

INSTRUCTION FOR FILING CHALLENGE

If a person finds that the rights of the person have been violated or freedom of the person has been restricted by an administrative act issued by a tax authority or a measure taken by a tax authority, he/she **may file a challenge against the administrative act or the measure** or file an action with a court. A challenge procedure is resolution of disputes within the administrative body. Unlike judicial proceedings, challenge proceedings are considerably simpler, cheaper and faster possibilities for protection of one's rights. Besides, a challenge procedure will not deprive the person of the right to have recourse to a court for adjudication of the matter at each stage of the challenge proceedings or within thirty days as of the receipt of the decision on challenge.

Challenge proceedings are governed by the Taxation Act (accessible at the website www.riigiteataja.ee), chapter 14.

A challenge against an administrative act shall be filed **within thirty days as of the date of notification of or delivery¹ of the administrative act** and against a measure **within thirty days as of the day when the person filing the challenge becomes or should have become aware of the challenged measure**.

If the term for submission of the challenge **is allowed to expire**, a tax authority may restore² the term with good reason at the request of the person.

The language used in challenge proceedings is Estonian, it means that both the challenge and to documents (evidence) appended to it shall be submitted to the Estonian Tax and Customs Board in Estonian (translated if needed).

A challenge shall be filed **in writing** with the Estonian Tax and Customs Board and **the following information shall be indicated** in a challenge:

¹The Estonian Tax and Customs Board brings to your notice that a document sent to a **legal person or agency by ordinary mail** at the address entered in the register or announced to the tax authority shall be deemed to have been delivered **if five days have passed since the document was sent within Estonia and after thirty days have passed since the document was sent abroad**. A document sent to a legal person or agency **by registered mail** at the address entered in the register or announced to the tax authority is deemed **to have been delivered** when the postal service provider has delivered it **at the abovementioned address or has left a notice concerning the arrival of the registered mail** (subsection 53¹ (4) of the Taxation Act).

The document sent at the e-mail address is deemed to have been delivered when the addressee **sends a confirmation of the receipt of the document**. The document uploaded in the e-Tax Board **is deemed to have been delivered upon opening thereof**, the delivery of the document is registered by the information system automatically (subsection 54 (3) of the Taxation Act).

² It results from the interpretation of §§ 137, 138, 139 in conjunction with § 50 and §140 of the Taxation Act that the restoration of the term for the submission of the challenge without filing the challenge itself is not possible. Tallinn Administrative Court as well maintains the same opinion in Administrative Matter No. **3-12-1374**.

1. **The name of the administrative authority with which the challenge is filed.**

According to the Taxation Act, a challenge against an administrative act issued or measure taken by the Estonian Tax and Customs Board shall be filed with the Estonian Tax and Customs Board. A challenge may be filed:

- by post: Lõõtsa 8a, 15176 Tallinn;
- by email: emta@emta.ee

2. **The name, personal identification code or registry code, postal address and telecommunications numbers** (both the telephone number and email address) **of the person filing the challenge.** If the person filing the challenge has a representative, the name, address and telecommunications details **of the representative of the person filing the challenge** shall be indicated as well.

3. **The name of the challenged administrative act, the date of issue and the number thereof or the time of the challenged measure.**

4. **The content of the challenged administrative act or measure in brief.** In the case of an administrative act, first and foremost the resolution (the obligation imposed by the administrative act) and in the case of a measure the description of the measure.

5. **The reasons why the person filing the challenge finds that the administrative act or measure violates the rights of the person.**

The person filing the challenge must give reasons why the administrative act issued or measure taken by the tax authority is not legitimate. For example, the tax authority has applied or interpreted the tax legislation wrongfully, the amount of tax charged is wrong, the administrative act is not duly motivated, findings made by the tax authority are not substantiated (or the assessment given to the evidence is untrue), the tax authority has violated the procedural provisions, etc.

6. **The clearly expressed application of the person filing the challenge.**

The person filing the challenge may contest the administrative act and request to repeal it in full or in part, amend it in full or in part, issue a new administrative act.

Besides that the person filing the challenge has the right to contest the following **measures** taken by a tax authority:

- 1) a delay;
- 2) an omission;
- 3) refusal to remove an official or expert;
- 4) the return of an application for the issue of an administrative act;

- 5) other measures taken by a tax authority, applying for a measure to be taken, the closure of the continuing measure or the restoration of the situation prior to the measure being taken.

The Estonian Tax and Customs Board brings to your notice that the establishment of unlawfulness of an administrative act or a measure in challenge proceedings **cannot be** applied for. But true enough, upon the review of a challenge, the **lawfulness and purposefulness** of the issue of an administrative act shall be verified.

7. Certification by the person filing the challenge that no judgment has entered into force and no court proceedings are being conducted concerning the matter.

A challenge shall be returned, if a court judgment has already entered into force concerning the matter, judicial proceedings are being conducted concerning the matter or the person has filed an action with a court in the course of challenge proceedings (i.e. before making a decision on the challenge).

8. Other requests of the person filing the challenge

- 1) A request for the restoration of a term for proceedings and the reasons for allowing the term on challenge to expire, if a challenge is filed after the expired term on the challenge³.
- 2) A request for the suspension of the fulfilment of the contested administrative act, if needed.

9. A list of documents (evidence) annexed to the challenge. The relevant documents (evidence) shall be appended to the challenge wherewith the person filing the challenge wishes to certify his/her opinions in the challenge. If it is not possible to submit the documents, the location of the documents shall be indicated in the challenge.

The challenge shall be signed either with his/her own hand or by electronic means by the person filing the challenge or by the representative of such person. If the challenge is submitted by the representative of the person filing the challenge, his or her authorisation document shall be added by him/her to the challenge (the original document signed in his/her own hand or the document signed digitally).

The Estonian Tax and Customs Board brings to your notice that **the filing of a challenge shall not prevent the challenged administrative act from being executed**, except in two cases:

³The Estonian Tax and Customs Board brings to your notice that a request for the restoration of a term for filing a challenge shall be submitted together with the challenge.

- 1) The execution of orders issued to a third party pursuant to §§ 61 or 62 of the Taxation Act shall be suspended until the final decision made in the matter enters into force.
- 2) **Upon the reasoned request from the person**, an administrative authority adjudicating a challenge may suspend the execution of an administrative act if this is necessary.

A decision on the challenge shall be made by the Estonian Tax and Customs Board **within thirty days** after the receipt of the challenge.

Example

Estonian Tax and Customs Board

Address:

Person filing the challenge:

Name:

Registry code/Personal identification code:

Address:

Telephone/Email: /date/

CHALLENGE

against Administrative Act No..... of the Estonian Tax and Customs Board /name, number and date of the administrative act/ for contestation

OR against the measure on... /date of the measure/ for contestation.

1. Challenged administrative act

The Estonian Tax and Customs Board issued an administrative act /name, number and date/ to the person filing the challenge. The tax authority required the person filing the challenge to /the content of the administrative act in brief/.

The person filing the challenge received the challenged administrative act on/date/.

OR

1. Challenged measure

The Estonian Tax and Customs Board took a measure to .../here you have to give the content of the measure in brief, its date/.

The person has the right to challenge:

- 1) a delay;
- 2) an omission;
- 3) refusal to remove an official or expert;
- 4) the return of an application for the issue of an administrative act;
- 5) other measures taken by a tax authority.

The person filing the challenge became aware of the challenged measure on /date/.

2. The grounds for the challenge

Hereby the person filing the challenge finds that the administrative act issued /measure taken by the Estonian Tax and Customs Board shall violate the rights of the person. /Please give the reasons here how the challenged administrative act or measure (act or omission) violates the rights or restricts the freedom of the person filing the challenge. For example: the tax authority has applied or interpreted the tax legislation wrongfully, the amount of tax charged is wrong, the administrative act is not duly motivated, findings made by the tax authority are not substantiated (or the assessment given to the evidence is untrue), the tax authority has violated the procedural provisions, etc.

3. Request of the person filing the challenge

Resulting from the abovementioned, the person filing the challenge shall apply for.../please indicate here the clearly expressed application of the person filing the challenge/.

The person filing the challenge may contest **the administrative act** and request to repeal it in full or in part, amend it in full or in part, issue a new administrative act.

Besides that the person filing the challenge has the right to contest the following **measures** taken by a tax authority:

- 1) a delay;
- 2) an omission;
- 3) refusal to remove an official or expert;
- 4) the return of an application for the issue of an administrative act;
- 5) other measures taken by a tax authority, applying for a measure to be taken, the closure of the continuing measure or the restoration of the situation prior to the measure being taken.

Hereby the person filing the challenge certifies that no judgment has entered into force and no court proceedings are being conducted concerning the matter.

/The hand-written or digital signature added/

/Name of the person filing the challenge/

/Member of the management board/Authorised representative/

Annexes:

1. */The relevant documents (evidence) certifying the opinions indicated in the challenge by the person filing the challenge.*
2. */Authorisation document of the authorised representative certifying the right of representation/*