically be determined in three ways:
a) aerial distance
b) distance actually travelled by the selected route
(c) distance by the usual and reasonable and most commonly used route.

Due to the purpose of the said provision, the Tax and Customs Board will proceed in its implementation from a distance by the usual and reasonable and most commonly used route.

The daily allowance for a business trip abroad is paid in accordance with subsection 2 of § 4 of the Business Trip Regulation:

- ✓ for the day of departure for a business trip abroad, if the vehicle bound for a foreign country leaves no later than 21:00
- ✓ for the day of arrival from a foreign country, if the vehicle arrives after 3:00.

Example 1
The business trip starts on 20 January, and the vehicle bound for a foreign country leaves at 20:50. Daily allowance is paid for the day of departure. Had the vehicle left at 21:20, daily allowance could not be paid tax-exempt.

Example 2
The business trip ends on 23 January and the vehicle arrives from abroad on 24 January at 03.08 in the night. Daily allowance is paid for the days of the business trip abroad on 23 and 24 January. Had the vehicle arrived from a foreign country on the night of 24 January at 02:45, daily allowance could be paid tax-exempt only for the day of the business trip on 23 January.

In the Business Trip Regulation, the payment of daily allowance is made dependent on the time of departure or arrival of the vehicle. Therefore, the **actual** departure or arrival time of the vehicle must be taken into account.

If you go to the business trip by public transport, the time of arrival or departure of the public transport generally coincides with what is indicated on the ticket (which can be treated as one possible proof). If the time of departure or arrival indicated on the ticket differs from the actual time of departure or arrival, the actual time must be taken into account. However, the taxpayer must take into account that the actual time of arrival or departure must also be proved to the Tax and Customs Board, if necessary, e.g., with a confirmation letter from the company that sold the ticket for its vehicle or other proof.

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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

Daily allowance for an employee participating in temporary agency work

The possibility of sending an employee participating in temporary agency work on a business trip and paying them a tax-exempt daily allowance depends on the actual location of performing the work and the time of performing the work. In the employment contract concluded with the employee, the location of performing the work must be fixed based on the actual location of performing the work.

In the case of permanently working in a specific place outside the permanent place of residence, the expenses arising from being away from the residence are part of the salary. Work with a permanent location can be done by an employee living near the workplace, and an employee living further away can change their place of residence accordingly. However, there is no such possibility if the work is of a mobile nature. Therefore, if a person works outside their permanent residence at a fixed location, the employment contract concluded with them should fix the actual area of the corresponding location of work as the location of work, and such an employee could not be treated as being on a business trip at the corresponding workplace and they could not be paid a tax-exempt daily allowance.

Example 1. Long-term hire for one company
A company engaged in labour hire in Estonia hires its employee to a Finnish company on a long-term basis. In the employment contract concluded with the employee, the actual location of the performance of work must be indicated (the area where the Finnish company is located), and such an employee cannot be treated as having been sent from Estonia to Finland, nor can they be paid a tax-exempt daily allowance for their stay in Finland.

If an employee is hired to different companies for a longer period of time and the workplace is not permanent with one hiring company, the actual circumstances of the employee's work must be assessed when fixing the location of the employee's work.

If an employee is hired to different companies, but they are located in the same region, similarly to the previously described situation, the actual region of the corresponding work location must be fixed as the work location. Such an employee cannot be considered as being on a business trip in the respective region and a tax-exempt daily allowance cannot be paid to them. However, if the employee is hired in different regions, the region with which such work is most closely related must be fixed as the place of performing work in the contract concluded with the employee.

Example 2. Long-term hire for different companies located in the same area
A company engaged in labour hire in Estonia hires its employee to several Finnish companies located in

Helsinki on a long-term basis. In the employment contract concluded with the employee, the specific area of the performance of work must be indicated (Helsinki), and such an employee cannot be treated as having been sent from Estonia to Helsinki, nor can they be paid a tax-exempt daily allowance for their stay in Helsinki.

Example 3. Short-term hire for companies located in different areas
A company engaged in labour hire in Estonia hires its employees for shorter periods to companies located in different regions, e.g., 2 months in Estonia, 1 month in Finland and 1 month in Sweden. Depending on the circumstances, the employee's stay in Finland and Sweden may be treated as a business trip, for which the person may be paid a tax-exempt daily allowance. In Estonia, tax-exempt daily allowance payment is possible if the hired employee's place of work under the hire agreement is further than 50 km from their usual place of work. If Estonia has been agreed as the usual place of employment of the agency worker, then it is not a business trip within Estonia and tax-exempt daily allowance cannot be paid.

To assess whether the formalisation of a business trip and payment of a tax-exempt daily allowance are justified in the case of workers participating in labour hire, the Tax and Customs Board is guided by the actual location of performing the work and § 84 of the Taxation Act. According to this, where it is evident from the content of a transaction or action that the transaction or action is performed for the purposes of tax evasion, conditions corresponding to the actual economic content of the transaction or action apply upon taxation. (Decision No. 3-06-2092 of the Tallinn Circuit Court.)

If the employee is on a business trip by a car or other means of transport that cannot be treated as public transport, the departure of the vehicle before 21:00. or arrival after 3:00 must also be certified to the Tax and Customs Board, if necessary.

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Working in a foreign country

WORKING IN A FOREIGN COUNTRY

The following are not subject to income tax:

- ✓ compensation for expenses related to official travel or business travel, daily allowances during assignments abroad and remuneration for business travel abroad paid to an official, an employee or

- a member of the management or controlling body of a legal person by the employer or a third person instead of the employer,
- compensation for such expenses paid for a family member of an official,
- compensation for relocation expenses arising from appointment to a position located in another area

within the limits in force in the place where the work is performed if the work is performed in a foreign state (clause 1^1 of subsection 3 of § 13 of the Income Tax Act).

Therefore, if the location of the work is in a foreign country and the employee is sent on a business trip from there, the taxation of reimbursement of the expenses of the business trip must be based on the applicable limits in the country where the work is performed.

CERTIFICATE A1

If the employee's work in a foreign country is short-term (up to 2 years), the employer must request the certificate A1 for the employee from the Social Insurance Board (**more information on the website of the Social Insurance Board**). With this, a person temporarily working abroad certifies to the authorities of that country that all social security contributions are paid for them in their home country, where they are guaranteed all social rights and benefits.

Based on form A1, the daily allowance for a business trip cannot be automatically paid exempt from tax, as it is not a business trip within the meaning of the Employment Contracts Act. A business trip would be the case if the employee goes to a foreign country to perform the same tasks that they perform in Estonia for the benefit of their employer, continuing to be under the supervision and control of the employer here.

Example

An Estonian company has signed a fixed-term employment contract with an employee, according to which the employee's place of work is Finland. The company applied for an A1 certificate for the employee. In this case, it is not a business trip, but a job abroad, and the company cannot pay the employee a daily allowance exempt from tax.

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Expenses associated with business trips

ACCOMMODATION EXPENSES

Expenses on accommodation in official travel or business travel are not subject to taxation.

TRANSPORT EXPENSES

Transport expenses associated with a business trip are subject to tax-exempt compensation, regardless of the amount of the cost.

If an employee goes on a business trip with a personal car, expenses related to the trip, costs directly related to the use of the car on the trip and additionally incurred costs, except repair and maintenance costs, are reimbursed based on expense documents (subsection 4 of § 2 of the Business Trip Regulation).

If a personal car is used on a business trip, the maximum tax-exempt limit of 550 euros of personal car compensation does not apply to the compensation paid based on the Business Trip Regulation. When paying compensation for the use of a personal car without expense documents, the maximum tax-exempt limit specified in the Passenger Car Regulation applies. The tax-exempt limit of the compensation paid to one employee is up to 0.50 euros per kilometre, but not more than 550 euros per calendar month for each employer paying the compensation.

Thus, the employer can choose whether to reimburse the employee for the use of a personal car on a business trip on the basis of the Business Trip Regulation (i.e. on the basis of expense documents without the maximum tax-exempt limit) or on the basis of the Passenger Car Regulation (i.e. in case of record-keeping, a maximum of 550 euros per month tax-exempt).

OTHER EXPENSES

An employee has the right to demand from the employer the reimbursement of the travel and accommodation expenses associated with a business trip and other **reasonable costs** associated with performing tasks on a business trip. These can be, for example, purchase of tickets, travel insurance, visa procedures, use of a rental car in a foreign country, parking, taxi rides, luggage transportation, costs of exchange rate differences, or other similar costs. Such expenses will be reimbursed to an employee based on documents certifying the expenses (§ 2 of the Business Trip Regulation).

Expenses paid by an employee, which would have incurred regardless of whether the employee was on a business trip or not cannot be considered reasonable work-related expenses.

REIMBURSEMENT OF EXPENSES MADE IN FOREIGN CURRENCY

Expenses paid in foreign currency will be reimbursed to an employee in the currency in circulation in Estonia, based on the daily exchange rate of the European Central Bank indicated on the expense document or valid on the working day following the day of business trip, or based on the expenses actually incurred by the employee sent on a business trip (subsection 5 of § 2 of the Business Trip Regulation).

Thus, the employer has the choice whether to reimburse the expenses incurred in foreign currency to an employee sent on a business trip

- ✓ based on the daily exchange rate of the European Central Bank valid on the date indicated on the cost document, or
- ✓ based on the daily exchange rate of the European Central Bank valid on the working day following the day of arrival from the business trip or
- ✓ according to the expenses actually incurred by the person sent on the business trip (based on a bank statement or currency exchange document).

For example, if the employee has used a credit card for payment, the employer could determine the actual expenses based on the employee's credit card statement and reimburse the expense shown on it in euros, without the need to convert the expenses made in foreign currency based on the exchange rate.

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Combining a business trip with a holiday

If an employee combines a business trip to a foreign country with a holiday in the same foreign country, the expenses incurred to the employee are calculated and taxed as follows.

- ※ If, by agreement of the parties, an employee goes to the business trip destination at the expense of their holiday before the business trip begins or returns from the business trip location after the end of the work assignment, then the days of holiday are excluded from the calculation of the daily allowance and accommodation costs, but the reimbursement of travel expenses is the employer's expense, because even without the holiday, the employer would have had to send and bring back the

- employee from the business trip at its own expense.

- If the employee's going to or coming from the place of the business trip during holiday does not increase the employer's travel expenses, then no fringe benefit is granted. If the travel expenses increase, the employer has the right to reimburse the travel expenses exempt from tax to the extent of the travel expenses on the date after the business trip. The part of the increased travel expenses (the difference between the travel expenses of the date after the work assignment and the date chosen for the employee's personal interests) is paid by the employee, or if the travel expenses are reimbursed by the employer, it is taxed as fringe benefit.

- If a holiday trip with no work purpose is formalised as a business trip, all expenses reimbursed to the employee are taxed as fringe benefit.

- If travel tickets are purchased at a cheaper price so that a weekend is included, the trip is usually also formalised according to the dates of the travel ticket. At the same time, there can be situations where a business trip is formalised to begin on Monday, but a travel ticket has been purchased for the previous weekend, or the work assignments on a business trip end on Friday, but the ticket has been purchased for Sunday. Since this is primarily about saving the employer's financial resources (no daily allowance is paid for the weekend and accommodation is not reimbursed), and it is not about granting a fringe benefit to the employee, travel tickets with dates on the days immediately preceding or following the business trip can be considered an expense related to the business trip and no fringe benefit is generated.

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A business trip paid by a third party

Essential principle of the regulation of daily allowance paid by a third party regulated in the Income Tax Act and the Business Trip Regulation is the possibility of a person to pay daily allowance for a business trip to a natural person for the benefit of itself, in situations where this natural person is not its employee.

The payment of daily allowance by a third party to a natural person must be preceded by sending that natural person to a business trip by their employer. According to the Employment Contracts Act, an employee can only be sent on a business trip by their employer, not a third party. In the sense of this special regulation, the third party is generally the person or institution receiving the person (employee or official) sent on a business trip, who is not the seconded person's employer.

If a third party wants to use the skills of an employee of the company for its own benefit, and the employer and the third party reach an agreement according to which the employer agrees to send its employee to or for the benefit of the third party on a business trip, the business trip must be formalised by the employer.

Section 5 of the Business Trip Regulation states that in the event that a third party pays the daily allowance for a business trip abroad to an employee, the employer is obliged to pay at least the difference between the minimum amount stipulated in § 3 of the Business Trip Regulation (i.e. 40 euros) and the amount paid by the third party. The employee is obliged to provide the employer with a third-party confirmation of the payment of daily allowance or to confirm receiving it themself.

According to subsection 1 of § 8 of the Business Trip Regulation, the limit specified in clause 3 of subsection 1 of § 7 of the Business Trip Regulation (i.e. 75 euros for the first 15 days of the business trip abroad, but no more than 15 days in a calendar month and 40 euros for each subsequent day) is applied to the daily allowance or the amount of daily allowances, if the daily allowance is paid only by a third party or, in addition to the employer, also by a third party, considering the daily allowance paid by the employer first. Thus, such a regulation ensures that an employee sent on a business trip for the benefit of a third party is paid a daily allowance of at least 40 euros per day for the business trip abroad, and the daily allowance is subject to taxation in the amount that exceeds 75 euros for the first 15 days of the business trip abroad, but no more than 15 days in a calendar month and 40 euros for each following day. Daily allowance paid by the employer is taken into account first.

In general, a third party interested in the employee's skills pays the daily allowance to the employee and bears the accommodation costs and other expenses related to the business trip (travel tickets, other reasonable expenses related to the business trip), but it is possible that such expenses are borne and the daily allowance is paid together with the employer. Thus, there may be situations where the daily allowance is paid or the accommodation costs are borne by:

- ✓ the employer
- ✓ the employer and the third party
- ✓ only the third party.

If only the employer bears the accommodation costs and expenses related to the business trip or pays the daily allowance, the employer is obliged to comply with the limits and tax the amounts that exceed the established limits.

Example 1

If the employer sends the employee on a business trip abroad and pays a daily allowance of 48 euros per day, the amount of 8 euros exceeding the limit (48 - 40 = 8) is subject to taxation by the employer as employment income. (The daily allowance limit of 75 euros per business trip in a month has been used up.)

Example 2
If the employer and the third party agree on bearing expenses in such a way that the employer pays the employee a daily allowance of 45 euros and the third party compensates the employer for the part exceeding the limit (5 euros), the amount exceeding the tax-exempt limit must still be declared by the employer as employment income. (The daily allowance limit of 75 euros per business trip in a month has been used up.)

Example 3
If the third party pays daily allowance to the employee in an amount exceeding the daily allowance limit (e.g. 44.74 euros), the amount exceeding the limit is subject to taxation as a payment to a natural person (payment type 51 of Annex 1 of form TSD). The third party does not have to tax the amount exceeding the limit as employment income, since there is no employment relationship between the natural person and the third party.

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Secondments

A secondment is the sending of an official by an order of the appointing authority or a person authorised by them to perform functions or undergo training outside the location of the permanent post within a fixed period (clause 1 of subsection 3 of § 13 of the Income Tax Act and § 44 of the Civil Service Act).

The procedure for formalising the secondment and the tax-exempt limits for secondment expenses have been established by the 19 December 2012 Regulation No. 112 of the Government of the Republic "Conditions and procedure for sending an official on secondment, reimbursement of secondment expenses and conditions and procedure of payment of daily allowance and rate of daily allowance".

According to § 5 of the Civil Service Act, civil service is a public-law service and trust relationship between the state or local government and an official to perform the functions of the authority, which is the exercise of official authority, and the employment relationship, governed by private law, between the state or local government and a person to perform the functions of the authority, which is solely the work to support the exercise of official authority.

The Civil Service Act also extends (unless otherwise stipulated by The Constitution of the Republic of Estonia or other acts) to the persons listed in subsection 3 of § 2 of the Civil Service Act (judges, Auditor General, etc.) and thus these persons can also be sent on secondment (§ 44 of the Civil Service Act).

The expenses incurred by a foreign mission of the Republic of Estonia in connection with the participation of a diplomat in a diplomatic reception, meeting or other event organised for the purpose of foreign relations are not taxed.

The decision to send an official on secondment is made based on the established procedure. The destination of the secondment, the organisation to which the seconded person will be sent, the duration of the secondment, the purpose, and the rate of compensation for secondment expenses and daily allowance must be stated in the decision of secondment.

Just as in the case of a business trip, in the case of a secondment, it is possible for the seconded official to request an **advance payment** from the authority to cover the secondment costs in the expected amount. In the case of a business trip, the term "possible expenses related to business trip" is used, but the nature of the amount paid by the sender remains the same regardless of the use of different terms. If the official has informed the authority about the need to receive an advance payment to cover the costs of the secondment and it is not granted, the official may refuse the secondment.

According to § 3 of the Secondment Regulation, the secondment and the reimbursement of the secondment expenses must be formalised in accordance with the requirements set forth in the legislation governing the administration, accounting and reporting of public authorities.

Pursuant to subsection 3 of § 3 of the Secondment Regulation, the public authority reimburses the official for travel, accommodation and other costs related to the secondment and pays a daily allowance for the time spent on secondment.

Unlike business trips, the conditions for reimbursement of **travel expenses** related to secondment are more precisely regulated. Travel costs to the place of secondment and back to the place of employment are reimbursed based on travel tickets or other documents proving the cost. Travel costs include ticket booking costs, airport, passenger and departure taxes. In the case of a business trip, such expenses fell within the definition of other reasonable expenses. Other costs associated with secondment are reimbursed based on documents certifying costs in accordance with the internal procedure of the public authority.

According to clause 1 of subsection 3 of § 13 of the Income Tax Act and § 4 of the Secondment Regulation, the minimum limit of daily allowance during business trips abroad is 40 euros per day and the maximum limit is 75 euros for the first 15 days of an assignment abroad, but at most for 15 days per calendar month, and 40 euros for each following day. The part of daily allowance exceeding the tax-exempt limit is taxed as employment income. Like a business trip, it is possible to reduce the amount of the daily allowance by 70 percent if free meals are provided to the seconded person during the stay at the secondment location. In the case of catering at the secondment location, the daily allowance can be reduced to 12 euros (40 x 70% = 28, 40 – 28 = 12).

According to clauses 1^2–1^5 of subsection 3 of § 13 of the Income Tax Act, **the following are not subject to income tax as an exemption:**

- daily allowances paid to experts participating in an international civil mission based on the Participation in International Civil Missions Act, which do not exceed the limit of daily allowances and compensation for travel, accommodation and other expenses agreed for civil missions in the Council of the European Union;

- daily allowances paid to persons in active service of the Defence Forces participating in an international military operation on the basis of the Military Service Act, which shall not exceed four times the tax-exempt limit of daily allowances during assignments abroad provided for in clause 1 of this subsection;

- daily allowances paid to experts participating in twinning or technical assistance and information exchange projects funded by the European Union, which do not exceed the upper limit of daily allowances established by the European Commission;

- daily allowances paid to officials or employees performing the duties of an official expert at an institution or agency of the European Union, which shall not exceed the upper limit of daily allowances established by this institution or agency, and compensation for travel, accommodation and other expenses.

For sending on secondment in the interest of a third party, paying daily allowance by several employers and coming from a secondment and going to another secondment and the time of departure and arrival of the vehicle that is the basis for calculating the daily allowance, provisions with the same content apply as in the case of a business trip.

The basis for **reimbursement of the expenses arising from** an official's secondment and **using a personal car on secondment** is a document certifying the expenses. The public authority sending an official to secondment can choose between two options for reimbursement of expenses:

- whether to reimburse the official for travel expenses based on expense documents, or

- to pay the official up to 0.50 euros per kilometre, but not more than 550 euros per calendar month, when keeping records of rides.

Repair and maintenance costs arising from the use of a personal car on secondment are not included in the tax-exempt reimbursement and other costs of the secondment.

In case of payment of the secondment abroad allowance, the official is not paid daily allowance, because the secondment abroad allowance is paid to an official who is sent to a foreign country on a long-term secondment for more than six months (19 December 2012 Regulation No. 115 of the Government of the Republic "Procedure of sending an official on a long-term secondment, original amounts of the secondment abroad allowance and the procedure for calculating and paying the secondment abroad allowance, the conditions and procedure of the reimbursement of secondment expenses, the list of reimbursable medical expenses, the procedure for increasing and paying the secondment abroad allowance for an accompanying family member, and the conditions and procedure for paying the spouse's allowance").

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Business trips of members of management or controlling bodies

Clause 1 of subsection 3 of § 13 of the Income Tax Act and the Business Trip Regulation apply to the business trips of members of management or controlling bodies.

Members of the management and controlling bodies of legal persons, who can be sent on business trips to perform tasks, are management boards, supervisory boards, partners authorised to represent general or limited partnerships, procurators, founders until registration of the legal person, liquidators, trustees in bankruptcy, auditors, controllers and revision committees (subsection 2 of § 9 of the Income Tax Act).

The list of persons who can be members of management and control bodies is not final, and the head of a branch of a foreign company and the operations manager of a permanent establishment are also considered a management body. In the case of members of management and control bodies of legal persons, the workplace is considered to be the place where the person usually performs their duties. The person sending a member of the management or controlling body on a business trip is the legal person whose member of the management or control body the person sent on the business trip is.

Although the provisions of the Business Trip Regulation are applied to members of management or controlling bodies, there are still differences in sending them on business trips and reimbursement of costs associated with the trips, compared to sending employees on business trips. The main difference is that sending members of management or controlling bodies on business trips and reimbursement of expenses arising from the performance of duties are not regulated by the Employment Contracts Act. Thus, in case of business trips of members of management or controlling bodies, legal persons have no legal obligations to pay daily allowance to persons sent on business trips.

If a legal person still decides to pay daily allowance to a member of the management or controlling body, then according to clause 1 of subsection 3 of § 13 of the Income Tax Act and clause 3 of subsection 1 of § 7 of the Business Trip Regulation, daily allowance amounting to 75 euros for the first 15 days of a business trip, but no more than 15 days in a calendar month and 40 euros for each subsequent day, is not subject to taxation.

Subsection 2 of § 628 of the Law of Obligations Act provides for the possibility of reimbursement of expenses incurred for the performance of other tasks by members of management or controlling bodies on a business trip. According to this, even if there is no authorisation agreement signed with the member of the management or controlling body, the mandator shall reimburse the mandatary for any reasonable expenses which the mandatary has incurred in performing the mandate and which the mandatary could have deemed to be necessary in the circumstances, except in the case where the expenses are to be covered from the remuneration of the mandatary.

Thus, clause 1 of subsection 3 of § 13 of the Income Tax Act and the Business Trip Regulation provide for a tax-exempt limit of daily allowance in the case of sending a member of a management or controlling body on a business trip (similarly to sending employees on business trips), but reimbursement of daily allowance and accommodation expenses and other expenses is a matter of agreement between the legal person and the person sent on a business trip.

If a legal person pays a daily allowance to a member of a management or controlling body, reimburses the cost of accommodation or expenses related to the performance of work tasks, regardless of whether the person sent on the business trip received remuneration of a member of the management and controlling body of a legal person, the limits set out in clause 1 of subsection 3 of § 13 of the Income Tax Act and the Business Trip Regulation will apply. All costs that the legal person decides to reimburse the person sent on a business trip are reimbursed based on documents certifying the costs.

For members of management or controlling bodies, the same principles apply to the use of a personal car on a business trip, combining holiday with a business trip, the procedure for going on another business trip upon arrival from a business trip, and the payment of a daily allowance, as well as sending on a business trip for the benefit of a third party, as in the case of a business trip of employees.

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Sports assignments

The provisions of the Business Trip Regulation also apply to the taxation of compensation of travel and accommodation expenses and daily allowance paid to the persons specified in § 7 of the Sports Act in connection with sports assignments.

A sports organisation has the right to send athletes who are its members or members of the sports organisation which is its member, and coaches, judges, sports doctors and other persons connected with the organisation of sport outside of the location of the permanent place of employment of the person who is sent to the sports assignment (§ 7 of the Sports Act).

Although in the event of sports assignment of the persons specified in § 7 of the Sports Act, the Business Trip Regulation applies to the taxation of compensation for travel and accommodation expenses and daily allowance, the daily allowance paid above the limit is not taxed as employment income, as generally sports organisations do not have employment contract relationships with persons sent on assignments.

Amounts exceeding the limit are declared on Annex 1 of form TSD by using the payment type 51.

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Business trips of creative persons

The Business Trip Regulation also applies to the taxation of compensation of travel and accommodation expenses and daily allowance for business trips of creative persons specified in the Creative Persons and Artistic Associations Act in connection with their creative activities.

A creative person is an author or a performer who acts in the artistic field of visual arts or applied arts, stage design, audio-visual arts, performing arts, literature, music, architecture. A creative person belongs to one or several artistic associations, which promotes an artistic field and supports the creative activities of creative persons who are members of the artistic association. (In terms of the Creative Persons and Artistic Associations Act and the Copyright Act.)

According to § 3 of the Creative Persons and Artistic Associations Act, **a creative person engaged in a liberal profession** is a creative person who is acting in an artistic field specified in subsection 1 of § 2 of the Creative Persons and Artistic Associations Act and who is not in civil service or is not employed under an employment contract or any other similar contract under the law of obligations. A creative person engaged in liberal profession is entered into the commercial register. Essentially, a creative person engaged in a liberal profession is a sole proprietor, and if a creative person engaged in a liberal profession does not receive income from their creative activity, they have the right to apply for and receive creative support through an artistic association.

The maximum **tax-exempt limits** laid down in the Business Trip Regulation **apply only to creative persons.** Creative persons engaged in liberal profession may not be sent on business trips in such a way and the maximum tax-exempt limits established in the Business Trip Regulation cannot be used.

Conditions of application for and payment of support for creative activity is established in § 16 of the Creative Persons and Artistic Associations Act. In accordance with subsection 2 of § 1 on the Business Trip Regulation No. 110, the said regulation applies to the travel and accommodation expenses paid to a creative person specified in the Creative Persons and Artistic Associations Act in connection with a business trip related to the person's creative work, as well as the daily allowance of the business trip, which are not subject to taxation according to clause 10 of subsection 3 of § 19 of the Income Tax Act. However, the above does not apply to creative persons engaged in liberal profession receiving creative support.

Although in the event of business trips of creative persons, the Business Trip Regulation applies to the taxation of compensation for travel and accommodation expenses and daily allowance, the daily allowance paid above the limit is not taxed as employment income, as generally organisations do not have employment contract relationships with persons sent on business trips.

Amounts exceeding the limit are declared on Annex 1 of form TSD by using the payment type 51.

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Questions and answers about business trips

1. If an employer decides to pay a daily allowance for a domestic business trip, is this payment subject to taxation?
In the case of a domestic business trip, it is not possible to pay the employee a tax-exempt daily allowance. If the employer still decides to pay daily allowance during a domestic business trip, the said payment is a part of salary and must be taxed and declared like salary. If the domestic daily allowance is paid by a third party, it is subject to income tax like other income, and the payer must withhold income tax.

2. If an employee arrives from a business trip and leaves for the next on the same calendar day, how to pay daily allowance?
Tax-exempt daily allowance can be paid to the person sent on a business trip within the prescribed limit. In case of going to another business trip abroad on the day of arrival from a business trip abroad, daily allowance is paid in the amount of a single rate.

3. Which amount of daily allowance for a business trip abroad can be reduced by up to 70% according to subsection 4 of § 4 of the Regulation No. 110?
The amount of daily allowance for a business trip abroad can be reduced by up to 70% if free meals are provided to the assignee during the stay at the place of the business trip. However, the daily allowance for a business trip abroad determined by the employer cannot be less than 40 euros. For example, if the employer established the amount of daily allowance for a business trip abroad as 40, which corresponds to the minimum requirement, and the employee is provided with free meals during the business trip, the employer can reduce the daily allowance by up to 70%, which means paying the employee 12 euros (40 x 70% = 28; 40 – 28 = 12) as daily allowance.

4. If an employee's workplace is outside Estonia and the employee is sent on a business trip, is the daily allowance paid based on the country of employment or Estonian rates?
According to clause 1^1 of subsection 3 of § 13 of the Income Tax Act, business trip expenses are paid within the limits applicable in the foreign country where the place of work is located. If subsection 4 of § 13 of the Income Tax Act applies to the employee, the payments related to business trip are not taxed in Estonia.

5. The person's employer is located in Estonia and the place of work is in a foreign country. He is a resident of a foreign country and pays all his taxes there (e.g. a board member of an Estonian company). The Estonian employer sends this employee on a business trip to Estonia. According to clause 1^1 of subsection 3 of § 13 of the Income Tax Act, payments related to the business trip are reimbursed in the limits applicable at the place of work if the place of work is located in a foreign country. Is it an obligation or an opportunity for the Estonian employer to reimburse the business trip expenses within the limits applicable at the place of work, or can the Estonian employer apply the limits established by the regulation of the Government of the Republic provided for in clause 1 of subsection 3 of § 13 of the Income Tax Act?
Subsection 3 of § 13 of the Income Tax Act lists the payments that are not subject to income tax. Clause 1^1 of the same paragraph stipulates that if the place of work is abroad, the payments at the applicable thresholds made in that country are not taxed. Thus, § 13 of the Income Tax Act does not give the employer the opportunity to choose which limits it wants to use. The limits for business trips established in the country where the work is performed are applied so that the employee in the foreign country is reimbursed for the expenses and payments of the business trip on the same basis as other employees of that country.

6. Which documents must be completed so that a third party can pay daily allowance?
The Estonian employer must formalise the business trip for its employee and may confirm to the third party the amount of daily allowance for the business trip abroad that it reimburses to the employee.

Based on this, the third party decides whether to withhold income tax on the daily allowance for the business trip abroad or whether it can be reimbursed exempt from tax.

7. Is catering in a foreign country allowed to be included in expenses or is it a fringe benefit or must it be included in the daily allowance?

The employer can reduce the rate of daily allowance for a business trip abroad by up to 70%, if free meals are provided to the person sent on the business trip during the stay at the place of the business trip.

Daily allowance is given for, among other things, meals during the stay abroad. If the employer covers the costs of catering in addition to the daily allowance, then it is a fringe benefit, and the employer must pay income tax and social tax on these expenses.

8. Are the catering expenses to be reimbursed by the employer on the basis of expense documents during a domestic business trip within the meaning of subsection 1 of § 2 of the Regulation of the Government of the Republic of 25 June 2009 No. 110 reasonable expenses accompanying the business trip and related to the performance of the work assignment?

As of 1 July 2009, there is no tax-exempt daily allowance provided for domestic business trips. Also, the employer cannot reimburse the employee's meal expenses exempt from tax. If the employer reimburses the said expenses, it is considered a fringe benefit within the meaning of § 48 of the Income Tax Act and these expenses are subject to taxation with income and social tax. Therefore, the expenses incurred for catering during the employee's business trip are not reasonable expenses related to the fulfilment of the business trip work task within the meaning of the regulation.

9. Is breakfast at a hotel, breakfast and/or dinner on a ship a fringe benefit or another expense related to a business trip?

Catering in hotels, airplanes and ships is an established practice. Breakfast in a hotel is usually included in the cost of the room, without the price of the meal being known separately, which is why the entire amount is considered an accommodation expense when reimbursing expenses. There are accommodation facilities that show the costs of both accommodation and breakfast separately on their invoices, but at the same time it is not possible to buy accommodation without breakfast, which means that the price of accommodation does not depend on whether accommodation was requested with or without breakfast. In this case, breakfast is considered an accommodation expense that is not taxed as a fringe benefit. Invoicing this way is generally because in the given country, accommodation and catering have different VAT rates, and the issuer of the invoice is obliged to include these amounts separately on the invoice.

Similarly to breakfast in a hotel, meals on a plane or ship are not taxable if the meal was included in the ticket price, regardless of whether the meal was requested or not.

In case catering was additionally ordered, purchased on board, its reimbursement by the employer is a fringe benefit. If it is desired to reimburse the catering costs, the daily allowance for the corresponding days of the business trip must be reduced by these amounts – that is, if the cost of catering reimbursement and the paid daily allowance do not exceed the tax-exempt limit of the daily allowance for the business trip abroad, then there is no tax liability. From the point of view of taxation, it does not matter whether documented food expenses are reimbursed instead of daily allowance of a business trip abroad or whether a daily allowance is paid, what is important is the tax-exempt limit. According to subsection 2 of § 40 of the Employment Contracts Act, an employee has the right to receive a daily allowance while on a business trip abroad.

10. Is catering for a business partner while on a business trip a cost of entertaining guests or other expense related to the business trip?
It is a cost of entertaining guests, regardless of whether it is made in Estonia or outside Estonia and it is taxed according to § 49 of the Income Tax Act.

Expenses on baggage transport, communication services, etc. are treated as other expenses related to the fulfilment of the assignment on the business trip according to subsection 2 of § 2 of the Regulation No. 110.

11. Which expenses can be reimbursed as other expenses related to a business trip in the case of a business trip abroad and how is the taxable amount determined?
Other reasonable expenses associated with a business trip include all expenses necessary for the business trip, such as travel insurance, visa processing, expenses arising from the difference in currency exchange rates, luggage transportation or other similar expenses. Costs are compensated based on cost documents.

12. The employer provides the employee with travel insurance for the period spent on a business trip in a foreign country. The employee is insured, but the employer receives compensation. Now the employer pays out the insurance compensation received to the employee. Does the employer have a tax liability, and if so, is it a fringe benefit or income of the person?
Among other things, the cost of travel insurance is a reasonable cost associated with a business trip.

Travel insurance can be concluded by the employer or the employee. If it is concluded by the employer, the employer indicates in the application for compensation of the insured event to whom the compensation is to be paid.

If the employer indicates the employee as the recipient of the compensation in the application, the insurance company will pay the compensation directly to the employee and the employer will not incur any additional tax obligations.

If the employer indicates itself as the recipient of the compensation in the application, the compensation will be paid to the employer. However, because the insured event happened to the employee and the actual damage occurred to the employee and the compensation is paid to compensate the employee's damage, it is still considered compensation paid to the employee. In this case, the employer is only an intermediary for the payment, and this does not entail any tax liability for the employer or the employee.

13. The employee uses a rental car to travel locally on a business trip. Is the use of a rental car taxed and how?
All other expenses related to the fulfilment of the assignment of a business trip are reimbursed in full based on expense documents, regardless of whether it is a domestic business trip or a business trip abroad.

It is important that business trips of employees and members of management or controlling bodies are related to the employer's business/main activity. This means that the reimbursement of other expenses must be based on their necessity for the performance of the assigned tasks for each specific business trip. If it was necessary to use a rental car to fulfil the assignment of the business trip, all costs associated with this car are compensated.

14. The employee is sent on a business trip abroad from Estonia and uses a taxi to go to the airport. Is it a travel expense from the starting point of the business trip to the destination or intra-city travel?
In case of business trips abroad, all documented costs related to the business trip are fully reimbursed, and when reimbursing travel expenses, no distinction is made in terms of taxation, whether it is a travel expense from the starting point to the destination or a journey within the city. It is important that it is an expense necessary to perform the task.

15. The employee is sent on a business trip. To travel to Tallinn Airport, she uses the employer's car, which stays in the airport parking lot for the entire duration of the business trip. Is the parking fee related to the business trip?
Yes, such expenses are business trip travel expenses, which do not have a limit. If the Business Trip Regulation is applied to reimbursement of expenses and all expenses are reimbursed based on expense documents, it does not matter whether the employer's car or a personal car is used for the business trip.

When reimbursing the costs of using a personal car, it should be noted that the same journey made for work purposes cannot be reimbursed twice, that means both as an expense of a business trip and in accordance with Regulation No. 164 of the Government of the Republic of 14 July 2006 "Conditions and limits for the payment of compensation for the costs of using a personal car for service, employment and business rides". When reimbursing costs, it must be clearly distinguished based on which regulation it is done.

16. The employee makes payments with his credit card (e.g. pays for a hotel) while on a business trip abroad. Is the exchange rate difference between a commercial bank and the European Central Bank an expense related to the business trip that is reimbursed?
The employee is compensated for the difference between the daily rate of the European Central Bank and the rate of the commercial bank based on the bank statement, which shows the rate of the commercial bank. The compensation is treated as an expense related to the fulfilment of other assignments and is reimbursed together with other expenses incurred during the business trip and

related to the business trip.

17. A business trip has been formalised for the employee, but she returns home from the destination of the business trip every day. Can the travel tickets provided by the employee be reimbursed for each day to the destination of the business trip and back?

The Business Trip Regulation does not provide for such reimbursement of travel expenses, and thus in this case, the employee can be reimbursed tax-exempt for one ticket to and from the destination of the business trip.

18. How to reimburse the travel expenses of a business trip, if the actual start and end dates of the business trip do not match the start and end dates of the business trip given in the business trip decision?

The costs of the business trip are reimbursed based on the employer's written decision, which indicates, among other things, the destination and duration of the business trip. Travel expenses to and from the place of the business trip are reimbursed based on a document certifying the cost or a travel ticket submitted by the person sent on the business trip. The dates of the travel ticket must generally correspond to the start and end dates of the business trip.

If, by agreement of the parties, an employee goes to the business trip destination at the expense of their holiday before the business trip begins or returns from the business trip location after the end of the work assignment, then the holiday days are excluded from the calculation of the daily allowance and accommodation costs, but the reimbursement of travel expenses is the employer's expense, because even without the holiday, the employer would have had to send and bring back the employee from the business trip at its own expense. If the employee's going to or coming from the place of the business trip during holiday does not increase the employer's travel expenses, then no fringe benefit is granted.

If the travel expenses increase, the employer has the right to reimburse the travel expenses exempt from tax to the extent of the travel expenses on the date after the business trip.

The part of the increased travel expenses (the difference between the travel expenses of the date after the work assignment and the date chosen for the employee's personal interests) is paid by the employee, or if the travel expenses are reimbursed by the employer, it is taxed as fringe benefit.

If a holiday trip with no work purpose is formalised as a business trip, all expenses reimbursed to the employee are taxed as fringe benefit.

19. A person sent on a business trip submits a travel ticket, the date of which does not correspond to the start or end date of the business trip, for the reimbursement of travel expenses. Is it possible to reimburse the ticket and how?

If, by agreement of the parties, an employee goes to the business trip destination at the expense of their holiday before the business trip begins or returns from the business trip location after the end of the work assignment, then the holiday days are excluded from the calculation of the daily allowance and accommodation costs, but the reimbursement of travel expenses is the employer's expense, because even without the holiday, the employer would have had to send and bring back the employee from the business trip at its own expense. If the employee's going to or coming from the place of the business trip during holiday does not increase the employer's travel expenses, then no fringe benefit is granted.

20. The employee did not inform his employer that he bought a travel ticket himself when he went to or arrived from a business trip, i.e. he combined the business trip with a holiday, the travel expenses of which he bore himself. The ticket purchased by the employer remained unused. Does the employer have a tax liability on an unused ticket?
If the employee combines the business trip with his vacation, he must inform the employer about it and inform which ticket he does not need.

If the employee did not inform the employer and did not use the ticket purchased by the employer to travel to or from the business trip location, the employee has caused the employer a financially assessable loss, which can be recovered from the employee. If the employer waives the recovery of the damage caused to it, taxation is carried out according to the principle described in point 22.

21. The place of work of a person employed by an Estonian company is in Finland, and she also goes on a business trip from Finland. In this case, the Finnish rules and rates of business trips apply. One type of compensation for expenses related to the business trip is compensation for the use of a personal car (0.4 euros per kilometre). Are the Estonian or Finnish tax-exempt limits for using a personal car applied?
If such a compensation for the use of a personal car related to business trips has been established in Finland, the taxation must be based on Finnish rules and rates.

22. The employee does not go on a business trip abroad, but the employer has already paid for the costs of the business trip (tickets, accommodation). In this case, are the unused tickets and accommodation subject to taxation?
Sending an employee on a business trip abroad requires their consent, and the employer formalises sending the employee on a business trip abroad in writing. Thus, the employee is sent on a business trip with their consent, and the person is aware of the expenses incurred by the employer before the business trip begins (e.g. reservations, travel tickets, accommodation, etc.). If the employee cannot go on the business trip, they should inform the employer as soon as possible. The employer is usually able to be refunded parts of the sums paid in advance.

In a situation where an employee does not go on a business trip, the employer must assess the reason why the employee behaved this way. Based on the reason, the employer can decide whether the employee has caused it financial damage or not and, if so, to what extent. The employer has the right to recover from the employee the financial damage caused to it (the amount of expenses incurred). If the employer decides not to collect the financial damage caused, it is a fringe benefit within the meaning of clause 9 of subsection 4 of § 48 of the Income Tax Act.

When applying clause 9 of subsection 4 of § 48 of the Income Tax Act, we point out that the above-mentioned provision does not constitute a fringe benefit if the estimated reasonable costs related to the collection of the financial claim exceed the amount of the claim. Since the determination of the predicted costs is largely an estimate, we recommend that the decision to waive the recovery of costs should consider all costs associated with the recovery of costs, which means that the decision to waive the claim should be sufficiently justified and written.

23. In which case does the employer have the right to formalise a business trip to an employee?
The Employment Contracts Act stipulates what a business trip is and who can be sent on a business trip. Section 20 of the act stipulates the place of performance of work, where it is assumed that the place of performance of work is agreed upon with the precision of the local government unit. Subsection 1 of § 21 of the same act stipulates that an employer may send an employee to perform work duties outside the place of work specified in the employment contract.

Thus, the employer can formalise a business trip if it sends an employee outside the place of work specified in the employment contract. This also entails the employer's obligation to reimburse expenses related to the business trip in accordance with § 40 of the Employment Contracts Act.

Regulation No. 110 of the Government of the Republic of 25 June 2009 “Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment” regulates the rules for formalising business trips by employers, procedures for reimbursement of expenses and tax-exempt thresholds. Section 3 of § 1 of the same regulation states that the regulation does not apply to benefits paid to an employee for trips between the employee's place of residence and the place of work specified in the employment contract.

24. The employee's employment contract states that the area of work is Estonia. The location of the employer is Haapsalu. Can the employee be sent on business trip to another town in Estonia?
If it has been agreed in the employment contract that the place of work is Estonia, then a business trip cannot be formalised for this employee. Nor can they be paid a tax-exempt daily allowance or be reimbursed for expenses related to a business trip.

The employer can reimburse work-related expenses exempt from tax on the basis of an expense document in accordance with subsection 3 of § 12 of the Income Tax Act.

If the area of work is Estonia, during a **business trip abroad**, it is possible to pay daily allowance tax-exempt to the employee, if the place of the business trip in a foreign country is located at least 50 kilometres from the border of Estonia.

25. The place of the employee's work in the employment contract is the Republic of Estonia. Based on the content of work, work is done in different regions of Estonia. If the employer or employee incurs additional expenses for the performance of work duties, for example pays for travel expenses or accommodation (depending on the nature of the work), are the expenses incurred subject to taxation as a fringe benefit?

If the employee incurs expenses based on the nature of the work – these are necessary for the performance of their duties, then according to subsection 3 of § 12 of the Income Tax Act, compensation for documented expenses incurred for the benefit of another person is not considered income of a natural person. Reimbursements of these expenses are also not considered to be a fringe benefit. However, if the costs are incurred by the employer, these are costs related to business.

Expenses must be assessed primarily based on the needs arising from the employer's business, and the connection of the expenses with business must be proven.

26. Can a member of a non-profit association be sent on a business trip and how are expenses reimbursed?
It is not possible to send members of non-profit associations on business trips and pay them tax-exempt daily allowance. If members of a non-profit association are paid, regardless of this, payments similar to daily allowance or food allowance, income tax is withheld from these payments on the basis of clause 13 of § 41 of the Income Tax Act, similarly to other payments (payment type 55 on Annex 1 of form TSD).

As an exception, a sports organisation has the right to send athletes who are its members or members of the sports organisation which is its member, and coaches, judges, sports doctors, and other persons connected with the organisation of sport on a sports assignment abroad to fulfil the statutory objectives. A creative person can also be sent on a business trip abroad if the business trip abroad is related to their creative work.

According to subsection 3 of § 12 of the Income Tax Act, it is allowed to pay compensation for documented expenses to a natural person, and these amounts are not considered income of a natural person, if these expenses are made for the benefit of another person (e.g. a non-profit association).

Additional information

Sports assignments Business trips of creative persons

27. Can an employee of another company be sent on a business trip as a third party?
Subsection 1 of § 21 of the Employment Contracts Act stipulates that an employer may send an employee on a business trip to perform work duties outside the place of work specified in the employment contract. According to § 1 of Regulation No. 110, an employer can send an employee, a member of the management or controlling body of a legal person (a member of the board and council, procurator, founder, liquidator, auditor, member of the audit committee, branch manager of a foreign company, etc.) on a business trip. Therefore, only the employer of the employee can send the employee on a business trip. If one company wants to send an employee of another company on a business trip, it is no longer considered a business trip.

As an exception, the regulation provides for travel and accommodation expenses and daily allowance related to sport assignments of athletes and business trips of creative persons.

28. Is a person who has arrived in an Estonian company/organisation from another country considered a third party according to the Business Trip Regulation?
No. Based on the regulations on reimbursement of business trip and secondment expenses, a third party is considered to be a person who, instead of an employer, bears the expenses related to an employee's business trip. Depending on the procedure for reimbursement of business trip expenses and mutual agreement, expenses related to a business trip will be partially or fully reimbursed by a third party.

29. Subsection 1 of § 4 of the regulation No. 110 of the Government of the Republic of 25 June 2009 "Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment" stipulates that an employee is paid daily allowance of a business trip abroad for the time spent on the road and at the location of the business trip, if the place of the business trip in a foreign country is located at least 50 kilometres from the border of the settlement where the workplace is located.
Which distance between two inhabited points should be considered? Should the shortest distance between two populated points be taken into account, or should the actual travelled distance be taken into account?
The minimum distance of the destination of a business trip from the border of the settlement where the place of work is located, provided for in subsection 1 of § 4 of the Business Trip Regulation, has been established primarily for the purpose of defining a certain minimum distance between the workplace and the destination of the business trip, for which the employee has the right to receive a daily allowance from the employer and the employer is obliged to pay it. If there were no such provision, it would be possible to claim a daily allowance, for example, even if the employee travels only a few kilometres from the workplace. Due to the purpose of the said provision the tax authority will consider in its implementation the distance by the usual and reasonable and most commonly used route.

30. Subsection 2 of § 4 of the regulation No. 110 of the Government of the Republic of 25 June 2009 "Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment" stipulates that daily allowance is paid for the day of departure for a business trip abroad if the vehicle bound for the foreign country departs no later than 21:00. Daily allowance is paid for the day of arrival from a foreign country, if the vehicle arrives after 3:00.
What kind of proof is used to prove the time of departure or arrival of the vehicle, if it is an employee's personal or rented car, or if the actual departure or arrival time of a public transport vehicle differs from that indicated in the timetable?
If an employer pays an employee tax-exempt daily allowance for the departure day of a business trip abroad, when the vehicle bound for the foreign country leaves no later than 21:00, or for the day of arrival from the business trip abroad, if the vehicle arrives after 3:00, then the tax audit can use different types of proof acceptable in tax proceedings as such proof.

31. How is the departure and arrival time of a ship or plane determined? In case of a plane, should it be based on the time when passengers are allowed to enter (or depart) the plane, when the plane starts moving from the gate or parking place (or arrives there) or the moment the plane takes off (or lands)?
Subsection 2 of § 4 of the Regulation 110 stipulates that the payment of daily allowance depends on the

time of departure or arrival of the vehicle, which means that it must be based on the actual time of departure or arrival of the vehicle. Usually, the time of arrival or departure of a ship or plane coincides with the time indicated on the ticket (which can be considered as one possible proof). If the time of departure or arrival indicated on the ticket differs from the actual time of departure or arrival, the taxpayer can prove this in tax inspection with various proof acceptable in tax proceedings.

32. Do the mentioned time restrictions (daily allowance is paid for the day of departure to a business trip abroad, if the vehicle leaves to the foreign country at 21:00 at the latest, and daily allowance is paid for the day of arrival from a business trip abroad, if the vehicle arrives after 3:00) also apply if the employee sent on a business trip crosses the state border not while in a vehicle, but on foot? For example, takes a bus from Tartu to Valga, crosses the border on foot and takes a bus from Valka to Riga.

Crossing the border on foot or, for example, changing the vehicle before the reaching the border at 21:05 can be considered as a minor deviation from the requirements of the regulation, so such circumstances should not result in not paying daily allowance. The tax authority assesses each situation separately, based on the purpose and meaning of the provision.

33. If an employee is on a one-day business trip abroad and stays abroad for less than 3 hours in total, but after 03:00 and before 21:00, is payment of tax-exempt daily allowance allowed?

Daily allowance of a business trip is paid primarily for the performance of work tasks during a period of stay on the business trip. To protect the principles of labour law, the regulation establishes agreed hours, according to which employees are paid daily allowance for business trips abroad even if they actually do not perform their duties on a business trip, but only travel to or from the location of the business trip. The presumption of subsection 2 of § 4 of regulation No. 110 is a business trip lasting several days. The terms "day of departure" and "day of arrival" used in the regulation can only be possible if a business trip lasts several days. In case of a one-day business trip, the "day of departure" and "day of arrival" coincide with the date of the business trip and in this case the times of the business trip do not matter.

34. Subsection 4 of § 4 of the regulation No. 110 of the Government of the Republic of 25 June 2009 “Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment” stipulates that an employer can reduce the rate of daily allowance by up to 70 percent if free meals are provided to the person during their stay at the place of the business trip location. Are catering costs incurred by the employer exempt from tax in this case? Is the daily allowance exempt from tax even if the employer bears the catering costs and decides not to reduce daily allowance?

The daily allowance for a business trip abroad in the rate of 75 euros for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day is not subject to taxation according to clause 3 of subsection 1 of § 7 of the regulation. The possibility of reducing the rate of daily allowance provided for in subsection 4 of § 4 of the regulation is not related to the taxation of daily allowance and is essentially a labour law provision that allows the employer to reduce the rate of daily allowance if the employee is provided with meals either by the employer or by another person. The employer's payment of the catering costs of an employee on a business trip abroad is taxable as a fringe benefit, and the payment of the employee's catering costs by another person (e.g.

the person receiving the employee) is taxable based on the tax laws in force in the foreign country.

35. For the purposes of Regulation No. 110 of the Government of the Republic of 25 June 2009 “Procedure for the payment of compensation for the expenses of a business trip; and the minimum daily allowance for a business trip, the conditions and procedure for payment”, who is the "third person" who may pay a daily allowance exempt from tax to a person not in an employment relationship?

A third person is a person who is not an employer.

36. If an employee has more than one employer, how is it identified which employer has made the decision to send them on a business trip first, if all decisions are made on the same day and there is no information about the time of the decision? Is it necessary to take into account the time when the decision was formalised, signed or notified to the employee? How to behave if the decision to go on the business trip was first verbally announced to the employee by employer No. 1, but the written decision was formalised first by employer No. 2? How to behave if the person sent on the business trip is a member of the board of all the legal entities sending them on the business trip and makes the decision about sending them on the business trip at the same time on behalf of all persons?

The construction of the sentence in § 6 of Regulation No. 110 does not qualify employers as primary and secondary. It is a provision of labour law that imposes the obligation on an employee to inform the employer about sending them on business trip at the same time by another employer.

If the employer is aware that another employer also pays the employee a daily allowance, this employer has no obligation to pay daily allowance for the same period.

If the notified employer still decides to pay the employee daily allowance, the fact must be taken into account that the maximum tax-exempt rate of daily allowance paid by several employers is 75 euros in total for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day.

Since according to § 6 of the regulation, the employee must also inform the employer of the amount of daily allowance determined by another employer, the informed employer can calculate the part of the daily allowance exceeding the maximum tax-exempt rate before paying the daily allowance. Such exceeding part is subject to taxation as employment income by the notified employer.

If the employee sent on a business trip is a member of the board of all the legal persons sending them to the business trip and makes a decision about sending them on the business trip at the same time on behalf of all persons, then they have the decision-making authority over which company formalises the business trip first and can pay daily allowance up to the tax-exempt limit. The tax-exempt rate of the daily allowance paid by several companies to a board member is 75 euros in total for the first 15 days of the business trip, but no more than for 15 days in a calendar month and 40 euros for each subsequent day.

37. If the employee sent on a business trip spends the night in the United States, should the calculation of the day be based on the Estonian time zone for the entire duration of the business trip, or should the beginning and end of the day be taken into account according to the place where the employee was at a particular moment? How are hours rounded to full days? If the employee stays at the location of the business trip for a total of 25 hours, can it be counted as one day, two days, or must the accommodation cost limit be divided according to the number of hours?
Since a day consists of 24 hours and the maximum tax-exempt accommodation cost limit applies per day, rounding is not necessary. 24 hours can be treated as one day and 48 hours as 2 days.

38. The employee fell ill while on a business trip abroad on September 15 (he took a sick leave). The first return possibility was a flight on September 18. Can the employee be paid a tax-exempt daily allowance for the three days of the business trip, be reimbursed for accommodation costs and the return ticket?
The employee has the right to demand compensation for the costs associated with the business trip (subsection 1 of § 40 of the Employment Contracts Act). If an employee falls ill and takes a sick leave and returns from the business trip as soon as possible in case of illness, the requirement for reimbursement of accommodation and travel expenses and daily allowance for the business trip do not change. Thus, the employer can pay the employee a tax-exempt daily allowance for the business trip, reimburse tax-exempt accommodation costs and the return ticket.

The employer could reduce the daily allowance of the business trip abroad by up to 70% if the employee goes to a hospital, because meals are provided in hospitals.

39. The employee was sent on a business trip abroad. Due to the spread of the COVID-19 virus (the borders were closed), the employee could not return home from the business trip abroad at the agreed time.
The employer can:

a) extend the business trip and pay daily allowance of the business trip abroad, reimburse the accommodation costs and the return transport costs;

b) agree with the employee that the latter will continue to work remotely. The employer can reimburse the employee's accommodation costs, transportation costs 100%, because the employee has found themself in this situation based on the employer's interests/needs;

c) upon agreement with the employee and at the employee's request, formalise a holiday for the employee. Reimbursement of accommodation costs is a fringe benefit. Transport costs for the return trip home are exempt from tax because the employer is also obliged to bring the employee back from a business trip abroad.

Last updated on 08.01.2025

Health and sports

Expenses made to improve health in the amount of **up to 400 euros per employee in a year** are not taxed as a fringe benefit if the employer compensates these expenses to all employees.

An employee is:

- a person working according to an employment contract;
- an official;
- a member of the management or controlling body;
- a sole proprietor who sells goods to the employer for a period longer than six months;
- a natural person who works or provides services based on a contract for services, authorisation agreement or any other contract under the law of obligations.

The tax incentive does not apply to the health and sports expenses of an employee's spouse, registered partner, cohabitee or direct blood relative, as well as to an employee of a company that belongs to the same group as the employer or an employee of another company.

Last updated on 08.01.2025

Health and sports expenses

Tax-exempt expenses for improving health are:

1. participation fees in public sports events
2. expenses directly related to regular use of sporting or mobility venues or to massage
3. expenses made for maintenance of the employer's existing sports facilities
4. expenses on services provided by a person holding an activity licence for the provision of health services within the framework of dental care, rehabilitation, psychological treatment, physiotherapy or speech therapy, and on nutrition counselling service provided by a nutrition

counsellor who holds a professional qualification
5. insurance premiums of sickness insurance contracts.

An employer can compensate expenses made for improving the employees' health to the extent of 400 euros per every employee in a year exempt from tax.

It must be considered that:

- ✓ 400 euros **includes VAT, and input VAT cannot be deducted** from the health and sports expenses incurred for employees
- ✓ 400 euros is **for each employee per year** and this amount cannot be transferred to other employees
- ✓ **if an employee has several employers, each employer can apply the tax incentive** for health and sports expenses in the amount of 400 euros
- ✓ **documents are required** to compensate the expenses
- ✓ it is necessary to **keep person-based accounting** (it is possible to choose either cash-based or accrual-based accounting)
- ✓ bearing costs **is not mandatory**, everything listed does not have to be made available to all employees
- ✓ employees receive benefits because of **employment relationships** (the contract is concluded in the future, has stopped, is valid or has ended)
- ✓ the tax incentive **does not include equipment needed for practising sports** (clothes, shoes, table tennis rackets, skis, including rental of sports equipment, etc.) **or additional services** (e.g. catering, transport, parking, wardrobe costs, reception following an event, etc.)
- ✓ the tax incentive also **extends to sports and health expenses made outside Estonia**

Employers can decide whether and which services for health improvement or sporting opportunities they offer to their employees. Employees can decide whether and which services for health improvement or sporting opportunities they use.

EXAMPLE 1

The employer has 10 employees, but two of them want to use the health improvement options. Thus, the employer can bear tax-exempt health improvement costs for two employees, i.e. 800 euros per year.

EXAMPLE 2

The employer has concluded a contract for the use of a sports club in the amount of 500 euros per month (i.e. 6000 euros per year). The employer has 20 employees. If 10 of them want to use the sporting opportunities, then the cost of using the sports club is tax-exempt in the amount of 4000 euros (10 × 400), and the cost of using the sports club in the amount of 2000 euros (6000 – 4000) is taxed with income and social tax as a fringe benefit. If all 20 employees want to use the sporting opportunities, the cost of using the sports club is tax-exempt in the amount of 8000 euros (20 × 400), and since the employer pays 6000 euros per year, there is no tax liability.

The employer can set different thresholds for reimbursement of expenses for employees if the possibility of reimbursement of expenses is ensured for all employees. Establishing a threshold cannot, however, lead to a situation where some employees have no opportunity for reimbursement of expenses. For example, members of the board have a limit of 400 euros per year, but the limit for employees is 10 euros per year. In this case, it is considered that not all employees have been offered the benefit.

The tax incentive is not intended for employees who work on the basis of short-term (e.g. one-day) authorisation agreements (for example, freelance collaborators of press publications or educational institutions, those who complete study assignments, members of theses defence committees, reviewers, experts, temporary workers, etc. The Income Tax Act allows to make tax-exempt health improvement expenses for them, but not offering them a benefit is not considered a violation of the condition that requires the offer of benefits to all employees.

Last updated on 08.01.2025

Participation fees in public sports events

Avalik rahvaspordiüritus on kõigile huvilistele avatud üritus, kus osalejad tegelevad liikumisega või sportimisega eesmärgiga edendada tervist ja liikumisharrastust. Avaliku rahvaspordiürituse osavõtutasu on vabastatud erisoodustusest **tulumaksuseaduse § 48 lõike 5^{5} punkti 1** alusel, selle olulised kriteeriumid on alljärgnevad.

- **Avalikkus.** Üritus on avatud kõigile huvilistele, mitte ühe tööandja, organisatsiooni või suletud ringi liikmetele. Lubatud on mõistlikud piirangud (registreerimine, osalemistasu, osalejate arv).

- **Eesmärk on liikumine või sportlik tegevus.** Ürituse põhifookus on kehaline aktiivsus. Liikumine või sportlik tegevus on näiteks: kõndimine, rattasõit, jooksmine, suusatamine, uisutamine, matkamine, orienteerumine, rahvaspordi formaadis pallimängud jms. Ürituse osavõtutasu võib sisaldada meelelahutust ja tagasihoidlikku toitlustust, kuid ürituse põhirõhk peab olema kehalisel aktiivsusel.

- **Suunatud tavainimestele**, sõltumata vanusest, tasemest või sportlikust ettevalmistusest. Tulemus, koht või aeg ei ole määrava tähtsusega. Üritusele võib olla iseloomulik osavõtu ajakava, reeglid, osalejate (ettevõtete ja/või inimeste) vaheliste tulemuste kõrvutamine (näiteks punktiarvestus), parimate tunnustamine, kuid tegevus ei pea ilmtingimata olema võistluslik.

- **Regulaarsus ei ole nõutav.** Rahvaspordiüritus võib olla nii ühekordne (nt rahvamatk) kui ka perioodiline (nt sari- või iga-aastane üritus).

Rahvaspordiüritused on näiteks rahvajooksud ja -maratonid; rattaretked- ja -maratonid; rahvamatkad (jalgsi, suuskadel, tõukeratastel); avalikud orienteerumisüritused; spordi- ja liikumispäevad, kus osaleda saab igaüks; üritused, mis on suunitletud ettevõtete töötajate vahelistele sportimise tegevustele (liikumisele, võistlustele). Näiteks ITK valdkonnas tegutsevatele tööandjate töötajatele korraldatav spordivõistlus, erinevate firmade vahelised turniirid (nt võrk- või korvpalliturniir).

Rahvaspordiüritused **ei ole**: tippspordi võistlused (eliitliigad, meistrivõistlused); ettevõttesisesed spordipäevad või nendega sarnased kitsamale sihtrühmale suunatud üritused, mille eelduseks on tavaliselt üritust korraldava tööandja juures töötamine või muu võlaõiguslik suhe; peamiselt meelelahutuslikud festivalid, kus liikumine pole keskne; individuaalne spordiklubi treening ilma avaliku ürituse vormita.

NÄIDE 1

Avalikud rahvaspordiüritused on näiteks Narva Energiajooks, Eesti ööjooks, Tallinna maraton, SEB maijooks, Viljandi järve jooks, Tartu linna jooks, LHV tervisejooks ja -kõnd, Saaremaa kolme päeva jooks, Tammsaare rahvamatk, Ekströmi marss Lahemaal, Roheliste Rattaretked, Rattafest.

NÄIDE 2

Tööandja ostab oma töötajatele teenuse pakkujalt avastusretke, matka (ei ole avalik üritus). Tööandja soetatud matkal saavad osaleda omad töötajad. Avastusretke, matka kulusid ei käsitleta maksuvabade tervise edendamise kuludena.

NÄIDE 3

Töötaja esitab tööandjale hüvitamiseks rahvamaratoni pileti. Töötaja oli üritusel vaid pealtvaataja. Sellist kulu tööandja maksuvabalt kompenseerida ei saa, kuna töötaja ei olnud osaleja, vaid oli pealtvaataja.

Participation fees related to public national sports events, which can be attended by anyone (taking into account understandable restrictions set by the organiser, e.g. the number of participants, the obligation to pay the participation fee, etc.) regardless of the employee's employer, are not taxed as a fringe benefit. Public national sports events mean various public series of events and individual events.

Public national sports events are not, for example, company sports days or similar events aimed at a narrower target group, which usually require employment with the employer organising the event or a relationship under the law of obligations. Public sports events are also events that are aimed at sports activities between employees of companies (exercise, competitions). For example, a sports competition organised for employees of IT companies, tournaments between different companies (e.g. volleyball or basketball tournaments). A public national sports event is characterised by public notification, participation schedule, rules, comparison of results (for example, scoring) between participants (companies and/or people), recognition of the best.

Example 1
Public national sports events are, for example: Narva City Run, Night Run Estonia, Tallinn Marathon, LHV Women’s Run, the Great Race around Lake Viljandi, Tartu City Marathon, Saaremaa 3-day Running Marathon, Tammsaare national hike, Ekström March in Lahemaa, etc.

Example 2
The employer buys a hiking tour (not a public event) for its employees from a service provider. The employer's employees can participate in the hike purchased by the employer. The costs of hiking tours and hikes are not treated as tax-exempt health improvement costs.

Last updated on 20.07.2026

Expenses directly related to regular use of sporting or mobility venues

Sporting and mobility venues are public and companies’ own sports clubs, the costs of which are covered for employees or reimbursed to employees based on expense documents.

Sporting and mobility venues are, for example:

- stadiums, sports-specific fields and halls;
- gymnasiums, artificial fields, halls, health trails, bicycle paths;

- ✓ green areas, parks, streets, squares.

Since the purpose of the tax incentive is primarily to support the continuous health improvement of employees, the tax exemption does not extend to situations where the employer wants to rent a sports complex or training place for a short period of time, e.g. for company sports days.

A company's own sports club also means, for example, a non-profit organisation created by employees, to which membership fees are paid, from which the members' sports expenses are covered.

EXAMPLE

Continuous participation in folk dance, ballroom dance classes, yoga training, adult ballet, belly dance classes, swimming training, aerobics, gym (including sports club membership fee), table tennis training, sauna yoga, etc. are considered health promotion expenses. Also, the costs of mobile apps and exercise videos that offer different programs for sports/exercise in gyms, on health trails, at home, etc.

NB! Purchasing services of water centres, spas, sauna centres in such a way that one does not do continuous sports/training activities there is not subject to tax incentive.

Massage

The list of expenses includes expenses **directly related to massage**. Massage also includes massages performed with or using a device, such as roller massage, LPG massage, or massage on a massage chair. The massage provider **does not** have to be registered in the healthcare management information system, nor is there a requirement for a professional certificate for massage providers.

All beauty treatments, including fat-reduction procedures, body and facial treatments, and hand and foot treatments (e.g. pedicures, manicures) that include massage, are subject to taxation as fringe benefits. Beauty treatments are not regarded as tax-exempt health improvement expenses, i.e. expenses directly related to massage within the meaning of clause 2 of subsection 5^5 of § 48 of the Income Tax Act. For the tax incentive under the massage provision (**clause 2 of subsection 5^5 of § 48 of the Income Tax Act**) to apply, the service as a whole must qualify as a massage.

EXAMPLE

Service	Description	Is the service as a whole considered a massage, i.e. tax-exempt under clause 2 of subsection 5^5 of § 48 of the Income Tax Act?
LPG, roller massage	Device-based massage	Yes

Service	Description	Is the service as a whole considered a massage, i.e. tax-exempt under clause 2 of subsection 5^5 of § 48 of the Income Tax Act?
Massage on a massage chair	A massage chair uses mechanical components (rollers, airbags, vibrating mechanisms) to relax muscles and improve blood circulation.	Yes
EMS magnet	Device-based treatment to increase muscle mass, improve muscle tone, and reduce body fat	No
Cold Lipo	Fat-reduction procedure	No
Thermo-C	Device-based body treatment	No
Cavitation	Fat-reduction procedure	No
Cryolipolysis	Fat-reduction procedure	No
Pressotherapy	Device-based body treatment	No
Massage of the shoulder area, décolletage, etc.	Massage of a specific area of the body	Yes
Lymphatic massage	A specific type of massage	Yes
Facial massage	Massage of the facial area	Yes
Osteopathy	Holistic manual therapy	No

The tax incentive for rehabilitation (**clause 4 of subsection 5^5 of § 48 of the Income Tax Act**) may apply to certain services that do not qualify as massage within the meaning of clause 2 of subsection 5^5 of § 48 of the Income Tax Act. For more information about the conditions, please see the article “**Expenses on dental care, rehabilitation and other services**”.

Last updated on 22.04.2026

Expenses made for maintenance of employers' existing sports facilities

The tax exemption extends to expenses incurred for the maintenance of employers’ existing sports facilities (excluding investments). Employers can maintain existing facilities within the limit of the tax exemption. The size of the threshold is also 400 euros per employee per year, and the limit of those employees who use the employer's sports facilities can be used.

Example
Sports facilities are stadiums and sports fields, ice rinks, outdoor swimming pools, motor tracks, race tracks, velodromes, golf courses, beach bathing facilities, trampolines, roller-skiing tracks. The exemption also applies to buildings and parts thereof which are not sports facilities (e.g. gyms).

Expenses incurred for the maintenance of sports facilities include, for example, expenses directly related to the maintenance of the premises, which may include the repair and cleaning of the premises and equipment used for health promotion, as well as expenses such as electricity and water.

Please note that the price of the fringe benefit is not the market price for the use of a comparable gym, but the amount actually spent on maintenance of the sports facility.

Example
The employer has created a gym for the employees of the company to use in their premises, which is regularly used by 10 employees. Maintenance and cleaning of rooms and equipment costs 200 euros per month, plus 150 euros for water and electricity costs, totalling 350 euros per month, or 4200 euros per year. Since the annual tax-exempt limit for 10 employees is 10 × 400 = 4000 euros, the part exceeding the limit, i.e. 200 euros, is subject to taxation.

If the employer builds a gym in the office and buys new instruments or equipment for the gym, the expense incurred is considered a business-related payment that is not taxed.

Last updated on 08.01.2025

Expenses on dental care, rehabilitation and other

services

DENTAL CARE, REHABILITATION, PSYCHOLOGICAL TREATMENT, PHYSIOTHERAPY, SPEECH THERAPY, NUTRITIONAL COUNSELLING

Pursuant to clause 4 of subsection 5^5 of § 48 of the Income Tax Act, the following expenses made for improving the health of an employee to the extent of 400 euros per employee in a year are not subject to taxation as fringe benefits if the employer has enabled these to all employees: expenses on services provided by a person holding an activity licence for the provision of health care services within the framework of dental care, rehabilitation, psychological treatment, physiotherapy or speech therapy, and expenses on nutritional counselling service provided by a nutritional counsellor who holds a professional qualification.

Two key conditions must be met in order for these expenses to be reimbursed exempt from tax:

- only services provided by entities with activity licences for the provision of health care services fall within the scope of the special rules; and
- services must have a specific scope – the special rules apply only to services provided as part of dental care, rehabilitation, psychological treatment, physiotherapy or speech therapy, and to nutritional counselling service provided by a nutritional counsellor who holds a professional qualification.

A health care provider must hold an activity licence for the provision of health care services and a professional certificate is required from a provider of nutritional counselling.

The existence of an activity licence for the provision of health care services can be looked up from **the register on the website of the Health Board**. When nutritional counselling is provided, the professional qualification of a nutritional counsellor and /or a nutritional therapist is required. This means that a nutritional counsellor may hold a professional certificate as a nutritional counsellor or as a nutritional therapist, or both. Occupational qualification certificates can be checked from **the register of occupational qualifications** of the Estonian Qualifications Authority.

Dental care

All dental care services can be reimbursed exempt from tax in the amount of 400 euros per employee in a year. There are no special rules with regard to the services to be compensated. Installation of a dental prosthesis or implant, soda blasting, orthodontics, teeth whitening, removal of dental pigment, etc. – all dental care services are reimbursable under clause 4 of subsection 5^5 of § 48 of the Income Tax Act.

NB! A dental care provider must hold an activity licence of a health care provider.

Rehabilitation and other services

The spectrum of services is broad – according to the wording of the provision, the services of all specialists acting in the context of rehabilitation, including, for example, services provided by occupational therapists and psychological councelors, whether they are provided as individual services or in the context of complex services, are covered. Consultation with specialists from other disciplines (psychiatrists, ophthalmologists, orthopedists) may be justified in the field of rehabilitation, and the provision of such services to an employee is also in line with the objective of the provision and thus not taxed as a fringe benefit. Similarly, in the context of psychological treatment, in addition to clinical psychologists, it is also possible to fund the services of psychological councelors or mental health nurses.

The provision of psychological care can take place in the framework of specialised medical care, family medical care and independent provision of psychological care.

Last updated on 14.07.2025

Insurance premiums of sickness insurance contracts

Upon agreement with employees, employers can conclude health insurance contracts with insurance companies to cover possible medical expenses or compensate the employees for payments made on the basis of expense documents tax-exempt up to the limit of the tax incentive.

Voluntary health insurance is necessary especially for those who for some reason are not covered by the Health Insurance Fund or cannot/do not wish to purchase it separately from the Health Insurance Fund.

Private health insurance is mostly intended for those who:

- ✓ do not consider the services of the Health Insurance Fund sufficient
- ✓ wish to be treated in private medical facilities
- ✓ if necessary, want to go abroad for treatment

Example

The employer concludes a health insurance contract offered by the Health Insurance Fund for a person who does not have state health insurance (e.g. the service is provided on the basis of a contract under the law of obligations and the monthly fee is lower than the monthly rate based on the minimum obligation of social tax).

Pursuant to the insurance contract, the person (insurer) undertakes, upon the occurrence of an insured event, to compensate for damage caused by the insured event or to pay the agreed amount of money or to perform the contract as otherwise agreed and the other person (policyholder) undertakes to pay insurance premiums to the insurer (**§ 422 of the Law of Obligations Act**).

Insurance activity is the taking over of insurance risks based on an insurance contract and compensation for damage in case of an insured event (**subsection 1 of § 2 of the Insurance Activities Act**). To engage in insurance activities, a company must hold an activity licence (authorisation). The Estonian Financial Supervision and Resolution Authority grants authorisations to companies established in Estonia.
Insurance institutions

Last updated on 08.01.2025

Calculation and declaration of tax incentives

CALCULATION OF TAX INCENTIVES

If the period of making the expense (receiving the benefit) and payment for it are on different times, the employer must choose the way to keep records: whether the records are kept based on the expense (activity) or the payment made in a year. The employer must use the chosen method consistently throughout the year and for all employees.

DECLARATION

The amount exceeding the tax-exempt limit is declared on Annex 4 of form TSD at code 4120. The form is submitted by the 10th day of each following month. The tax liability on fringe benefits is paid based on form TSD, as usual.

The total of tax-exempt health improvement expenses covered or reimbursed during the calendar year in the extent of the threshold (**subsection 5^5 of § 48 of the Income Tax Act**) and the number of employees for whom expenses have been covered or reimbursed during the calendar year are declared **in part III of**

form INF 14.

Mandatory expenses arising from **subsection 1 of § 13 of the Occupational Health and Safety Act** are not indicated in the form INF 14, because these expenses are related to business and are not declared there.

TAX LIABILITY

The price of the fringe benefit is calculated from the part exceeding the limit.

Example
The employer has concluded a contract for the use of the sports club in the amount of 500 euros per month (i.e. 6000 euros per year). 10 employees use the offered possibility. The annual tax-exempt limit for 10 employees is 10 × 400 euros = 4000 euros. 6000 – 4000 = 2000 euros is subject to taxation with both income tax and social tax.

Last updated on 08.01.2025

Home office

The term home office includes teleworking, sometimes working from home with the employer's consent, working at the employer's location, working at home as a sole proprietor (FIE).

Last updated on 08.01.2025

Teleworking

In the case of **teleworking**, an employer and an employee agree that the employee does work, which is usually done in the employer’s enterprise, outside the place of performance of the work, including at the employee’s place of residence (**§ 6 of the Employment Contracts Act**).

When directing an employee to teleworking, the employer can choose whether to transport the necessary work equipment (e.g. table, chair, monitor) to the employee's home or purchase new equipment for the employee. If the assets do not become the employee's property when installed (the assets are registered with the employer as movable property), then the transfer of the assets is not taxed. If, by agreement with the employer, the employee buys the necessary work equipment themself, the employer can reimburse only those costs as exempt from tax (on the basis of expense documents) that are related to work, i.e. used for the purposes of performing work. If it is decided upon termination of employment or moving back to the office that the assets will remain with the employee, then the market price of the assets must be calculated and the price of the assets must be taxed as a fringe benefit. If the employee reimburses the employer for the cost of the assets, no tax liability arises.

Last updated on 08.01.2025

Company’s office at board member’s or employee’s home

Company’s office is at the board member’s or employee’s home.

The expenses related to home office must be related to business, i.e. necessary to perform work, and documented. If part of an apartment or house or property is used for personal purposes and part for business, then proportions must be found.

Proportions are based on:

1. actual use;
2. area ratio – part used in business and part in personal use;
3. time (if area ratio cannot be applied) – the extent to which it is for business use and for personal use;
4. if determining proportions is difficult, 50% is for business and 50% is for personal use.

It is recommended to determine the respective proportions in a written agreement. Payments made to employees are based on periodic expense documents in which it is recommended to indicate the reimbursable proportions and amounts of the expenses.

If an employee uses personal equipment (furniture, equipment), no tax liability arises. If work equipment is purchased to an office, only the costs of equipment that are used to perform work are exempt from tax. This also applies to interior finishing (only the cost of interior finishing of the space used as a workplace is exempt from tax). If the furnishing elements also have an aesthetic value for the rest of the home, then proportions must be found. If the company bears the total cost, the personal consumption part is taxed as a fringe benefit.

Therefore, home office-related expenses that can be reimbursed exempt from tax must be business-related, i.e. necessary to perform work in home office. The expenses that the apartment/house owner would have to incur even if they did not work at home are the expenses of a private person and cannot be reimbursed exempt from tax by the company. If the company reimburses expenses that do not depend on the use of the living space (dwelling) for work, but arise from owning the living space, these are taxed as a fringe benefit and declared in annex 4 of the form TSD. Such costs of owning a dwelling are, for example, loan payments and interest, land tax, insurance, etc.

If an employee or a board member decides to **rent one room in their home, which they use as a company office, to the company and pay themself a fee for it**, the company must withhold income tax when making the payment and declare the payment in annex 1 of form TSD with payment type 50.

Last updated on 08.01.2025

A sole proprietor (FIE) working from home

When doing business, assets for personal consumption must be separated from assets used in business. Assets are often only partially related to business. Depending on the asset, it can be divided into part interests according to the purpose of use, and the size of the part used in business can be found.

To find/determine the part used in business of each individual asset, you must:

- distinguish all assets and goods used exclusively in business;
- distinguish assets and goods that the sole proprietor uses for personal purposes in addition to business (the proportions of business and private use must be determined);
- determine the proportions of those assets and goods that, in addition to business use, are used for personal purposes by the sole proprietor and their family members (the proportions of business and private use must be determined). The cost of the part of the assets used for personal purposes and/or by family members of the sole proprietor cannot be deducted from income as business

- expenses of the sole proprietor.

Last updated on 08.01.2025

Home office utility expenses

When working in a home office, in agreement with the employee, the employer can reimburse the costs related to the use of the employee's home for work, such as electricity, communication services, water, etc. Incurring such expenses is not treated as covering the employee's housing expenses and as a fringe benefit, but the proportion of reimbursed expenses must be justified by the employer and the expenses incurred must be documented. Therefore, it is necessary to agree in advance between the employer and the employee, how much of the home expenses are related to home office. Since the expenses related to work are exempt from tax, all expenses must be reviewed by type on the invoice of utility expenses and assessed which expenses and to what extent are related to the performance of work.

For example, internet costs can be reimbursed exempt from tax only in the part of work use, while the amount of apartment association’s repair loan stated on the utility invoice cannot be reimbursed exempt from tax to an employee.

When using home as an office, sole proprietor’s utility expenses can also be included in the expenses related to the use of home for work. The proportion of costs must be justified and documented. On the invoice of utility expenses, all costs must be reviewed and evaluated by type, and the corresponding proportions must be calculated.

Last updated on 08.01.2025

VAT on home office expenses

A company registered as person liable to value added tax (VAT) can deduct input VAT on goods and services if the invoice is addressed to the company and has the company's name on it. If an employee working in home office pays for expenses and the employer reimburses these expenses by agreement, VAT on the expense documents cannot be deducted and the expenses are reimbursed to the employee together with VAT.

If the employer has acquired such assets, which are accounted for as fixed assets in the accounting, and the assets are not returned to the employer after the end of working in home office, the free use or transfer of property must be taxed as self-supply (**clause 2 of subsection 1 of § 4 of the Value-Added Tax Act**). If, upon going back to work to the company's office, all the assets acquired by the employer, which were used in home office, are returned to the employer, then the usual calculation of input VAT deducted from fixed assets continues.

If the employer has decided to sign some of the contracts necessary for home office work in its own name, for example an internet service contract, then the employer is entitled to deduct input VAT and the part used by the employee for personal use is taxed as self-supply.

If the employer makes expenses related to a specific immovable property in the employee's home office, for example, repairing rooms, permanently fixed lighting, heaters, etc., then there is no right to deduct input VAT from these expenses.

At the employee's request, these costs can be resold to them with VAT – then the input VAT can also be deducted. If a sole proprietor registered as a person liable to VAT acquires goods and services for home office, then input VAT can be deducted according to the proportion of their use in business.

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Occupational health care in home office

When enabling remote work, employers must consider, from the point of view of occupational health and safety, that work must also be done safely in home office, and that employees must comply with occupational health and safety requirements when performing work.

Additional information

Occupational health during teleworking

Last updated on 08.01.2025

Share options

The Estonian Tax and Customs Board defines a **share option** in the meaning of **subsection 5^3 of § 48 of the Income Tax Act** as a **derivative contract** concluded with the employer, which gives the employee the right (not the obligation) to buy options from the issuer or to sell options to the issuer at the exercise price specified in the contract of the underlying asset and within the term fixed in the contract.

The underlying asset of the share option is a holding in the employer or in a company belonging to the same group as the employer. The purpose of share options is to include employees in the circle of partners/shareholders and thereby increase their productivity and efficiency and reduce staff turnover.

It is not considered a share option if, when granting the option, **it is known in advance that the employee will not receive a share in the employer or in a company belonging to the same group as the employer**, but the employer will pay the employee the price of the underlying securities. In this case, the payment is treated as wages, salaries, or additional remuneration, from which all labour taxes are payable.

The granting of a share option is not considered a fringe benefit. No tax liability arises when a share option is granted.

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Conditions of share options

Important conditions of share options are:

- ✓ **the time of granting** the option, i.e. the date of signing the share option contract or the date of agreeing on the terms of the employer's participation program (e.g. employee stock purchase plan, ESPP or restricted stock unit, RSU);
- ✓ **the underlying asset** of the option, i.e. holding (share) in the employer or in a company belonging to the same group as the employer;
- ✓ **the number of underlying assets**, i.e. the specified number of shares / nominal value of the share;
- ✓ **the exercise (realisation) price** of the option, i.e. specified share price / share value;

- **the term of option exercise (realisation)**, i.e. the period from the granting of the option to its exercise, in taxation, the duration of the period of at least 3 years is important;

- **the moment of exercise (realisation)** of the option, i.e. the date when the employee uses the right to acquire a holding arising from the option and receives underlying assets in exchange for the option;

- **the option premium**, i.e. the amount paid by the employee for the option. Option premiums are not mandatory.

If the option contract has not been digitally signed or notarised, the employer is obliged to submit the contract or information regarding joining the employer's participation program to the Estonian Tax and Customs Board at the e-mail address **ariklient@emta.ee** within 5 working days of its conclusion.

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Taxation of share options

Share options are taxed (according to **subsection 5^3 of § 48 of the Income Tax Act**):

- **at the transfer of an option** before it is exercised or

- **at exercising an option** (i.e. buying or selling the underlying asset).

The transfer of a share option before its exercise is considered a fringe benefit, regardless of the three-year term of the option exercise or the moment of the transfer of the share option. The employee is required to notify the employer of the transfer of the share option. The employer incurs a tax liability from the fringe benefit provided.

Exercising a share option, i.e. acquiring a holding that is the underlying asset, **before 3 years have passed** since the option was granted, **is considered a fringe benefit.** The employer has a tax liability on the fringe benefit.
During the term of the option contract with a term of at least three years, **as an exception**, if

- the entire holding in the employer or in a company belonging to the same group as the employer is transferred (so-called full exit situation) or

- the employee is diagnosed with total incapacity for work, or the employee dies,

acquiring a holding underlying the option to the extent that corresponds proportionally to the time of holding the option before the event **is not considered a fringe benefit.**

Only the situation where the **entire holding** (100%) in the employer or in a company belonging to the same group as the employer is transferred is not considered a fringe benefit. The exception does not apply to partial transfer of a holding!

Exercising a share option, i.e., acquiring a holding that is the underlying asset, **after 3 years have passed** since the option was granted, **is not considered a fringe benefit.** The employee will benefit from the transfer of securities in the future!

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Three-year term of share options

In the event of a **change in the underlying asset** of the option, a three-year term is calculated from the date of the initial option grant, if the underlying asset changes, for example,

- due to the reorganisation of the group or the merger/division/transformation of the company;

- due to a change of job of an employee in the group (e.g., the employer replaces the underlying asset with a holding in a company belonging to the same group);

- due to the transfer of the entire holding (e.g., the new owner of the employer replaces the underlying asset);

- as a result of a bonus issue. Since a bonus issue is carried out at the expense of the equity without making additional contributions, it is essentially considered equity restructuring and an accounting operation. When the share capital is increased, the line of equity of the balance sheet, on the account of which the bonus issue is carried out (profit, premium), will simultaneously decrease, and the company's assets and the balance sheet total will remain the same.

Since the employee acquires a real holding in the employer or in a company belonging to the same group as the employer at the time of execution of the option contract, the important conditions of the share option are not changed, and the counting of the three-year term is not interrupted. If essentially a new share option contract is concluded with the employee and under new conditions, then a new three-year term will begin.

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Determining the price and the taxation of fringe benefits

The **"Procedure for determining the price of fringe benefits"** is established by Regulation No. 2 of the Minister of Finance of 13 January 2011 (hereinafter *the Regulation*).

If the fringe benefit is the income obtained from the **transfer of a share option**, then **the difference between the market price of the share option and the option premium paid to the employer is considered the price of the fringe benefit** (**subsection 1 of § 7 of the Regulation**).

If an employee did not pay option premium to the employer, the market price of the share option is considered the price of the fringe benefit.

If the fringe benefit is the income received from the **acquisition of the holding underlying the share option**, then the **difference between the market price and the realisation price of the holding, minus the option premium paid to the employer, is considered the price of the fringe benefit** (**subsection 2 of § 7 of the Regulation**).

Therefore, if 3 years have not passed since the option was granted and the option is exercised (realised), the employer is obliged to tax as a fringe benefit

- the market price or
- the market price minus the exercise price (realisation price) of the option paid by the employee and/or the option premium

of the underlying holding acquired by the employee.

In practice, there have been situations where the entire holding (100%) in the employer is transferred (the so-called full exit situation) and the options are terminated and exercised (realised) before 3 years have passed, on the condition that **the employee no longer receives a holding** upon termination and realisation of the option, **but financial compensation pay-out corresponding to the value of the holding**. This is because the new owner (investor) acquires the entire holding (100%) and does not continue with the option program. Since the new owner does not include employees in the circle of owners, it is not justified to formalise the holding in the name of the employee(s) only to immediately transfer it to the new owner (investor). In such a situation, the tax authority is guided by the content of the transaction and takes the position that, as a fringe benefit, **the monetary pay-out is not taxed as a fringe benefit in the extent that corresponds to the time the option is held**. Monetary pay-out exceeding the time the option is held is taxed as a fringe benefit.

EXAMPLE

There have also been situations where a **partial holding** (less than 100%) in the employer is transferred and/or by agreement of the parties, the right to use the option and the obligation to exercise the option are waived and a monetary pay-out is made to the employee (compensation is paid). In this case, the **monetary pay-out is taxed in full as a fringe benefit.**

Fringe benefit is declared in Annex 4 of the form TSD at codes 4080–4083.

If an employee performs their duties in Estonia and their wages are taxed with both income tax and social tax and social payments in Estonia, then the fringe benefit given to the employee is also subject to taxation with income and social tax in Estonia.

If a non-resident employee performs their duties in a foreign country and their wages are taxed with both income tax and social tax and social payments in the foreign country, then the fringe benefit given to the employee is also not subject to taxation in Estonia. The employer may have a tax liability in a foreign country.

In the future, if the employee benefits from the transfer of securities (acquired holding), they have the right to take into account the amount taxed as a fringe benefit with income tax according to **§ 48 of the Income Tax Act** by the employer as the cost of acquiring securities (**subsection 8 of § 38 of the Income Tax Act**). The employer's certificate is the basis for determining the acquisition cost.

EXAMPLES OF CALCULATING THE PRICE OF FRINGE BENEFIT

There have been situations where, with an option contract, an employee has the right to exercise an option and acquire a holding before 3 years have passed since the conclusion of the option contract, and this on the condition that the employee pays (reimburses) the tax liability related to the acquisition of the holding to the employer when the option is exercised. In such situation, the price of the fringe benefit is calculated according to the agreement between the employer and the employee, and the acquisition cost of the holding paid by the employee to the employer. Two examples can be given from practice to calculate the tax liability and the acquisition cost of a holding.

Example 1

An agreement has been concluded between the employer and the employee that the employee pays the employer **the estimated** (so-called hypothetical) **tax amount** based on the price of the fringe benefit. For example:

- the market price of the acquired holding, i.e., the price of the fringe benefit, is 1,000 euros;
- the employee pays the employer the calculated tax amount of 662.50 euros from the price of the fringe benefit of 1,000 euros
(1,000 × 20 ÷ 80 = 250 euros; 1250 × 33% = 412.50 euros; income tax 250 euros + social tax 412.50 euros = 662.50 euros);
- since the employee paid (reimbursed) 662.50 euros to the employer, the taxable fringe benefit for the employer is 337.50 euros (1,000 – 662.50 = 337.50);
- the employer declares and pays the actual tax amount of 223.60 euros from the fringe benefit of 337.50 euros
(337.50 × 20 ÷ 80 = 84.38 euros; 421.88 × 33% = 139.22 euros; income tax 84.38 euros + social tax 139.22 euros = 223.60 euros);
- the market price of the acquired holding, i.e., the price of the fringe benefit, is 1,000 euros.

The employee has the right to take into account 1,000 euros as the acquisition cost of the holding, i.e., 662.50 euros paid to the employer + 337.50 euros taxed as fringe benefit.

If the employee sells the holding in the future for, e.g., 2,500 euros, their gain will be 2,500 – 1,000 = 1,500 euros.

The acquisition cost of the holding must be documented, and it is important that the employer gives the employee a certificate indicating the amount taxed as a fringe benefit.

Example 2

An agreement has been concluded between the employer and the employee that the employee pays the employer **the actual tax amount** based on the price of the fringe benefit. For example:

- the market price of the acquired holding, i.e., the price of the fringe benefit, is 1,000 euros;
- the taxable fringe benefit of 586.47 euros for the employer can be found as follows: 1,000 euros is the total amount of the fringe benefit and tax expense, or 170.513% in percentage terms (fringe benefit price of 1,000 euros, i.e. 100%, + tax amount on the fringe benefit of 705.13 euros, i.e. 70.513%); therefore the fringe benefit (100%) for the employer is 1,000 euros × 100% ÷ 170.513% = 586.47 euros;
- taxable fringe benefit for the employer is 586.47 euros and the tax amount on it is 413.53 euros (586.47 × 22 ÷ 78 = 165.41; 751.88 × 33% = 248.12; income tax of 165.41 euros + social tax 248.12 euros = 413.53 euros);
- the employee pays (reimburses) the employer the actual tax amount of 413.53 euros from the price of the fringe benefit of 1,000 euros (tax liability calculated from 586.47 euros out of 1,000 euros: 586.47 × 22 ÷ 78 = 165.41; 751.88 × 33% = 248.12; income tax 165.41 euros + social tax 248.12 euros = 413.53 euros);
- since the employee paid (reimbursed) 413.53 euros to the employer, the taxable fringe benefit for the employer is 586.47 euros (1,000 – 413.53 = 586.47);
- the employer declares and pays the actual tax amount of 413.50 euros from the fringe benefit of 586.47 euros.

The employee has the right to take into account 1,000 euros as the acquisition cost of the holding, i.e., 413.53 euros paid to the employer + 586.47 euros taxed as fringe benefit.

Like the first example, if the employee sells the holding in the future for e.g., 2,500 euros, their gain will be 2500 – 1,000 = 1,500 euros.

The acquisition cost of the holding must be documented, and it is important that the employer gives the employee a certificate indicating the amount taxed as a fringe benefit.

Both examples and calculations are possible in practice.

Last updated on 26.08.2026

Employee's gains from transfer of securities

Employees incur income tax liability from the gains of transfer of securities (**subsection 1 of § 15 of the Income Tax Act**). Employees' gains (loss) from the transfer of securities (acquired holding) are calculated as the **difference between the selling price and the acquisition cost** (**subsection 1 of § 37 of the Income Tax Act**).

Employees can take into account as the acquisition cost, according to **§ 48 the Income Tax Act**, the amount taxed as a fringe benefit, or with income tax in a foreign country (e.g. in the case of a foreign company belonging to the same group as the employer) and/or the option premium paid by the employee and the realisation price of the holding.

The acquisition cost must be documented.

Last updated on 08.01.2025

Compensation for the use of personal cars

WHO CAN BE PAID TAX-EXEMPT COMPENSATION?

According to the **Regulation No. 164 of the Government of the Republic of 14 July 2006** (hereinafter *the Regulation*), compensation can be paid for the use of a passenger car for business trips:

- to officials (within the meaning of the Income Tax Act, the persons specified in subsection 3 of § 2 of the Civil Service Act, such as members of local government councils, members of rural municipalities or city governments, judges, members of the Riigikogu, etc., are considered to be officials);
- to employees (within the meaning of the Employment Contracts Act) and

- to members of management or controlling bodies of legal persons (within the meaning of § 9 of the Income Tax Act).

Thus, for example, tax-exempt compensation cannot be paid, based on the Regulation, to owners of companies or to persons who provide services based on contracts under the law of obligations. However, it is possible for them to be reimbursed for expenses incurred in the interest of legal persons based on subsection 3 of § 12 of the Income Tax Act, if these expenses are documented.

Last updated on 08.01.2025

What kind of vehicle can tax-exempt compensation be paid for?

Compensation can be paid **for the use of a car, which is not in the ownership or possession of the employer.** Therefore, the car does not have to be the personal property of the user, but the right to use it must be proven. The right of use is indicated on the vehicle registration certificate. M1 and M1G category vehicles are considered passenger cars.

If compensation is paid to a person with a disability, as an exception, the costs of using any motor vehicle may be reimbursed. According to § 2 of Road Traffic Act, a motor vehicle means a power-driven vehicle. A vehicle means a device powered by a motor or in another way, designated for road traffic or driving on the road.

Last updated on 08.01.2025

Documents required for payment of compensation

To pay compensation, there must be a written decision, directive, or order from the employer, which shows the details of the person receiving the compensation, the amount of the compensation and the date of the ride or the period during which the made rides are compensated. A copy of the document certifying the right to use the car is attached to the written decision. A decision can also be made for a longer period than one calendar month.

Tax-exempt compensation can only be paid if records (driving log) of work rides are kept. Driving records must contain the data of the person using the car, data of the national registration plate of the car, the initial and final readings of the odometer for each work ride, and the date and purpose of each ride. The form in which the records are kept, e.g., on paper or electronically, does not matter. It is important that it contains the aforementioned data. As a result, tax-exempt compensation cannot be paid for future rides, but only for rides already made.

If the compensation for the use of a personal car is paid without keeping records, the payment is considered to be income from employment, which must be declared in Annex 1 of the form TSD (in the case of a non-resident, in Annex 2) in personalised form.

Last updated on 08.01.2025

Tax-exempt compensation limits

Based on driving records, business rides can be reimbursed in the extent of up to 50 cents per kilometre, but not more than 550 euros for rides made in one calendar month. This means that employers can also set a lower price per kilometre, for example 20 cents, but neither limit must be exceeded to qualify for the exemption. Therefore, if the price per kilometre of compensation is set at, for example, 1 euro, the part exceeding the limit price per kilometre is taxable, i.e. 50 cents, regardless of the total amount of the compensation.

The compensation can also be paid to the employee summed up, i.e. more than 550 euros cash-based in one calendar month, but it is important that the compensation is not calculated in excess of the prescribed limit for one month.

The compensation amount exceeding the limits is considered a fringe benefit. If the amount of calculated compensation for a calendar month is greater than the limit, the fringe benefit is calculated for each month separately and the fringe benefit must be declared in the month when the compensation was paid out.

A natural person can also receive tax-exempt compensation from several employers if there are records, while the upper limit of 550 euros is applied separately for each employer. The compensation includes all expenses related to the normal use of the car (including fuel, insurance, etc.), except for parking fee paid when performing service, employment, or official duties.

The price per kilometre and the tax-exempt limit established in the regulation are not related to actual costs (expense documents). Subsection 3 of § 12 of the Income Tax Act states that compensation for certified expenses incurred for the benefit of another person is not the income of a natural person, but it also adds that this subsection does not apply to compensation for which separate conditions and limits have been established. Since separate conditions and limits have been established for the compensation paid for the use of a personal car, compensation for the use of a personal car based on expense documents (e.g. payment of a tire change, repair costs, etc.) is a fringe benefit (**§ 48 of the Income Tax Act** and **§ 6 of the Regulation No. 2 "Procedure for determining the price of fringe benefits" of the Minister of Finance of 13 January 2011**), with the exception of parking fee paid when performing service, employment or official duties.

As an exception, personal car expenses can be reimbursed on the basis of an expense document, if one goes on a business trip with a personal car, and the reimbursement of these expenses is based on the so-called business trip regulations: **Regulation No. 110 of the Government of the Republic of 15 June 2009** or **Regulation No. 112 of the Government of the Republic of 19 December 2012**.

Last updated on 08.01.2025

When is ride compensation exempt from tax

WHEN IS THE REIMBURSEMENT OF RIDES BETWEEN WORK AND PLACE OF RESIDENCE EXEMPT FROM TAX

If, in general, rides between work and place of residence are not considered as work rides and cannot be reimbursed tax-free, it is still possible to do so under certain conditions. Rides between the place of residence and the place of work can be treated as work rides if it is not possible to travel this route by public transport at a reasonable time or cost. Also, if the place of residence of an employee with a contract of employment is located at least 50 kilometres from the place of work (subsection 5^1 of § 48 of the Income Tax Act). In this case, rides between work and place of residence are indicated in the driving records as the purpose of the rides, and these can be reimbursed exempt from tax up to the general limit (550 euros).

A person with a disability can be compensated for rides between home and workplace within the limits if records are kept and if it is not possible to use public transport or if its use causes a significant decrease in the person's ability to move and work.

Rides from home to work and back cannot be reimbursed exempt from tax on the grounds that it is easier and more convenient for a person to drive between home and work in a personal car than to use public transport.

It is possible to reimburse rides between home and workplace exempt from tax if it is primarily necessary for the employer to operate its activities. This means that the employer's interest generally prevails when compensating rides between home and work, and the employer must be able to justify it if necessary. The payment of compensation to each person must be assessed separately based on the person's place of residence, work obligations, start of working day, opportunities for using public transport, etc. By evaluating all these circumstances together, the employer can decide whether tax-exempt compensation for the person's rides from home to work is justified or not.

Example
An agreement has been concluded with the employee that the employee is ready 24/7 (on-call) to solve problems arising from business activities, i.e., crisis situations. In this case, can rides between work and home be considered business rides?
On-call time is the time when the employee is not required to perform work tasks but is required to be ready to perform work tasks based on the employer's order under agreed conditions. Since the employee cannot fully concentrate on rest during the on-call time and must be ready to perform work tasks immediately, if necessary, it is justified to pay salary for the on-call time in the amount of 1/10 of the agreed salary. On-call time can be implemented by agreement between the employee and the employer. Therefore, solutions to crisis situations (on-call time) are related to entrepreneurship, as well as rides outside the place of daily work for work purposes and then back there. In this case, rides between work and home are considered business rides.
However, attention must be paid to the fact that merely formally imposing the obligation on employees to regulate crisis situations does not give the right to tax-exempt compensation for all rides between work and home. Such an obligation must be substantive, based on the employer's real needs and correspond to the employee's duties.
More information on the organisation of employee transportation in the instruction “**Transporting employees home and to work**”.

Last updated on 08.01.2025

Declaration of compensation

A person (a resident legal person, state agency or local government agency, a natural person who is an employer and a non-resident who has a permanent establishment or operates as an employer in Estonia) who has paid compensation to a natural person (also, to a person with a disability) for the use of a car during a calendar year is required to submit the declaration form INF 14 by 1 February of the following year.

To submit the form INF 14:

- enter e-MTA
- select “Reports” and “Form INF 14” from the menu
- on the page of declaration lists, click the button “Add new INF”
- select the 4th quarter.

On the form INF 14, the compensation amounts are declared together with the part exceeding the limit.

Example 1
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In January, the employee was compensated for the use of the personal car in the total amount of 600 euros (1200 km × 0.5 euros) and the amount was transferred to the employee. What amounts must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 50 euros (600 – 550) must be indicated on the Annex 4 of form TSD and the amount of 600 euros on the form INF 14.

Example 2
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks in the amount of 550 euros. No driving records are kept. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
No amounts are declared on the Annex 4 of form TSD and on the form INF 14, because driving records have not been kept. The amount of 550 euros is treated as employment income and is declared on the Annex 1 of form TSD.

Example 3
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In February, the employee was compensated for the use of a personal car in the total amount of 409.44 euros (744.44 km × 0.55 euros) and the amount was transferred to the employee. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 37.22 euros (744.44 km× 0.05 euros) must be indicated on the Annex 4 of form TSD and the amount of 409,44 euros on the form INF 14.

Example 4
The employer's order states that the employee will be reimbursed for the use of a personal car for work tasks when keeping driving records. In March, the employee was compensated for the use of a personal

car in the total amount of 675 euros (1500 km × 0.45 euros) and the amount was transferred to the employee. What amount must be declared on the Annex 4 of form TSD and on the form INF 14?
The amount of 125 euros (675 – 550) must be indicated on the Annex 4 of form TSD and the amount of 675 euros on the form INF 14.

Last updated on 08.01.2025

Transporting employees to work and home

TRANSPORT OF EMPLOYEES TO WORK AND HOME PURSUANT TO SUBSECTION 5[1] OF § 48 OF THE INCOME TAX ACT

An employee is:

- a person employed under an employment contract
- an official (**subsection 1 of § 13 of the Income Tax Act**)
- a member of a management or controlling body (**§ 9 of the Income Tax Act**)
- a natural person who sells goods to an employer during a period longer than six months
- a natural person who works or provides services based on a contract for services, authorisation agreement or any other contract under the law of obligations

Expenses for employee transportation to and from work are not considered a fringe benefit if:

1. it is impossible to make the journey using public transport with a reasonable expenditure of time and money
2. disabled employees are unable to use public transport or if use of public transport causes a material decrease in the persons' ability to move or work

3. the employer arranges transportation of an **employee employed under an employment contract** using a vehicle with at least eight seats or with a bus for the purposes of the Traffic Act
4. the place of residence of the **employee employed under an employment contract** is located at a distance of at least 50 kilometres from the place of work

Since the tax incentive does not automatically extend to all expenses incurred by the employer for arranging transportation between the employees' home and workplace, it is necessary to define the compliance of the incurred expenses with the principles set forth in **subsection 5^1 of § 48 of the Income Tax Act**.

Beginning from 1 January 2020, the cost of public transport tickets used for transportation between employees' home and workplace are not taxed as fringe benefit.

The tax incentive is extended to all employees (an employee working on the basis of an employment contract, an official, a person who works or provides services on the basis of a contract under the law of obligations, a member of a management or controlling body and a natural person who sells goods to the employer during a period longer than six months).

When reimbursing the cost public transport tickets:

1. the distance between the place of residence and the place of work is irrelevant
2. costs can be reimbursed only based on cost documents

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Transport organised by employer

To apply the tax incentive, it is necessary to keep records, and the records must reveal all the important facts for the application of the tax incentive. The introduction of the term “using public transport with a reasonable expenditure of time and money” plays an important role in the implementation of this provision.

Unreasonable expenditure of time or money may be due to the following circumstances:

- the employee does not have the opportunity to travel by public transport between work and home, because the working day starts or ends at a time when public transport does not operate (both in the case of work in shifts and in a situation where the working day has been extended based on

- overtime);

- the workplace is located in an area (place) that is not accessible by public transport;

- public transport is accessible, but an unreasonable expenditure of time or money occurs in a situation where public transport does not have a direct route between the workplace and home, and the journey has, for example, numerous transfers. There may also be situations where, for example, bus schedule during the day is such that using public transport would take an unreasonable amount of time (the employee has to go to work significantly earlier before the start of a working day, or gets home significantly later after the end of a working day, or transfers cause a significant time loss compared to the time required to travel the entire distance and due to the nature of the employee's work, it is not possible to start or end the working hours flexibly).

The fact that the destination is reached significantly later when using public transport compared to driving by car cannot be considered decisive. The comparison is not made between the time spent travelling by car and public transport, but the comparison is based on the usual time spent travelling by public transport (e.g., if it is an inner-city route, it should be considered that it takes significantly more time to travel 10 kilometres using public transport in the city than when travelling a long-distance bus). Public transport makes stops, therefore the time required for travelling by public transport cannot be considered as a circumstance causing unreasonable time consumption. Therefore, when assessing if the time to be spent is reasonable, only a comparison with the fastest possible means of transportation (e.g., car, plane) is inappropriate. If compared to the fastest means of transport, the tax incentive would extend to most employers operating in Estonia, but the purpose of this provision was to give a tax exemption to those employers who organise the transport of employees who have had limited opportunities to find a job at their place of residence (primarily in a rural area) and getting to a job located in another area is accompanied by unreasonable costs of time or money due to poor public transport arrangements.

Last updated on 08.01.2025

Benefits for employees with disabilities

The employer can pay compensation to an employee with a disability for the use of a motor vehicle only if this employee is unable to use public transport to travel between the place of work and residence, or the use of public transport causes a significant decrease in mobility and work ability.

The conditions and limits established for a personal car also apply to a motor vehicle used by a person with a disability: the tax-exempt limit of compensation paid to one person is 0.50 euros per kilometre when records are kept, but no more than 550 euros per calendar month per each employer paying the compensation. A person with a disability can be paid compensation for the use of a motor vehicle only if their passenger car or motor vehicle is not in the ownership or possession of the employer.

Rides between the place of residence and the place of work can only be compensated when records are kept. It is not possible to pay tax-exempt compensation for the use of a motor vehicle without keeping records.

Last updated on 17.01.2025

Personal car is used for transport

If the employee is reimbursed for the costs of traveling to work by personal car, because it is not possible to reach the workplace from their place of residence using public transport by the start of the working day, the rules for reimbursement of the costs of using a personal car must be followed, i.e. records must be kept of rides related to work duties (including rides to/from work), if it is desired to reimburse up to 550 euros exempt from tax in a calendar month.

The cost reimbursement procedure does not require submitting cost documents to employer to prove actual costs.

In addition to the compensation, additional compensation for gasoline costs is not provided for the employee when driving to work in a personal car, and in such a case these costs are considered a fringe benefit.

However, it is possible to reimburse parking fees exempt from tax if the parking was related to the performance of work duties.

Last updated on 08.01.2025

Employer’s car is used for transport

If it is impossible to make the journey between home-workplace-home using public transport with a reasonable expenditure of time and money, these rides are considered business-related and are not considered a fringe benefit.

There is no obligation to keep driving records, etc., but the taxpayer must be able to prove and explain in each specific case that the employee's journey to work and home is not considered a fringe benefit. The decision of the board of the company that the company covers the travel expenses of the employees between home and workplace is not a sufficient circumstance for applying the tax exemption.

If the vehicle is not allowed to be used by employees for private rides and the company car is used only for business purposes (including rides to work-home-to work, which are considered business-related), a corresponding notation must be made at the Transport Administration.

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Transport of employees employed under employment contracts

There are additional tax incentives for the transport of employees working based on employment contracts.

The tax incentive extends only to employers engaged in business, non-profit associations, foundations, and legal persons in public law. The tax incentive does not extend to the public sector.

An employer has the option to choose whether:

1. a bus or a vehicle with at least eight seats is used for transportation between the employees' residence and workplace. The distance of the employees' place of residence from the workplace is

not decisive (i.e., employees can be transported by bus, for example, even within one settlement)

2. a car in the ownership or possession of the employer is used (the employee's place of residence is at least 50 kilometres from the workplace)
3. transport costs are reimbursed based on a cost document, regardless of the type of transport (the employee's place of residence is at least 50 kilometres from the workplace)
4. the employee uses a personal car (the employee's place of residence is at least 50 kilometres from the workplace)

If the employer and the employee agree that the employee will use a personal car, the employer has a choice whether:

- rides between work and home are reimbursed based on the regulation on compensation for the use of a personal car (based on driving records, up to 550 euros per month) or
- based on expense documents (fuel checks)

The above also extends to the situation when an employee with an employment contract travels to work, for example, from Kyiv and from Tallinn back to his place of residence in Kyiv.

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Declaration and payment

DECLARATION

The compensation paid for the use of a personal car above the limit is declared in annex 4 of the tax declaration form TSD which is submitted by the 10th of the following month. The tax liability on fringe benefits is usually paid based on form TSD.
In declaration INF 14, the employer must indicate the amounts of benefits actually paid (including those

declared as a fringe benefit) for the use of a personal car to a natural person during the calendar year when keeping records. The declaration is submitted by 1 February of the following year.

TAX LIABILITY

Tax liability arises when an employee is paid a (business-related) compensation, exceeding the limit, for rides to work and home when using a personal car.

Example
The employee submitted her driving records to the accountant, according to which the employee has used her personal car for work (including business-related rides between work and home) and travelled 1500 km (1500 × 0.50 = 750) in one month. The amount of 750 − 550 = 200 euros exceeding the tax-exempt threshold must be declared as a fringe benefit granted to the person, on which both income and social tax must be paid.

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Transport of employees - FAQ

1. Is taking a taxi home from work at night, if the nature of the job requires it, a fringe benefit or not?

Covering transport costs of coming to work by taxi based on documentation is not considered a fringe benefit, if, due to the working regime, it is not possible for the employee to use public transport to come to work or go home.

2. If a person lives in a place where there is no public transport, is driving to work and home from work not considered a fringe benefit? Which documents should be formalised for it?

If the workplace is in a place that is not connected to public transport or due to the work regime, the hours are not suitable, then it is possible to use the employer's car, exempt from tax, for rides between home and workplace. But in this case, if necessary, it must be proved to the tax authority that it was not possible to get to work or home from work using public transport at that time of day.

3. If a company organises and compensates for the transport of its employees to work, for whom using public transport for going to work and home would cost 2/3 of their salary (an unreasonable amount for the employee, it would be more rational not to go to work at all), is it a fringe benefit or not?

Whether the expense is considered a fringe benefit or not does not depend on the salary of the individual employee.

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Fringe benefits and value added tax

A person liable for value added tax (VAT) can deduct input VAT from goods or services used for taxable supply in its business. Input VAT cannot be deducted from employees' personal expenses, even if the corresponding expense is covered by the employer or the employee is compensated, but according to the Income Tax Act, there is no fringe benefit.

Input VAT cannot be deducted from train, bus or other public transport tickets used by employees to travel between the place of work and home, nor from the costs of employee health promotion. Also, input VAT cannot be deducted from cut flowers bought as a gift to an employee (although gifting flowers to an employee is not considered a fringe benefit), because buying flowers to give to an employee is not an expense incurred for taxable supply.

If goods that are part of the company's assets, on acquisition of which input VAT has been deducted, are transferred without charge, or given for personal use without charge to an employee, official or member of a management or controlling body of a taxable person, self-supply taxable with VAT arises from it. In the case of self-supply, the taxable value is the purchase price or, in the absence thereof, the cost price of the goods.

Differences in the VAT taxation of self-supply arising from granting use without charge of cars and vans that are part of a company's assets

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Questions and answers

QUESTIONS AND ANSWERS ABOUT FRINGE BENEFITS

1. Is discounted or free parking of the employee's car at the workplace a fringe benefit?

If an employee can park a passenger car free of charge or at a discount at the workplace in a parking lot or parking garage, it is important for taxation to determine whether the benefit (free or discounted parking) is provided by the employer or an independent third party. If the benefit is granted by the employer, it is a fringe benefit. If it is granted by a third party, then it is not a fringe benefit.

For example, if an employee can park a passenger car at a discount based on the price policy of the owner of an office building, car park or parking garage, then the benefit provider is not the employer, and the employer does not incur any tax liability on fringe benefit. This is also the case if the distribution of parking spaces and payment for the service takes place through the employer.

However, if the cost of parking an employee's passenger car free of charge or at a discount is borne by the employer, the employer is also the provider of the benefit and the employer incurs a tax liability on the fringe benefit.

2. Is the acquisition of flowers for the decoration of workspaces considered a fringe benefit?

If cut flowers / potted plants are used to decorate an office space, it cannot be a fringe benefit. As a rule, reasonable and normal expenses incurred on the working environment of office premises are not deemed to be non-business expenses either.

3. Are flowers given as a gift to an employee a fringe benefit?

Subsection 4 of § 48 of the Income Tax Act provides for the concept of a fringe benefit according to which fringe benefits are any goods, services, remuneration in kind or monetarily appraisable benefits which are given to a person in connection with an employment or service relationship, membership in the management or controlling body of a legal person, or a long-term contractual relationship, regardless of the time at which the fringe benefit is granted.

When gifting flowers, the employer must assess whether or not it is a financially appraisable benefit for the employee. If it is a financially appraisable benefit, it is a fringe benefit. However, if there is no financially appraisable benefit, it is not a fringe benefit. For example, getting cut flowers is generally not a financially appraisable benefit for an employee. However, giving a large potted plant can be financially appraisable for an employee if the employee uses the potted plant, for example, as an interior decoration element in their home.

4. The company pays support payments / benefits to a minor until he reaches the age of majority. The minor's mother was an employee of the company until her death. The employer pays support to widow, children, or other family members of a deceased employee. Is it a fringe benefit or a donation?

Benefits paid to natural persons, regardless of the purpose for which they are paid, are treated as income of a person within the meaning of **§ 12 of the Income Tax Act** and generally income tax is withheld by payer of the benefits. Benefits paid to persons in question are not subject to social tax because the recipients do not have an employment relationship with the employer.

Cash payments made to natural persons are generally not treated as a fringe benefit within the meaning of **§ 48 of the Income Tax Act**.

Payments made in excess of the limits established by the regulations of the Minister of Finance, or the Government of the Republic are deemed to be fringe benefits. It is also a fringe benefit if the employer has waived the recovery of a financial claim from the employee, e.g., a loan granted, etc.

5. The company rents an apartment for one month to a member of its management board. Income tax is withheld on the rental income of the lessor and a fringe benefit is paid on the rent. However, the company must also pay the lessor a deposit, which is returned to the company by the lessor when the apartment is vacated. Is the deposit taxed and how?

The company does not have a tax liability when providing a deposit. The lessor takes the deposit to cover possible costs that the lessee may incur to the lessor, for example, not paying utility bills for the time lived in the apartment, damaging the apartment so that it needs repairs afterwards, etc. Whether or not the deposit is taxed will be determined after the rental agreement ends. If the lessor returns the deposit to the company, there will be no tax liability. If a board member leaves the apartment without paying utility bills and the deposit goes to cover these costs, the deposit becomes a fringe benefit in the month when the lessor should have had to return it.

Therefore, if the lessor does not refund the amount given as a deposit or partially refunds it, each specific case must be considered separately. The company must find out the reason why the deposit was not returned, and taxation will take place accordingly, i.e., based on the economic substance.

6. Does it make any difference in taxation if the expenses are made to the owner of the company (shareholder, etc.) or if the owner of the company is also a member of the management or controlling body or an employee of the company?

The income of the owner of a company are dividends and it does not make any difference in taxation whether they are or are not a member or employee of the management or controlling body of that company at the same time.
Regarding other expenses made to a natural person, the relationship between the legal person and the natural person is important and taxation is based on it.

If the owner of a company is also a person listed in **subsection 3 of § 48 of the Income Tax Act** (a person employed on the basis of a contract of employment, a member of the management or controlling body, a natural person who sells goods to an employer for a period of more than six months and a natural person who works or provides services based on a contract for services, authorisation agreement or any other contract under the law of obligations), then taxation is based primarily on this.

For example, if the owner of the company, who is also a member of the board, was given a gift on birthday, the gift is taxed based on § 48 of the Income Tax Act. If a gift was given to the owner of the company, who is not a person specified in subsection 3 of § 48, on birthday, the gift is taxed based on **§ 49 of the Income Tax Act**.

7. The manager of company A went to have lunch and discuss cooperation opportunities with the manager of company B. However, the manager of company B is the spouse of an employee of company A. Should the catering bill be treated as a fringe benefit or a cost of entertaining guests?

In accordance with **subsection 6 of § 48 of the Income Tax Act**, the benefits that the employer gives to the spouse, parent or child of an employee specified in subsection 3 of the same section are also considered fringe benefits. The catering expenses of the manager of company A are considered a fringe benefit. In the case of the manager of company B, it must be based on the content – whether it was a work-related consultation or whether the catering costs of company B are covered because the person is the spouse of the employee of company A.

8. Does the company have to report a fringe benefit if the owner gives the company a loan without any interest?

No, if a natural person gives a loan to a legal person, it is not a fringe benefit under any circumstances. In this case, the legal person has an obligation to the natural person, and the lender decides whether to grant the loan with interest or without interest.

9. Can expenses (e.g., transport, accommodation, material expenses) incurred for the provision of a service (e.g., training lecturer service) under an authorisation agreement be reimbursed exempt from tax to the natural person providing the service?

Documented expenses connected to performing the mandate can be reimbursed exempt from tax by the mandator on the basis of **subsection 3 of § 12 of the Income Tax Act**. In order to prevent later disputes, we recommend to agree in advance in the authorisation agreement the separately reimbursed costs added to the service fee, because according to **subsection 2 of § 628 of the Law of Obligations Act**, in addition to service fees, a mandator must reimburse the mandatary for any reasonable expenses which the mandatary has incurred in performing the mandate and which the mandatary could have deemed to be necessary in the circumstances.

In addition to the above, it is necessary to note that the application of subsection 3 of § 12 of the Income Tax Act to the reimbursement of accommodation and transportation costs is primarily intended for cases where the expenditure is of a one-time nature and where it is not reasonable to conclude an employment contract with the person or treating the person as a sole proprietor (FIE) is administratively burdensome. If an authorisation agreement is concluded with the lecturer for a longer period (like an employment contract), the tax-exempt reimbursement of accommodation and transportation costs may not be justified, but rather they can be treated as a fringe benefit within the meaning of § 48 of the Income Tax Act as reimbursement for housing costs or expenses of commuting between workplace and home.

10. Is a service provided by an employer to its employee within the framework of its core business, for which different prices are set, depending on the group of employees to whom the service is provided, considered as a fringe benefit within the meaning of the Income Tax Act? How is the price of a fringe benefit calculated?

According to **subsection 7 of § 48 of the Income Tax Act**, the Regulation No. 2 “Procedure for determining the price of a fringe benefit" of the Minister of Finance of 13 January 2011 has been established, the **subsection 2 of § 2** of which provides that, in the case where a fringe benefit is the delivery free of charge of a thing, security, proprietary right or service the realisation (providing) of which is the principal activity of the employer or one of the principal activities, the price of the fringe benefit is deemed to be the selling price at which a similar thing, security, proprietary right or service is realised (provided) in the same quantity and at the same time to a third person not related to the employer.

Thus, it is a fringe benefit, and the price of the fringe benefit must be determined based on the same price and conditions with which the employer provides the same service to its clients.

11. Is reimbursing moving costs of an employee starting work in Estonia a fringe benefit?

If it is not possible to recruit a specialist in the relevant field from Estonia, the employer sets a requirement (it is not the employee's wish) to move to Estonia and does not allow remote work from a foreign country, then the employee's moving costs to Estonia (including administration costs) are considered business-related costs, which are not taxed as a fringe benefit, because compensating the corresponding costs is primarily in the interest of the employer and necessary for the employee to start working in Estonia.

Reimbursement of the moving costs of the employee's family members is not necessary for the employer. Therefore, if the moving expenses of family members (including administrative expenses) are clearly distinguishable, then it is a fringe benefit. The moving costs of family members are exempt from tax only if the moving costs of the employee do not become more expensive when taking the family's belongings with them (e.g., one container is rented, which contains both the employee's and family members' belongings, and the amount of the moving service/rented container does not change as a result).

Since the employee moves to Estonia and their place of residence is in Estonia, the employer cannot reimburse the employee for housing costs exempt from tax. Housing costs (e.g., rent and utilities) are taxed as a fringe benefit.

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