REPUBLIC OF ESTONIA
TAX AND CUSTOMS BOARD

Fringe benefits

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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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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

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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

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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").

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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.

Last updated on 08.01.2025

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