

Transfer of a dwelling formed by merging several apartment ownerships

If a person transfers a dwelling used as a place of residence until the transfer, income tax is not charged on the gains derived from the transfer pursuant to **clause 1 of subsection 5 of § 15 of the Income Tax Act**. **Subsection 6** of the same section specifies that the exemption can be applied to one transfer within two years.

If several apartment ownerships have been merged into a single dwelling in the course of building work, the tax exemption applies to the dwelling provided that all of the following conditions are met:

1. the legal merger of the apartment ownerships has been completed;
2. according to an entry in the land register, there is a single apartment ownership;
3. the dwelling was used as the taxpayer's place of residence until the transfer;
4. the taxpayer uses the exemption for dwellings for the first time in two years.

If the conditions set out in points 1 and 2 are not met, the exemption from income tax provided for in clause 1 of subsection 5 of § 15 of the Income Tax Act applies to only one apartment (**subsection 1 of § 15, clause 1 of subsection 5 of § 15** and **subsection 6 of § 15**), even if the apartment ownerships cannot be used as separate dwellings. However, the taxpayer has the right to decide to which apartment ownership the exemption applies.

According to subsection 1 of § 15 of the Income Tax Act, the income tax treatment of gains from the transfer of property is "object-based", that is to say, each sale of property (including each apartment ownership) is treated as a separate transaction for tax purposes. Accordingly, clause 1 of subsection 5 and subsection 6 of § 15 of the Income Tax Act must be interpreted to mean that gains derived from the transfer of an apartment ownership that constitutes a dwelling are exempt from tax; however, the exemption may be applied **only** to the transfer of **one apartment ownership** within a two-year period. If two apartments have been merged but this change is not reflected in the register data, the transaction may appear to be a transfer of one apartment; however, for the purposes of civil law and tax law, it remains a transfer of two apartment ownerships.

Therefore, the transfer of two apartment ownerships within a two-year period, even if carried out at the same time, constitutes "more than one transfer" for the purposes of § 15 of the Income Tax Act. As a result, the transfer of the second apartment ownership is excluded from the tax exemption under subsection 6 and must be declared on the income tax return.

In 2025, the Estonian Tax and Customs Board issued a **binding preliminary tax ruling** on the same matter.

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