

AS PricewaterhouseCoopers in Estonia helps clients in finding tax efficient business solutions and managing tax risks.

We work together with our colleagues in other PricewaterhouseCoopers' offices world-wide and use our access to international know-how and long-term experience to quickly and efficiently solve tax issues that arise both locally and in foreign jurisdictions. For more information, please see our contact details below.

Contacts:

Hannes Lentsius

E-mail: hannes.lentsius@ee.pwc.com

AS PricewaterhouseCoopers

Tax Services

Pärnu mnt 15, 10141 Tallinn, Estonia

Tel: +372 614 1800

E-mail: tallinn@ee.pwc.com

www.pwc.ee

Tax alert

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The draft law for amending the Income Tax Act and Social Tax Act (302 SE) is being discussed in Parliament

On September 29, discussions commenced in Parliament over the draft law for amending the Income Tax Act and Social Tax act (302 SE) initiated by the Government. Since in comparison with the initial project of the draft law which was sent for harmonization, the current version has been modified with some additions and amendments, we provide a more recent overview.

Partial tax exemption for sports and health costs

Pursuant to the draft law, the sports and health costs of an employee are to be exempted from income and social tax in the sum of up to 100 euros per employee in one quarter. Currently if the employer bears such costs without a respective obligation deriving from law, the costs are deemed fringe benefits under §48 of the Income Tax Act (ITA) and taxed with income and social tax.

§48 of ITA is to be amended in order to allow the employer to compensate the following costs to an employee without becoming liable to pay income and social tax:

1. Participation fee of a public sports event;
2. Direct costs related to a sporting or exercising

area;

3. Costs related to maintaining employer's existing sports facilities;
4. Covering the cost of services of rehabilitation doctors, physiotherapists or activity therapist, clinical speech therapist or clinical psychologist that have a professional qualification or have been inserted in a respective national registry.

The threshold for the exemption is a maximum of 100 euros per quarter per employee i.e. 400 euros per year. Employers are required to submit a tax return by the 1st of February each year demonstrating/declaring the use of the exemption. If no costs are born during a quarter, then the unused exemption of an employee is not carried forward to the ensuing period nor can it be transferred to other employees. Compared to the project for the draft law which initially envisaged that only one employer of a person could use the exemption, such restriction has been deleted. This means that even if an employee has more than one employer, each employer can incur tax exempt expenses up to 100 euros per quarter per employee.

A public sports event (point 1) is not considered to be a company's internal sports day or a similar event targeted to only a small range of people. Costs related to the use of a sporting or exercising area (point 2) do not include costs for buying or renting equipment or sportswear. The costs related to the maintenance of existing sports facilities (point 3) mean that the original investments made for creating such facilities are not covered, but only reoccurring costs such as water, electricity, cleaning and also repairs of the rooms and

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equipment are in scope.

The amendment is not to come into force before 1 January 2018 and it will initially be in place for 5 years with the possibility of prolonging the period once the effect of the incentive has been evaluated.

Broadening the scope of the social tax exemption

In addition, the same draft law lays down an amendment to §3 (3) of the Social Tax Act granting employers the possibility of paying sickness benefits exempt from social tax already for the second and third day of medical leave similarly to days from 4th to 8th. Currently sickness benefits are taxed with social tax for example if they are paid for the first until 3rd day of the illness or injury or if it is higher than 100% of the employee's average salary.

We would like to draw attention to two aspects in relation to the amendment. Firstly, the employer will not become obligated to pay sickness benefits for the second or third day of the illness or injury, the amendment simply facilitates this choice by giving the possibility of paying the benefit exempt from social tax. Secondly, the employer will not necessarily have to pay the minimum of 70% of the employee's average salary as stipulated for sickness days from the 4th to 8th, but the exact amount of the sickness benefit is left to the discretion of the employer. In any case it will be exempt from social tax for payments up to 100% of the average salary. If the employer decides to pay sickness benefits

already for the first day of illness or injury, then it is subject to social tax.

The amendments will come into effect on 1 January 2017.

Additional tax exemption of pensions increased

The same draft law seeks to increase the additional tax exempt pension income from EUR 2,700 to EUR 2,832 per year (i.e. from EUR 225 to EUR 236 per month). Together with the overall increase of tax allowances to the level of EUR 180, the pensions exempt from tax will amount to EUR 416, meaning that the of average old-age pension in year 2017 will be exempt from income tax.

The amendment comes into effect on 1 January 2017.

Proposal for amending the provisions regarding the taxation of share options

The Ministry of Finance has proposed amending the Income Tax Act to ensure that the provisions concerning the tax exemption of share options would not become obstacles in the sale of a successful company. Currently under ITA, exercising share options is not considered a fringe benefit if the employee has held the options for at least three years. The proposal pertains to

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the treatment as fringe benefits in case another investor acquires full ownership of the employer's business (full-exit) thus causing the options to be exercised prematurely.

In addition, it is planned to supplement the ITA so that the underlying asset of the option could be exchanged without causing a discontinuation in the holding period – (applicable) in a situation where the underlying shares in the original share option agreement are exchanged for shares in the company of the investor who acquired the business.

The Ministry of Finance has initiated preparing a draft law to implement the proposal.

The draft law amending the Value Added Tax Act

The draft law amending the Value Added Tax Act (276 SE) passed the first reading in the Parliament. The draft law plans to raise the threshold for registration as a taxable person for VAT purposes and to supplement the list of goods subject to the special arrangement of reverse charge.

It is intended to enforce the provisions regarding the reverse charge mechanism as of 1 January 2017, the new threshold for registration as a taxable person for VAT purposes from 1 January 2018.

The threshold for obligation to register as a taxable person for VAT purposes is planned to be raised from 16,000 euros to 40,000 euros. The objective of the amendment is increasing the amount of

businesses not having to register for VAT purposes.

The list of goods subject to reverse charge [VAT § 411 (2)] is complemented with metal products with a certain CN code that are mainly used for construction services and the engineering industry, e.g. construction fixtures; leaf metal both in the form of scrolls and sheets; water and gas pipes; square bars and girders. The amendment is aimed at ensuring fair competition in the metal sector and combatting VAT related fraud.

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