



Hidden profits under Estonian CIT

to include payments from profits
from before opting into flat-rate taxation

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A draft of amendments (No. 3137) specifies that as of 2027 hidden profits are to also include payments made from profits generated before opting into Estonian CIT. It also eliminates the ability to opt into flat-rate taxation during the year, defines expenses unrelated to business operations and introduces an amnesty for companies with errors in their financial statements.

Government plans to change regulations on so-called Estonian CIT

On 24 September 2026 the Council of Ministers submitted to the Sejm a draft bill amending the Personal Income Tax Act, the Corporate Income Tax Act and the Act on flat-rate income tax on certain income earned by natural persons (Sejm paper No. 3137, Council of Ministers legislative work agenda item No. UD116). The bill has had its first reading and has been sent to the Public Finance Committee. It is to go into effect on 1 January 2027. The amended provisions of the CIT Act, including those on flat-rate tax on corporate income (so-called Estonian CIT), are to apply to income earned in a tax year beginning after 31 December 2026. The changes to the Estonian CIT include a definition of hidden profits (Article 28m par. 3 of the CIT Act), a definition of expenses unrelated to business operations (Article 28m par. 3a), the distribution of profits after flat-rate taxation ends (Article 28h par. 4),

the employment condition (Article 28j par. 1 point 3 letter b), elimination of opting into flat-rate taxation during the year, as well as an amnesty.

II. New definition of hidden profits as of 2027

The draft changes the introduction to the hidden profits catalog. Hidden profits are cash or non-cash benefits, for a fee, free of charge or partially free of charge, irrespective of their source of funding. This also includes benefits covered from profits generated before opting into flat-rate taxation. The remaining conditions remain unchanged. The benefit must be performed in connection with the right to a share of profits and may not constitute distributed profits or a payment arising from the distribution of profits. Its direct or indirect beneficiary must be a shareholder, stockholder or partner or a related party thereto. The draft does not change the open catalog of hidden profits, which includes loans to shareholders, donations and entertainment expenses. Plans to expand the catalog to include such items as rental and lease receivables and IP fees have been abandoned.



generated during the period of flat-rate taxation. This presumption does not apply if the resolution on the distribution of net profits states that the profits being distributed were generated in the years prior to the first year of flat-rate taxation. The opposite applies right now: income from the period of flat-rate taxation is considered to have been distributed last. The draft also changes the PIT Act. After the change, a shareholder will not be able to deduct a portion of the flat-rate tax from dividend tax if the company had previously paid flat-rate tax on profits distributed after the end of taxation with Estonian CIT.

Reasons for changing the definition of hidden profits

According to the explanatory statement to the draft, the amendments are meant to clarify rather than substantively change the scope of taxation. The Ministry of Finance points out that the wording of the current provisions does not make the creation of income from hidden profits contingent on the moment of generation of the profit from which the benefit is covered. Administrative courts presented a different position in the rulings of the Voivodship Administrative Court in Kraków of 8 August 2025 (case file I SA/Kr 397/25) and of the Voivodship Administrative Court in Łódź of 6 February 2025 (case file I SA/Łd 805/24). This position was shared by the Supreme Administrative Court in its ruling of 16 January 2026 (case file II FSK 555/23). The courts found that only benefits financed from profits generated during the period of flat-rate taxation are subject to taxation as hidden profits. According to the ministry, the new wording of the provisions will remove this difference and ensure consistent application of the law. In practice, in view of the differing line of case law, the change will actually extend taxation to benefits covered from profits generated before opting into flat-rate taxation.

Change in rules on the distribution of profits after flat-rate taxation ends

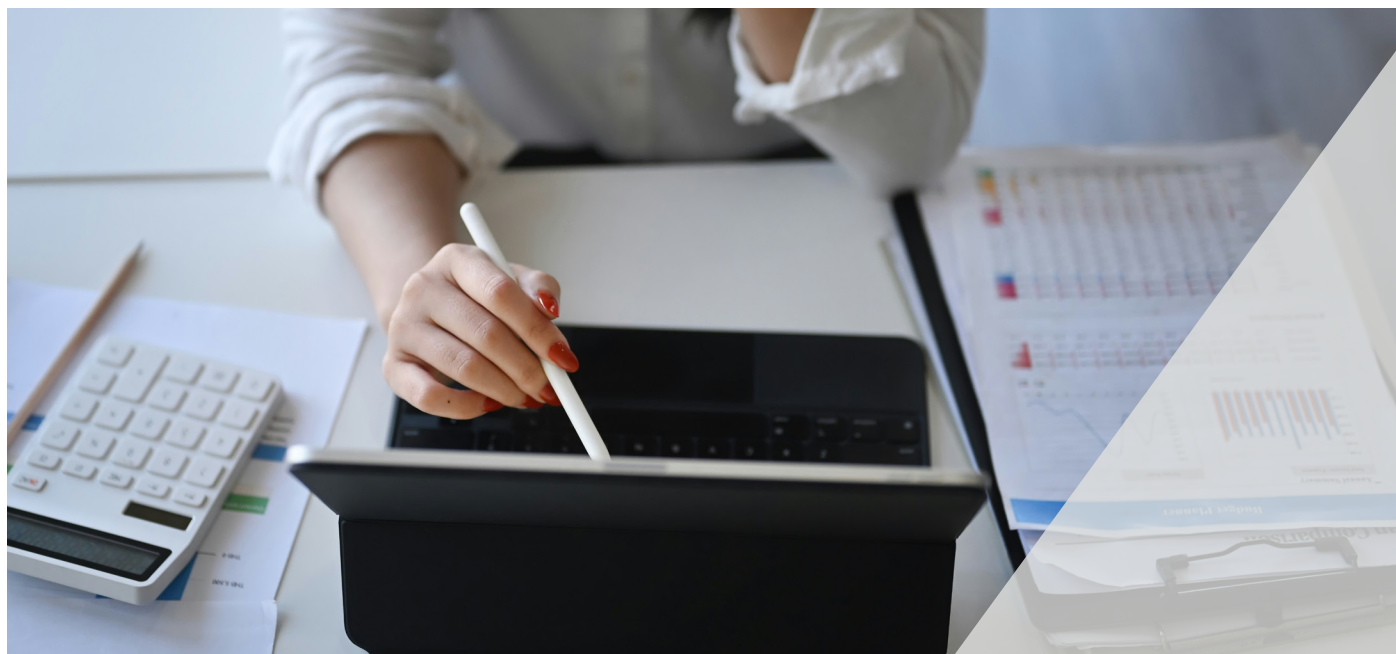
The draft provides that if, after opting out of or losing eligibility for flat-rate taxation a taxable person pays out or distributes profits in any form, it is assumed that the payment was made from income from net profits

Employment condition to be eased as of 2027

The draft changes the provision of the CIT Act that specifies an alternative employment condition for Estonian CIT taxable persons. Currently a taxable person meets this condition if they employ at least three individuals who are not partners based on employment contracts, or if they incur monthly expenses for remuneration from contracts other than employment contracts for at least three individuals at an amount equal to at least three times the average monthly salary in the corporate sector. After the change, this amount will include the total remuneration from employment contracts and contracts other than employment contracts, paid to at least 3 individuals. These individuals may not be shareholders or partners of the taxable person, and the taxable person must be a PIT or social insurance premium remitter. The condition will therefore be met by, for example, a company that pays remuneration to two contractors and one employee at a total amount equal to at least three times the average salary.

New definition of expenses unrelated to business operations

The draft adds a provision to the CIT Act that defines expenses unrelated to business operations. Alongside hidden profits, these expenses are subject to taxation with flat-rate tax. The definition covers two categories. The first consists of expenses incurred for a purpose other than generating revenues or maintaining or securing a source of revenue. The second consists of all types of fees and charges of a punitive nature, such as penalties, fines and late interest charges on tax arrears. Currently binding regulations do not contain a positive definition of such expenses. A provision has been in effect since 1 January 2023 that specifies only what does not constitute expenses unrelated to business operations. The new definition is based on the Guide to the flat-rate tax on corporate income of 23 December 2021.





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No more opting into Estonian CIT during the year

The bill repeals the provisions that make it possible to change over to flat-rate taxation of corporate income before the end of the tax year adopted by the taxable person. As of 2027 choosing Estonian CIT will generally be possible only at the beginning of the next tax year. The option to choose flat-rate taxation during the year was introduced by the Act of 29 October 2021. According to explanatory statement to the draft, the provision required closing the books of account as of the last day of the month preceding the first month of flat-rate taxation and preparing financial statements. This generated numerous doubts and disputes, which the Minister of Finance attempted to resolve through, among others, a general interpretation issued on 25 January 2024 (No. DD8.8203.1.2023).

Amnesty for companies that opted into flat-rate taxation during the year

The provisions of the draft apply to taxable persons who opted into Estonian CIT during the tax year before 1 January 2027, but failed to prepare financial statements, prepared them after the deadline or prepared them in violation of formal requirements. The requirement to prepare financial statements is considered met if the taxable person prepares them in accordance with accounting regulations, including the signatures of all required parties, and transmits them electronically to the Head of KAS by 31 January 2027. A taxable person who filed a return as a result of questions as to their right to flat-rate taxation may correct it, also after a tax or tax and customs inspection. If a decision has been issued, the taxable person can apply to reopen the proceeding. The deadline for filing such an application is a month from the act's effective date, and if the decision becomes final after that date, a month from the date on which it became final. Any overpayment is subject to refund within 3 months.



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