

## Chapter 11

# New Forms of Employment and Innovative Ways for the Collection of Social Security Contributions: The Example of Estonia

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### *I. Introduction*

The spreading of new forms of work performance is not a new topic as the various ways of how people work have been changeable. Performance of short-time work-tasks (gigs)<sup>1</sup>, working via platforms, renting (sharing) of dwelling space via platforms and obtaining income from it – they are all ways of performing work which ensure considerable income for a person. In some cases, it is ancillary activity which earns a person additional income. In other cases, it is a form of entrepreneurship that ensures the main income to a person. In the literature of labour law the new forms of work performance are discussed on a wide basis.<sup>2</sup>

New forms of work and changes in working conditions also challenge the social protection system, which must support employment, the economy and the well-being of society as a whole. As social protection requires resources, the important questions are how to finance social protection in

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1 *Duszyński, Maciej*, Gig Economy: Definition, Statistics & Trends [2020 Update], [https://zety.com/blog/gig-economy-statistics?gclid=CjwKCAjwte71BRBCEiwAU\\_V9h8jAgjCA9UmO2Eq8c51uiiT5f4pVQiosRk\\_uU1DS0jU1\\_2QeiHbArxoC0\\_wQAvD\\_BwE](https://zety.com/blog/gig-economy-statistics?gclid=CjwKCAjwte71BRBCEiwAU_V9h8jAgjCA9UmO2Eq8c51uiiT5f4pVQiosRk_uU1DS0jU1_2QeiHbArxoC0_wQAvD_BwE). Accessed 12 May 2020.

2 See e.g. *Perulli, Adalberto*, The Legal and Jurisprudential Evolution of the Notion of Employee, in: *European Labour Law Journal*, 11 (2020) 2, pp. 117-130, <https://doi.org/10.1177/2031952520905145>. Accessed 12 May 2020. *Risak, Martin/Dullinger, Thomas*, The Concept of “Worker” in EU Law: Status Quo and Potential for Change, ETUI, 2018, <https://www.etui.org/Publications2/Reports/The-concept-of-worker-in-EU-law-status-quo-and-potential-for-change>. Accessed 12 May 2020. For Estonia: *Erikson, Merle/Rosin, Annika*, Legal Position of Workers: An Employee or Independent Servant? (Tuleviku töötajate õiguslik staatus: Töötaja või iseseisev teenusepakkuja?), in Estonian, <https://www.riigikogu.ee/wp-content/uploads/2018/08/T%C3%B6%C3%B6tegija-%C3%B5iguslik-staatus.pdf>. Accessed 12 May 2020.

changed situations and how to simplify the collection of the necessary means for financing social protection. Consequently, it is important that the social protection system is able to provide sufficient and adequate protection for all those who are engaged in some form of activity. This does not necessarily have to be a permanent activity. It is sufficient when work is ensured through a number of different short-term activities and short-term incomes.

Legislation in the area of social protection is widely based on the classical definition and principles regarding the employee (employment relationship) providing that both – the employer and the employee – must contribute to social protection. Under circumstances in which it is not clear whether the person performing work is an employee or not, there are considerable limits to ensuring social protection. When, as is common, the state collects the income tax based on the worker's income, these taxes and contributions required for social protection do not have to be related to income only, but to the person receiving the income (and the activity performed). Usually social protection is ensured to a person in a dependent employment relationship. In single cases it is possible to provide protection also to sole proprietors.

This chapter analyses the scope of regulation of the social protection legislation in Estonia and options of how new workers (platform workers) can make sure they are covered by the required social protection schemes (pension insurance, unemployment insurance, health insurance). New initiatives by the Estonian legislator in the field of financing social protection in order to protect platform workers are also discussed.

## *II. New Forms of Employment*

New options of work performance have spread in the Estonian economy. There are numerous ways in which work can be performed via different platforms. At the same time, there are micro entrepreneurs in Estonia who earn income from entrepreneurship and have to pay only the income tax of the income obtained but no taxes/contributions related to social benefits.

New ways of work performance have not been regulated in the Estonian legislation. According to the changes in the Public Transport Act<sup>3</sup> the plan had been to regulate the ridesharing service; however, significant differences in comparison with the prototypical taxi service are not provided. The contractual relationship has remained unregulated on the legislative level, and due to that decisions on the respective type of relationship have to be made on an individual basis (whether employment relationship or any other relationship under the law of obligations).

According to different data, at least 8 percent of the Estonian working-age population is partially involved in new forms of work performance.<sup>4</sup> Therefore, the need for social protection covering new forms of work performance must not be underestimated. According to the Employment Contracts Act, wages must be presented in the employment contract as a gross amount.<sup>5</sup> This requirement is relevant so that the employee does not lose his salary if the state stipulates a reduction in certain payments. Withholding social security payments and taxes is the responsibility of the employer.

Apart from the common forms of platform work, e.g. car sharing services, courier services, house sharing through airbnb, sharing short-term jobs (gigs) is common in Estonia. The sharing of gigs takes place through a platform where companies can offer short-term employment and employees can enter into short-term contracts. With jobs offered through such a platform, employees can perform a variety of gigs without having to commit to a particular company for the long term. Such an opportunity opens up a chance to work under different fixed-term employment contracts<sup>6</sup>

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3 Sections 65 and 66 of the Public Transport Act (Ühistranspordiseadus) - RT I, 23 March 2015, 2, English translation <https://www.riigiteataja.ee/en/eli/518012019010/consolide>. Accessed 12 May 2020.

4 See: <https://www.riigikogu.ee/arenguseire-keskus/platvormitoo-saanud-eeesti-inimes-te-jaoks-oluliseks-lisasissetuleku-allikaks/>. Accessed 12 May 2020. According to a survey carried out in Latvia, the spreading of new forms of work performance is significantly more modest being only 1 percent. *Piasna, Agnieszka/Drabokoupil, Jan*, Digital Labour in Central and Eastern Europe: Evidence from the ETUI Internet and Platform Work Survey, ETUI, 2020, <https://www.etui.org/node/31491>. Accessed 12 May 2020.

5 Section 29 of the Employment Contracts Act (Töölepingu seadus) - RT I 2009, 5, 35, English translation: <https://www.riigiteataja.ee/en/eli/509052019005/consolide>. Accessed 12 May 2020.

6 The possibility to apply fixed-term employment contracts is important in this case of employment. According to the Health Insurance Act, an important condition is

without the employee having to be associated with a specific company for a longer period of time.

Telework can no longer be regarded as a new form of work. Although teleworking means that the employee does not have to be physically present at an office all the time, teleworking is indicative of a clearly identifiable employment relationship as well as of a dependent employment relationship connected to social security coverage. Self-employment is not considered a new form of employment. In a situation where a person is self-employed<sup>7</sup>, work is regulated separately at the legislative level. Self-employment can be considered as one form of entrepreneurship. Due to the current legal framework, in order to be self-employed, a person must register in the Commercial Register.

### III. Scope of Regulation of the Social Protection Rights

#### 1. The Constitutional Framework of Social Protection<sup>8</sup>

According to the Constitution of the Republic of Estonia, a person has the right of receiving support from the state in the following cases: old age, loss of provider, incapacity for work or need. Concurrently, every person is entitled to health protection as stipulated by the Constitution.<sup>9</sup> The scope of support and the terms and conditions for receiving benefits are estab-

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that the employment contract lasts at least one month. If the duration of the employment contract is shorter than one month, the employee does not receive the health insurance protection prescribed by law. Section 5 of the Health Insurance Act (Ravikindlustuse seadus) - RT I 2002, 62, 377, English translation: <https://www.riigiteataja.ee/en/eli/524042020006/consolide>. Accessed 12 May 2020.

7 In Estonian: *füüsilisest isikust ettevõtja*, sometimes the official English translation is “sole proprietor”.

8 Also: Merusk, Kalle/Tavits, Gaabriel, Der Schutz der sozialen Grundrechte in der Rechtsordnung Estlands, in: Iliopoulos-Strangas, Julia (ed.), Soziale Grundrechte in den “neuen” Mitgliedstaaten der Europäischen Union, Baden-Baden: Nomos, 2019, pp. 81-139; Tavits, Gaabriel, Estonia, in: The Right to Social Security in the Constitutions of the World: Broadening the Moral and Legal Space for Social Justice, ILO Global Study, Volume 1: Europe, International Labour Office – Geneva: ILO 2016, [https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/WCMS\\_518153/lang-en/index.htm](https://www.ilo.org/global/standards/subjects-covered-by-international-labour-standards/social-security/WCMS_518153/lang-en/index.htm). Accessed 12 May 2020.

9 § 28, The Constitution of the Republic of Estonia (Eesti Vabariigi põhiseadus) - RT 1992, 26, 349, English translation: <https://www.riigiteataja.ee/en/eli/521052015001/consolide>. Accessed 12 May 2020.

lished by the law. It is the legislator's task to ensure a minimum level of social protection.

Within the meaning of the constitutional context, the right to health protection does not automatically mean a right to health insurance for everyone.<sup>10</sup> The right to health insurance is established for a person when social tax is paid by or on behalf of the person, or in cases where the person is insured according to the law. In the latter case, health insurance is ensured according to the legislation irrespective of the payment of social tax. According to the Estonian Health Insurance Act, health insurance is provided to all people who work on the basis of an employment contract or in the civil service and for whom the employer pays the necessary taxes.<sup>11</sup> If a person has no income, or if no tax required for health insurance is paid by the person or on behalf of the latter, then no health insurance protection is guaranteed. The right to health protection in the Constitution denotes a person's right to emergency care.<sup>12</sup> The state pays for this kind of care irrespective of whether a person is covered by health insurance or not.

The constitutional right to get support from the state in case of need primarily denotes a situation in which a person has the right to get protection under the social welfare regulation. The person is entitled to receive support only when he has no personal resources and support provided by the state is the only option to improve the person's economic situation. The option to receive support due to age, loss of provider and incapacity for work primarily depends on the circumstances under which, irrespective of the person, the latter is not able to earn any income and due to which the state is obliged to support the person.<sup>13</sup>

10 *Nõmper, Ants/Annus, Taavi*, The Right to Health Protection in the Estonian Constitution, in: *Juridica International*, (2002) 7, [https://www.juridicainternational.eu/public/pdf/ji\\_2002\\_1\\_117.pdf](https://www.juridicainternational.eu/public/pdf/ji_2002_1_117.pdf). Accessed 2 May 2020.

11 Section 5 (1) of the Health Insurance Act (*Ravikindlustuse seadus*) - RT I 2002, 62, 377, English translation: <https://www.riigiteataja.ee/en/eli/524042020006/consolide>. Accessed 12 May 2020.

12 Section 6 of the Health Services Organisation Act (*Tervishoiuteenuste korraldamise seadus*) - RT I 2001, 50, 284, English translation: <https://www.riigiteataja.ee/en/eli/529042020006/consolide>. Accessed 12 May 2020.

13 This provision by its essence is taken over from the Constitution empowered in 1938. See: *Siimets-Gross, Hesi*, Social and Economic Fundamental Rights in Estonian Constitutions between World Wars I and II: A Vanguard or Rearguard of Europe?, in: *Juridica International*, (2005) 10, [https://www.juridicainternational.eu/public/pdf/ji\\_2005\\_1\\_135.pdf](https://www.juridicainternational.eu/public/pdf/ji_2005_1_135.pdf). Accessed 12 May 2020. The Constitution of the Republic of Estonia is rather modest in regard to guaranteeing social rights and only a minimal catalogue of social rights is provided. See also: *Alexy, Robert*, *Põhioigused Eesti põhiseaduses*, in: *Juridica*, 2001, <https://www.juridica.ee/article>.

The wording of the Constitution, as well as the current interpretation, does not specify who should receive aid and under what conditions such aid should be provided. Since, according to the Constitution, the receipt of state aid is directly regulated through an ordinary law, the legislator has to decide in each case under what conditions and to whom the specific aid must be granted. According to the Constitution, all citizens of the Republic of Estonia and, in cases prescribed by law, also aliens have the right to state aid.<sup>14</sup> The Constitution does not stipulate any particular forms of employment or economic activities for persons to be entitled (whether they are self-employed, employed under an employment contract, employed on a short-term basis, etc.). Thus, according to the Constitution, social security protection is to be universal regardless of the economic activity in which a particular person is engaged. Pursuant to § 29 of the Constitution, everyone has the right to freely choose his or her field of activity and profession. Consequently, if such freedom is guaranteed pursuant to § 29 of the Constitution, then in order to ensure the necessary social protection, the freedom provided for in the Constitution in choosing a profession and field of activity must be taken into account. Thus, if a person is free to choose an activity, this must be accompanied by the state-guaranteed social protection. A person must be able to receive state aid against the social risks provided for in § 28 of the Constitution, regardless of the form of economic activity or field which the person has freely chosen on the basis of the Constitution.<sup>15</sup>

As mentioned above, the social security system in Estonia today is mainly based on the fact that social benefits are provided to people who pay social tax or other social security contributions themselves or for whom such tax or contributions are paid. When dealing with circumstances under which a person receives some income from his activity, it does not automatically mean that he is guaranteed social security benefits. All people who exercise new forms of employment run the risk of not being covered by health insurance or unemployment insurance and they might have no opportunity to contribute to the pension insurance. Although § 28 of the

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php?uri=2001\_eriv\_ljaanne\_p\_hi\_igused\_eesti\_p\_hiseaduses. Accessed 12 May 2020.

14 § 28, Comment 23, The Constitution of the Republic of Estonia. Comments (Eesti Vabariigi põhiseadus. Kommenteeritud väljaanne), Tallinn: Juura, 2017, <https://www.pohiseadus.ee/>. Accessed 12 May 2020.

15 § 28, Comments 19, 20, 23, The Constitution of the Republic of Estonia. Comments (Eesti Vabariigi põhiseadus. Kommenteeritud väljaanne), Tallinn: Juura, 2017, <https://www.pohiseadus.ee/>. Accessed 12 May 2020.

Constitution gives everyone the right to turn to the state for aid in the event of the risks specified in the Constitution, this right can be significantly adjusted (restricted) on the grounds of law. Consequently, the Constitution of the Republic of Estonia does not guarantee universal access to the social protection system.

Pursuant to the Constitution, the General Part of the Social Code Act specifies the purpose of social protection. According to Section 2 (2) of the General Part of the Social Code Act,<sup>16</sup> the objective of social protection is to support and increase a person's independent living and social inclusion, create equal opportunities, achieve a high level of employment, prevent unemployment, and support reconciliation of work and private life. The goal of the Social Code has been determined in Section 1 (1). The Social Code will contribute to ensuring social rights protected by the Constitution of the Republic of Estonia, European Union law, and international agreements binding on the Republic of Estonia. As one can see, the General Part of the Social Code Act will also form part of the general principles determined in § 28 of the Constitution.

## *2. Benefits Included in the Social Protection System and Personal Scope*

Estonian social benefits can be divided into two categories depending on the way in which the benefits are financed: 1) benefits which can be provided to persons working in an employment relationship where contributions are paid; 2) benefits paid from the state budget – in this case it is not important for the receipt of the benefit whether separate taxes/contributions are paid, and it is also not important which kind of economic activity the entitled person is engaged in.

Social protection benefits for the receipt of which different special-purpose payments are required are:

- (1) state pension insurance,
- (2) health insurance,
- (3) unemployment insurance,
- (4) mandatory funded pension.

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16 General Part of the Social Code Act (Sotsiaalseadustiku üldosa seadus) - RT I, 13 March 2019, 157, English translation: <https://www.riigiteataja.ee/en/eli/521032019012/consolide>. Accessed 12 May 2020.

Different legal acts concerning social protection define the scope of application in a different way, and the circle of insured people is also different. However, the common feature is the fact that the insurees have a permanent income primarily based on an employment contract or work in the civil service. Without the legal basis mentioned above, no corresponding insurance payments have to be paid and no insurance protection is provided. Therefore, social protection is, in the first place, guaranteed to people who work in dependent employment relationships. If work is performed based on the contract under the Law of Obligations Act<sup>17</sup> and without the existence of a dependent employment relationship, the obligation to pay social protection contributions exists, but the minimum level for contributions can be determined.<sup>18</sup>

According to the State Pension Insurance Act, the following are considered to be persons covered by pension insurance:<sup>19</sup>

- (1) persons who, pursuant to the Social Tax Act, pay the pension insurance part of social tax or for whom it must be paid;
- (2) persons for whom the right to receive a state pension is derived from other bases pursuant to this Act.

Due to the regulation mentioned, the important criterion is not work itself or the nature of work; the important aspect is to make sure social tax is paid. Whether the payment of social tax is guaranteed by the employer or another person is irrelevant to the provision of social protection. What really matters is that social tax obligations are fulfilled and that social tax in both pension insurance and health insurance budgets is collected.

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17 Law of Obligations Act (*Võlaõigusseadus*) - RT I 2001, 81, 487, English translation: <https://www.riigiteataja.ee/en/eli/515012020004/consolide>. Accessed 12 May 2020.

18 Section 5(2) 4) 5) of the Health Insurance Act (*Ravikindlustuse seadus*) - RT I 2002, 62, 377, English translation: <https://www.riigiteataja.ee/en/eli/524042020006/consolide>. Accessed 12 May 2020. In such a situation it is not necessary to be registered as self-employed. In situations where the services are granted based on a civil law contract, the person who receives services has to pay also social security taxes and contributions, see Section 9 (1) 2 of the Social Tax Act (*Sotsiaalmaksuseadus*) - RT I 2000, 102, 675, English translation: <https://www.riigiteataja.ee/en/eli/527042020012/consolide>. Accessed 12 May 2020.

19 Section 3 of the State Pension Insurance Act (*Riikliku pensionikindlustuse seadus*) - RT I 2001, 100, 648, English translation: <https://www.riigiteataja.ee/en/eli/530042020003/consolide>. Accessed 12 May 2020.



According to the Health Insurance Act<sup>20</sup>, the circle of persons covered by health insurance is divided into three different categories:

- (1) persons for whom the corresponding insurance tax must be paid. The health insurance part of the social tax is usually paid by the employer, in some cases also by the state (e.g. if the person is in the military service of the Defence Forces). In the case of persons registered as unemployed, the social tax necessary for obtaining health insurance is paid, for example, by the Unemployment Insurance Fund;
- (2) self-employed persons who have to pay social tax themselves in order to receive health insurance cover; as mentioned above, there is an obligation for self-employed persons to register in the Commercial Register;
- (3) persons treated as insurees. There is no obligation for these persons to pay social tax (this group includes, for example, pregnant women, children up to the age of 19, persons receiving a state pension<sup>21</sup>).

The Unemployment Insurance Act defines protected persons differently than the State Pension Insurance Act and the State Health Insurance Act.

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20 Section 5, Health Insurance Act (Ravikindlustuse seadus) - RT I 2002, 62, 377, English translation: <https://www.riigiteataja.ee/en/eli/524042020006/consolide>. Accessed 12 May 2020.

21 Section 5(4) of the Estonian Health Insurance Fund Act (Eesti Haigekassa seadus) - RT I 2000, 57, 374, English translation: <https://www.riigiteataja.ee/en/eli/527122019003/consolide>. Accessed 12 May 2020.

Persons equal to the insured are:

- 1) pregnant women whose pregnancy has been identified by a doctor or a midwife;
- 2) persons under 19 years of age;
- 3) persons who receive a state pension granted in Estonia;
- 4) persons who have been found to have partial work ability or no work ability under the Work Ability Allowance Act;
- 5) persons with up to five years left until attaining the retirement age who are maintained by their spouses who are insured persons;
- 6) persons acquiring basic or general secondary education, persons acquiring formal vocational education and higher education students who are permanent residents of Estonia and study in an educational institution in Estonia founded and operating on the basis of legislation or in an equivalent educational institution abroad, except for doctoral candidates that receive the doctoral allowance;
- 7) a monk or a nun who is a member of a cloister registered in the register of religious associations.

Pursuant to Section 3 (1) of the Unemployment Insurance Act<sup>22</sup>, the following persons are deemed to be protected by unemployment insurance: employees, officials, natural persons providing services on the basis of a contract under the law of obligations, public conciliators, members of a rural municipality or city government, rural municipality or city district elders, a non-working spouse accompanying an official on a long-term assignment abroad, and a non-working spouse accompanying an official serving in a foreign mission of the Republic of Estonia. All persons mentioned must have paid the unemployment insurance contributions on the basis of and pursuant to the procedure provided in the Unemployment Insurance Act. In addition to the type of activity, a fact that is also relevant is that a person covered by unemployment insurance must have paid unemployment insurance contributions. Without contribution payments, the insured person will not have completed the unemployment insurance period, and in the absence of the unemployment insurance period, the unemployed person will not be able to receive the unemployment insurance benefits prescribed by law.

The above types of insurance are public. The state pension insurance is administered by the Social Insurance Board, an agency under the Ministry of Social Affairs. The Estonian Health Insurance Fund<sup>23</sup> is responsible for state health insurance. The Estonian Health Insurance Fund is a legal person in public law. This status means that it is a public body, but not a state agency. The activities of the Estonian Health Insurance Fund are administered by the management board and supervisory board. At the same time, the supervisory board of the Estonian Health Insurance Fund operates on the basis of the tripartite principle. The supervisory board of the Estonian Health Insurance Fund includes representatives of employees, employers and the state. There is only one health insurance fund in Estonia. The Estonian Unemployment Insurance Fund is also a legal person in public law. It is not a state agency and the Estonian Unemployment Insurance Fund is not subordinate to any ministry. The activities of the Estonian Unemployment Insurance Fund are also managed by the Management Board and the Supervisory Board. The Supervisory Board consists of representatives of

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22 Unemployment Insurance Act (Töötuskindlustuse seadus) - RT I 2001, 59, 359, English translation: <https://www.riigiteataja.ee/en/eli/530042020008/consolide>. Accessed 12 May 2020.

23 Section 5 of the Estonian Health Insurance Fund Act (Eesti Haigekassa seadus) - RT I 2000, 57, 374, English translation: <https://www.riigiteataja.ee/en/eli/527122019003/consolide>. Accessed 12 May 2020.

employers, employees and the state. In Estonia there is one unemployment insurance fund.

The last type of social protection that is relevant in the context of this chapter is the mandatory funded pension.<sup>24</sup> The mandatory funded pension is also called the second pillar of the pension system. Due to its general objectives, the mandatory funded pension is supplementary to the state pension insurance, and one of the main goals of this pension is to provide additional income for individuals of retirement age. With its initial purpose, the mandatory funded pension is supported by a state-guaranteed retirement pension. Mandatory funded pension funds are, by their nature, private equity funds. The state does not directly intervene in the activities of pension funds. The state only determines the rules where and to what extent pension funds may invest the finances raised by them. There are several mandatory funded pension funds in Estonia and a person has the opportunity to change the pension fund.<sup>25</sup>

In the light of the above, it can be concluded that three of the four aforementioned benefits are linked to the obligation to pay social tax (either through the beneficiary himself, e.g. in the case of a self-employed person; or on behalf of the insured person, usually through an employer or – in the case of civil servants – the authority which has employed the official). In the case of unemployment insurance only, the insurance coverage is not linked to the obligation to pay social tax.

### 3. *Taxes and Contributions Foreseen for Financing Social Protection*

As can be seen from the above, *social tax* forms an important part of the financing of Estonian social protection benefits. The social tax was one of the first taxes to be introduced as early as 1990, and from the outset it

24 Section 40 of the Funded Pensions Act (Kogumispensionide seadus) - RT I 2004, 37, 252, English translation: <https://www.riigiteataja.ee/en/eli/521012019010/consolide>. Accessed 12 May 2020.

25 In 2021, the mandatory funded pension system will change. Under this amendment, individuals will get the right to decide whether they want to withdraw money from pension funds or whether they decide to continue with a mandatory funded pension. Due to this principle, the mandatory funded pension will become more flexible. See:

[https://www.riigikogu.ee/tegevus/eelnoud/eelnou/9c420335-4f28-43eb-b733-5a56c68daaf8/Kogumispensionide%20seaduse%20ja%20sellega%20seonduvalt%20teiste%20seaduste%20muutmise%20seadus%20\(kohustusliku%20kogumispensionide%20reform\)](https://www.riigikogu.ee/tegevus/eelnoud/eelnou/9c420335-4f28-43eb-b733-5a56c68daaf8/Kogumispensionide%20seaduse%20ja%20sellega%20seonduvalt%20teiste%20seaduste%20muutmise%20seadus%20(kohustusliku%20kogumispensionide%20reform)). Accessed 12 May 2020.

sought to finance state-guaranteed health insurance and state pension insurance. Payment of the social tax is an employer's obligation and it has to be paid from the gross salary. It amounts to 33 percent of the gross sum. The sum is divided into two: 20 percent is accrued in the budget of the state pension insurance, while 13 percent is accrued in the budget of the health insurance.<sup>26</sup> The employee does not pay the social tax and the sum is not reflected in his salary.

In general, and also taking into account the topic of this chapter, the social tax is levied under the following circumstances:

- (1) on wages and other remuneration paid to employees in money;
- (2) on wages and other remuneration paid to officials according to the Public Service Act;
- (3) on remuneration paid to members of the management or controlling bodies of legal persons or the trustee in bankruptcy and members of the bankruptcy committee in the bankruptcy proceedings of a natural person;
- (4) on the business income of a self-employed person, after deductions relating to enterprise and permitted in the Income Tax Act have been made;
- (5) on remuneration paid to natural persons on the basis of contracts for services, authorisation agreements or contracts under the law of obligations entered into for the provision of other services;
- (6) on fringe benefits within the meaning of the Income Tax Act, expressed in monetary terms, and on income tax payable on fringe benefits;
- (7) on benefits paid on the basis of the Unemployment Insurance Act.

The minimum rate for the payment of social tax is approved annually by the state budget. There is no upper limit on social tax. It all depends on the payments made by a particular person.

Here, attention needs also to be paid to self-employed persons. A genuine self-employed person (or FIE) is a natural person who is engaged in business.<sup>27</sup> Any natural person can be self-employed, including minors of

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26 Section 7 of the Social Tax Act (Sotsiaalmaksuseadus) - RT I 2000, 102, 675, English translation: <https://www.riigiteataja.ee/en/eli/527042020012/consolide>. Accessed 12 May 2020.

27 The number of self-employed persons is decreasing. In 2010, there were 30,308, and in 2018 there were 22,874 self-employed persons, see Statistics Estonia, <http://andmebaas.stat.ee/Index.aspx?lang=et&DataSetCode=EM81>. Accessed 12 May 2020.

at least 15 years of age to whom consent has been given by the parent, or whose active legal capacity to engage in economic activity has been extended by the court.<sup>28</sup> Being self-employed does not preclude working for an employer. As a self-employed person and a natural person are one and the same person, a natural person can earn income in several ways (e.g. wage income, income from the transfer of securities, income from business, etc.), but in such cases it must be distinguished between different types of income in a natural person's income tax return. The self-employed person pays social tax on the income received from his or her business, from which the deductions related to entrepreneurship permitted by the Income Tax Act have been made, taking into account limits established in the Social Tax Act. The period of taxation of the self-employed with social tax is one calendar year, because the taxable income is determined on the basis of the income tax return once a year.

The *unemployment insurance contribution* is divided into two parts, of which 0.8 percent is paid by the employer and 1.6 percent by the insured person or the employee. The main aim is to ensure the financing of the unemployment insurance benefits based on the indicated sum.<sup>29</sup> According to the Unemployment Insurance Act, it is possible to use the part paid by both the employer and the insured person for financing the services provided by the Unemployment Insurance Fund. The share paid by the insured person cannot be used to pay benefits in the event of the insolvency of the employer, nor to pay benefits in the event of collective redundancies. According to the principles of the unemployment insurance scheme, an unemployed person receives unemployment benefit only if the required insurance period has been completed. According to the Unemployment Insurance Act, the insured person is required to have had at least 12 months of insurance within the last 36 months. This principle is based on the assumption that if the employee works on the basis of an employment contract for at least four months per year, then within three years the insured person will be able to gain the necessary insurance period. To gain the insurance period, it is necessary that the unemployment insurance contribution is received every month. According to the current practice of the Supreme Court, an employee cannot suffer damage in a situation if the

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28 Sections 9 to 11 of the General Part of the Civil Code Act (Tsiviilseadustiku üldosa seadus) - RT I 2002, 35, 216, English translation: <https://www.riigiteataja.ee/en/eli/528052020001/consolide>. Accessed 12 May 2020.

29 Sections 40 ff. of the Unemployment Insurance Act (Töötuskindlustuse seadus) - RT I 2001, 59, 359, English translation: <https://www.riigiteataja.ee/en/eli/530042020008/consolide>. Accessed 12 May 2020.

employer has not fulfilled his obligation and has not transferred the necessary amounts to the Unemployment Insurance Fund.<sup>30</sup> The employee cannot transfer the corresponding amounts to the unemployment fund himself. The obligation to withhold and transfer unemployment insurance contributions is the obligation of the employer.

The third special payment relates to a *mandatory funded pension*. Employees regularly pay 2 percent of their salary to a pension fund freely chosen by them. As this is a mandatory funded pension, it means that all persons who have reached the age of 18 years are obliged to join some pension fund and, when they receive a salary, they are obliged to pay a funded pension contribution from that salary. Mandatory funded pension payment does not have to be transferred by the insured persons themselves, such obligation generally lies with the employer. A direct obligation to pay a mandatory funded pension payment rests solely with self-employed persons who pay the said contribution once a year, not monthly. Persons from whose remuneration the employer is obliged to pay social tax are bound to pay the mandatory funded pension contribution.<sup>31</sup>

There are no more special-purpose taxes or payments established in the Estonian legal system. The rest of the possible social benefits are paid directly from the state budget and in case of these benefits it is not important whether the person is subject to a dependent employment relationship or not.

When an employee works on the basis of an employment contract, the above-mentioned taxes/contributions are mandatory. The social tax is paid by the employer on the basis of the employee's gross wages. The payment

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30 Estonian Supreme Court, Case 3-3-1-58-14, E.T vers Eesti Töötukassa, 18 November 2014, <https://www.riigikohus.ee/et/lahendid/marksonastik?asjaNr=3-3-1-58-14>. Accessed 12 May 2020. In case of pension insurance there is no relevant case law, but the same principle could also be applied here.

31 The specifics of the financing of the mandatory funded pension must be referred to here: according to the general scheme, the budget of the state pension insurance (20 percent of the social tax paid by the employer) is also financed on the basis of the social tax. If the person has also joined the mandatory funded pension, in addition to the above-mentioned 2 percent, the state contributes 4 percent of the 20 percent of the social tax to the mandatory funded pension. Thus, if a person is related to both the state pension insurance and the mandatory funded pension, the tax burden is divided as follows: 2 percent plus 4 percent of the social tax that goes to financing the second pillar and 16 percent of the social tax pension insurance part that is entered in the state pension insurance budget. See: <https://www.pensionikeskus.ee/en/ii-pillar/mandatory-funded-pension-ii-pillar/>. Accessed 12 May 2020.

of the unemployment insurance premium is divided between the employee and the employer, while the mandatory pension fund is paid by the employee on the basis of his gross wages. When the worker does not work on the basis of a definitely established contract, e.g. an employment contract or some other kind of contract, then the nature of the remuneration received is of a different kind and no social tax and unemployment insurance contribution must be paid. Therefore, a substantial risk occurs that persons working via a platform and providing a service are not entitled to either – state pension insurance or health insurance. Hence, the allowances and benefits ensured by the Estonian social protection system are of a limited nature: not all people receiving some kind of income must pay established taxes and payments for the financing of social benefits. For instance, if a person rents out his dwelling via airbnb, the periodical income is subject to income tax. Concurrently, according to the Social Tax Act the income from the rental of one's dwelling is not regarded as income, which would give the host an opportunity to receive social benefits. Based on the above, not any activity or any kind of income is of a nature which gives people the required social insurance protection.

#### IV. New “Workers” Outside of Social Protection<sup>32</sup>

##### 1. General Tendencies of Development of Social Protection

Analysing possible future perspectives and labour market developments until 2035, different development scenarios have been elaborated for Estonia, as well as possible changes in social protection and its financing.<sup>33</sup>

- (1) Diversification of employment forms and fragmentation of income is likely. In the case of intermittent employment and income, longer accounting periods for the accumulation of necessary seniority and income, as well as individual savings accounts, would help to improve

32 Also: *Tavits, Gaabriel*, Social Security Protection and New Forms of Employment: Case of Estonia. In: Проблеми Реалізації Прав Громадян у сфері Праці та Соціального Забезпечення, Harkiv: Pravo 2019, pp. 494-497.

33 Social Protection Models and their Suitability to Alternative Scenarios Reflecting Changes in the Labour Market and Employment Relations in Estonia (Tõõga seotud sotsiaalkaitse mudelid ja nende sobivus alternatiivsete tööturuarengute korral Eestis), Praxis 2018 (in Estonian), [http://www.praxis.ee/wp-content/uploads/2018/02/tooga\\_seotud\\_sotsiaalkaitsemudelid\\_raport\\_pdf](http://www.praxis.ee/wp-content/uploads/2018/02/tooga_seotud_sotsiaalkaitsemudelid_raport_pdf). Accessed 12 May 2020.

the coverage of social security schemes. The said perspective applies to all the types of social protection mentioned above.

- (2) Given the longer-term future trends in forms of work and risks of financing social protection, it is also necessary to consider the introduction of new possible sources of financing. It must therefore be decided whether to increase the rates of taxes and payments (social tax, unemployment insurance contributions) used for financing within the current system or to use other sources of central state revenue.
- (3) In the case of long-term structural unemployment and underemployment, coverage should be improved through the introduction of employment and work-independent minimum protection schemes. Speaking of future work, the possibility of introducing a citizen's salary, i.e. an unconditional minimum income protection, has also been discussed here, although it is not a realistic measure to replace the social protection system as a whole today or in the near future.
- (4) Inequality may increase due to the polarization of skills and labour market opportunities: better-skilled workers earn significantly more in high-value-adding jobs than those engaged in routine and medium-skilled jobs. Discussions on future work forms indicate the possibility of introducing, in addition to more progressive income taxation, a negative income tax, in which the state pays households a benefit linked to the income tax rate if the declared income is below a certain level.

## 2. *Shortcomings in Health Insurance Cover*

Occasionally, the sustainability and shortcomings of the Estonian health insurance system have been analysed. Both legal and substantive issues have been addressed. In 2018, a study was commissioned by the Ministry of Social Affairs to find out how it would be realisable to ensure the most universal feasible protection for persons insured in Estonia. This study highlights the main topical areas of the Estonian health insurance system.<sup>34</sup>

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34 Health Insurance Protection to Everyone or for the Chosen – How to Resolve Gaps in the Estonian Health Insurance System? (Ravikindlustus valitutele või ravikaitse kõigile — kuidas täita lüngad Eesti ravikindlustuses?), Praxis 2018, <http://www.praxis.ee/wp-content/uploads/2017/09/Ravikindlustus.pdf>. Accessed 12 May 2020.



There are approximately 120,000 people of working age<sup>35</sup> in Estonia who do not have permanent health insurance. The vast majority of people without health insurance have intermittent insurance coverage. This discontinuity is also due to the discontinuity of income and employment. The reasons for the interruption or lack of insurance cover are found both in the labour market and in the social security system. Health insurance is often lacking due to irregular income or the nature of a person's job. The current Estonian health insurance system is not flexible with regard to different forms of work. Therefore, as one of the policy changes in Estonia, it has been proposed to consider the possibility of taking into account the receipt of social tax for the last 12 calendar months in order to validate health insurance, which would help to smooth out insurance disruptions arising from irregular employment and income. There is no such waiting period under the current health insurance system. Rather, it is based on the amount of social tax paid. The only condition where a certain waiting period is expected is related to the employment on the basis of an employment contract. Under the Health Insurance Act, health insurance cover arises only after the employment relationship has lasted for at least one month. There are no specific requirements for the length of the social tax collection period. One alternative to increase health insurance coverage is to move towards a universal health care system. Given the situation in Estonia, it would mean a fundamental change as in order to access the state health care system people would not have to make contributions from their salaries (to buy so-called health insurance), but the right to state health care services could automatically be accompanied by resident status. The creation of an inclusive health protection system requires fundamental changes in the financing of health care and in the state tax system. At present, no such discussions are taking place, and the idea of creating universal treatment protection is not relevant.

In view of the above situation, the health insurance system and access to it currently point to the fact that people who earn income from short-term platform work or whose income is below the minimum amount of social tax to be paid appear to be excluded from any health insurance coverage.

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35 This makes approx. 14 percent of the whole working age population or less than 10 percent of the whole population of Estonia. See: Health Insurance Protection to Everyone or for the Chosen – How to Resolve Gaps in the Estonian Health Insurance System? (Ravikindlustus valitutele või ravikaitse kõigile — kuidas täita lüngad Eesti ravikindlustuses?), pp. 13-14, Praxis 2018, <http://www.praxis.ee/wp-content/uploads/2017/09/Ravikindlustus.pdf>. Accessed 12 May 2020.

Being excluded from health insurance coverage means that these persons have no access to either primary care or specialist care. The main opportunity for these persons to receive health care services is through emergency medical care only.

### 3. *Unemployment Benefits – Access for the Privileged*

The Unemployment Insurance Act in force in Estonia does not allow for those engaged in new forms of employment to receive unemployment insurance benefits, and such additional activities are also equated with work, regardless of the size of income of a particular employee. According to the law in force in Estonia, a person is registered as unemployed if he or she does not have a job or activity that is considered to be an activity equivalent to work on the basis of law. Due to the health insurance system, if a person is registered as unemployed, he or she also has the right to receive health insurance cover through the Estonian Unemployment Insurance Fund. If a person provides a small-scale service through a platform, he or she cannot be registered as unemployed, and, on the other hand, there is no guarantee that he or she will receive sufficient income to pay the social security contributions required to obtain health insurance cover. In a study conducted in 2018, it has been found that the problem of unemployment in Estonia correlates with insufficient social protection:<sup>36</sup> benefit rates are low and only a small part of the unemployed receive benefits or support, so these measures fail to prevent people from falling into poverty.

Another problem is that the Unemployment Insurance Act is outdated and the labour market has changed a lot since 2002 when the Act was adopted. The current law provides social security for a traditional employment relationship. Both the employee and the employer pay unemployment insurance contributions. When the employment relationship ends and the person registers as unemployed, the person receives compensation from the unemployment insurance fund according to the length of gainful activity. Many new forms of employment do not currently provide unemployment insurance protection. For example, the Bolt car-sharing service is not the driver's employer, but only an intermediary service. Thus, the driv-

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36 Analyses of Principles of the Unemployment Insurance in order to avoid situations of need and support participation in the employment market (Töötuskindlustuse põhimõtete analüüs vaesuse ennetamiseks ja tööturul osalemise toetamiseks), Praxis 2019, <http://www.praxis.ee/wp-content/uploads/2018/09/T%C3%B6%C3%B6tush%C3%BCvitis30.05.2019.pdf>. Accessed 12 May 2020.

er is not a Bolt employee, but a business partner. As a self-employed person, these hours are not taken into account when calculating the unemployment insurance period or unemployment benefits when driving with Bolt. In addition to drivers, couriers and board members, there is the same problem with others, such as choirmasters, babysitters, beauty professionals, and so on. In other words, the circle of persons who work either through the platform or perform rather short-term work tasks (work gigs) currently remain outside the main and important areas of social protection. This, in turn, leads to a situation where short-term employment as well as irregular incomes do not guarantee protection against the social risks listed in § 28 of the Constitution of the Republic of Estonia.<sup>37</sup>

## V. Entrepreneur Account – a New Opportunity

### 1. What is an Entrepreneur Account?

An entrepreneur account is intended to simplify the tax liability for payments received for the provision of services from one natural person to another natural person or for the sale of goods to a natural or legal person.<sup>38</sup> It is not allowed to transfer to the entrepreneur account the funds earned from providing a service or selling goods during the period when the entrepreneur account holder is socially insured in another European Economic Area country<sup>39</sup> or in a social security agreement country<sup>40</sup> where this income is subject to social security contributions. A person who has

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37 At the time of completion of this chapter, the Ministry of Social Affairs has drafted the Unemployment Insurance Act with the intention of making the unemployment insurance system more flexible. Among other things, the changes allow for small-scale work. It means that the requirement that a person registered as unemployed has no job at all will be waived. See: <http://eelnoud.valitsus.ee/main/mo-unt/docList/f580df2f-4096-4828-9849-bbc859af99a6#TyHGsaPR>. Accessed 12 May 2020.

38 Simplified Business Income Taxation Act (Ettevõtlastulu lihtsustatud maksustamise seadus), English translation: <https://www.riigiteataja.ee/akt/107072017002>. Accessed 12 May 2020. As of the end of 2019, there were 1,702 active entrepreneur accounts in Estonia. During the year, EUR 2,060,000 were received in entrepreneur accounts, of which EUR 418,000 in taxes were paid. See <https://arileht.delfi.ee/news/uudised/on-seda-siis-palju-voi-vahe-ettevotluskontodele-laekus-esi-mese-aastaga-ule-kahe-miljoni-euro?id=88806367>. Accessed 12 May 2020.

39 The EU Member States, Norway, Liechtenstein, Switzerland.

40 Canada, Ukraine, Australia, Belarus.

opened an entrepreneur account is not obliged to register as an entrepreneur and to calculate revenues and expenses. The owner of the entrepreneur account cannot be a VAT payer or be acting as a self-employed person in the same or similar area of activity.

The entrepreneur account creates a new simple and affordable way of doing business. Accounting and tax reports are not required when using an entrepreneur account because the tax liability is calculated on the basis of the payments to the entrepreneur account. An entrepreneur account owner does not issue invoices because he or she is not an entrepreneur or accounting entity. An entrepreneur account owner can provide services or sell goods by verbal contract. However, if necessary he or she can also conclude a simple written contract containing relevant data on providing the services or selling the goods.

An entrepreneur account is useful for any person who provides services to other natural persons in areas of activity that do not involve any direct expenses, or for a person who sells self-produced goods or handicraft goods or goods with low material or acquisition costs. Examples include baby-sitting, housekeeping, gardening, repair or construction services that do not involve direct costs or in which a customer pays for the costs. An example would be that a customer orders the repair or construction service and has bought the tools and materials for the repair him- or herself. Another example would be the sale of self-produced goods to natural persons as well as to legal persons if the cost of the raw material or source material is low compared to the selling price of the goods, such as is the case with the sale of handicraft and art, or the sale of food, plants etc. grown or produced by the natural person. An entrepreneur account is also an appropriate solution for new forms of entrepreneurship, such as payments received from the provision of services from one natural person to another natural person through ride-sharing service platforms, e.g., Uber, Bolt, etc.

Since the total amount received on the entrepreneur account (not only the profit from the provision of the services or the sale of the goods) is taxed with business income tax, it is not possible to deduct costs or expenses. Therefore, in the areas of activity that involve direct or high costs, it is more beneficial to operate as a self-employed person or through a company. For example, it is important to deduct the acquisition costs of the goods from the income when selling goods or providing intermediation.

There is only one bank that offers such a possibility to open an entrepreneur account. A natural person can open an entrepreneur account with LHV Pank (hereinafter Bank). By signing the agreement, the entrepreneur account owner will arrange for Bank to reserve business income tax from the total amounts received on the entrepreneur account and

transfer the business income tax to the Estonian Tax and Customs Board. Bank informs the Estonian Tax and Customs Board of the details of the person who has opened or closed the entrepreneur account and of the entrepreneur account number, and immediately transfers the business income tax reserved from the total amounts received on the account within a calendar month to the Estonian Tax and Customs Board. The free money on the entrepreneur account can be used by the account owner in the same way as money on a regular current account.

The Estonian Tax and Customs Board must carry out the following tasks:

- transfer the taxpayer's data received from Bank upon the conclusion of the agreement of opening the entrepreneur account into the register of taxable persons and delete the taxpayer's data from the register upon the end of the term of the entrepreneur account agreement;
- distribute the received business income tax if the taxpayer is an obligated person required to make contributions to a mandatory funded pension:
  - an income tax rate of 20/55 of the business income tax rate,
  - a social tax rate of 33/55 of the business income tax rate,
  - a mandatory funded pension contribution rate of 2/55 of the business income tax rate;
- distribute the received business income tax if the taxpayer is not an obligated person required to make contributions to a mandatory funded pension:
  - an income tax rate of 20/53 of the business income tax rate,
  - a social tax rate of 33/53 of the business income tax rate;
- forward the data of the mandatory funded pension contribution to the registrar of the pension register and the social tax data to the Estonian Health Insurance Fund and the Estonian Social Insurance Board.

The business income tax rate is 20 percent of the total amount received on the entrepreneur account if the amount does not exceed EUR 25,000 per calendar year and 40 percent of the amount exceeding EUR 25,000 received on the entrepreneur account per calendar year. If the amount received on the entrepreneur account exceeds EUR 40,000 per calendar year, the natural person is obligated to register as self-employed (FIE) or to establish a company (e.g. limited company or GmbH – in Estonian: OÜ) in the Commercial Register and as a person liable to value added tax in the Estonian Tax and Customs Board. The entrepreneur is required to keep accounts for taxation purposes.

## 2. Necessary Social Security Protection (Example: Health Insurance)

The important question is: Does a natural person get health insurance if he or she is using an entrepreneur account (e.g. working via platform)? An entrepreneur account owner has the right to receive health insurance benefits if the received social tax in a calendar month is to the extent of at least the minimum social tax requirement. In 2020, the monthly rate of social tax is EUR 540 and the minimum social tax obligation is EUR 178.20 per month ( $540 \times 33\%$ ). In order to get health insurance, social tax to the extent of the minimum social tax requirement for the previous calendar month has to be received for the natural person. Health insurance begins on the day following the receipt of social tax (10th day) and stops after one month if the minimum social tax obligation is not fulfilled by the 10th of the following month. Data on the person for whom the minimum social tax liability has been received, is to be submitted by the Estonian Tax and Customs Board to the Estonian Health Insurance Fund.

To illustrate this situation, two examples shall be given.

### Example 1

If a person is operating only through an entrepreneur account to get health insurance, he or she must receive at least EUR 1,485 per calendar month for the provision of services or for the sale of goods, from which the business income tax is EUR 297 ( $1485 \times 20\%$ ) and of which social tax is EUR 165 ( $297 \times 33/55$  for an obligated person required to make contributions to a mandatory funded pension). If the minimum social tax obligation is fulfilled, the person has the right to receive the health insurance benefits.<sup>41</sup>

### Example 2

In February 2020, a natural person earned EUR 400 under a service agreement (concluded with a legal person) and the legal person paid a social tax of EUR 132 ( $400 \times 33\%$ ). In February, the natural person also received EUR 800 on the entrepreneur account, of which the business income tax was EUR 160 ( $800 \times 20\%$ ) and social tax was EUR 96 ( $160 \times 33/55$ ). Thus, in February a total of EUR 228 ( $132 + 96$ ) of social tax was collected from the natural person. In this case the natural person's minimum social tax

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41 The minimum wage in Estonia is EUR 584 gross, the average in 2019 was EUR 1,407, see <https://www.stat.ee/et/avasta-statistikat/valdkonnad/tooelu/palk-jatoojoukulu/keskmine-brutokuupalk>. Accessed 12 May 2020.

obligation is fulfilled in February and he will get health insurance from 11 March.

Deductions in a natural person's income tax return from the revenue received on the entrepreneur account cannot be made (for example, tax-free income, mortgage interests, training costs). Also the income tax part of the business income tax is not included as paid or withheld income tax in the income tax return of a natural person. At the same time, it is important to take into account that the sums received on the entrepreneur account, from which the social tax part has been deducted, are taken into account as the annual income of the natural person and thus affect the amount of tax-free income of the natural person.

An entrepreneur account owner can provide services and sell goods to both private persons as well as to companies, non-profit associations, foundations, legal persons in public law, state and local government authorities and other persons. When providing a service to a resident company, non-profit association, foundation and religious association which is a legal person, it is only necessary to take into account the fact that these persons will be subject to additional income tax (rate 20/80), which equates the tax burden with the tax burden of a regular employment relationship. The additional tax liability of a legal person is intended to prevent the routine transfer of employment relationship to a more favourable entrepreneur account.

Therefore, in case of the service fee transferred to the entrepreneur account, it must be assessed who has received the service provided by the entrepreneur account holder, whether it was the employer (company) or the employee, and whether it may be a case of the employer's compensation of expenses to the employee. When a natural person receives amounts on the entrepreneur account that have been paid to a natural person from a resident company, non-profit association, foundation or religious association which is a legal person (hereinafter also "a payer") for providing services and which are subject to taxation on the basis of the Simplified Business Income Taxation Act, these persons will be subject to additional income tax (rate 20/80) from expenses unrelated to business.

An entrepreneur account owner is obligated to inform the payer of the fact that he or she provides the service through an entrepreneur account and that the service is taxable under the Simplified Business Income Taxa-

tion Act.<sup>42</sup> If the entrepreneur account owner does not report that he or she is providing the service through an entrepreneur account, the payer is obligated to tax the payment made to a natural person for the service with all labour (salary) taxes.

### 3. *Entrepreneur Account – Sufficient for Social Protection?*

The creation and operation of an entrepreneur account is one of the measures that enables new workers to earn an income and to pay all the necessary contributions and taxes from this income in order to receive social protection. In essence, it can be argued that opening an entrepreneur account is a new alternative to operating as a self-employed person or setting up a single-member private limited company. Although the establishment of a private limited company has been made quite simple in Estonian conditions, the establishment of a private limited company and the existence of its activities require special knowledge of accounting and timely payment of taxes. Therefore, it also takes quite a lot of time to administer the activities of a private limited company. Creating an entrepreneur account and owning it provides an opportunity to ensure the necessary social security protection in a simplified manner in the case of small-scale income. On the other hand, it is important that also in the case of an entrepreneur account, a person's income must be higher than the average salary. Otherwise, it is possible to receive income and pay the necessary insurance premiums from this income, but the necessary and required social security protection (in the form of health insurance) is still not guaranteed.

The entrepreneur account and the income received in it indicate that the person has an activity equivalent to work. If the amount received through the entrepreneur account is not equal to at least the average salary granted in Estonia, the owner of the entrepreneur account does not receive health insurance cover and he or she cannot register as unemployed either.

The possibility of opening an entrepreneur account must be seen as one of the important measures to bring new workers closer to possible social protection and still give certain new workers access to social protection in two important areas: pension insurance and health insurance. At the same time, the entrepreneur account does not solve important problems related

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42 Simplified Business Income Taxation Act (Ettevõtlustulu lihtsustatud maksustamise seadus), English translation: <https://www.riigiteataja.ee/akt/107072017002>. Accessed 12 May 2020.



to social protection, but is part of ensuring the necessary social protection for new employees.

## VI. Conclusion

The social protection rights are mainly targeted at people who are involved in performing work in dependent employment, i.e. who work on the basis of an employment contract or in the civil service. When a person is working on the basis of an employment contract, the main responsibility for health insurance and the state pension fund lies with the employer, who has to pay the insurance taxes/contributions established by the Estonian legislation. The Estonian Social Tax Act also foresees an option that a self-employed person must pay social tax, but for this he has to register in the Commercial Register and also has the obligation to submit an annual report of the economic activity.

The owner of the entrepreneur account does not have to register in the Commercial Register; concurrently, there is no obligation to submit an annual report of the economic activity. The implementation of the entrepreneur account gives the person short-term work assignments and when the income per month is over the average gross wages of the state, it is possible to ensure minimal social security protection (health insurance and the state pension insurance). However, an important condition is established saying that the turnover of the entrepreneur account must not be bigger than EUR 40,000 per year. Otherwise, the obligation of paying VAT applies. The obligation of paying VAT requires a different kind of book-keeping and accounting system, and due to that different forms of entrepreneurship are required.

An entrepreneur account is a simple but effective system for those who work with platforms. The employee only has to open a special entrepreneur account with the bank, and transfer the income from his/her business to it. Other formalities are done for him/her in cooperation with the bank and the Tax and Customs Board. While the number of ordinary self-employed persons shows a declining trend, the number of entrepreneur account openers shows an increasing trend. The Tax and Customs Board plays an important part in the administration of the amounts received in the entrepreneur account, and distributes the corresponding amounts among the necessary types of social protection schemes.

The entrepreneur account can be considered a positive and necessary tool, as it frees the platform worker from complicated accounting and reduces potential tax errors as well as the risk of the platform worker being

deprived of social protection. The only important factor to be aware of is the amount received in the entrepreneur account. Only working for the minimum wage does not guarantee the minimum social protection, as the income earned must definitely be higher than the average wage in the country. Since the entrepreneur account was created only a year ago, it is possible to review its usefulness and necessity after a while.