

This is an English translation. The original Icelandic text, as published in the Law Gazette (Stjórnartíðindi), is the authoritative text. Should there be a discrepancy between this translation and the authoritative text, the latter prevails.

Act on Stability Tax
No 60 of 9 July 2015 with later amendments as of 4 November 2015.
Entry into force: 17 July 2015

Translated from Icelandic

Article 1
Objective and allocation

The objective of this Act is to promote the liberalisation of capital controls, with the aim of guarding economic stability and public interest. For this purpose, it provides for taxation intended to offset adverse impacts in connection with settlement or realisation by taxable entities following their winding-up proceedings.

The funds raised by the tax levied pursuant to this Act shall accrue to the treasury, and the allocation of the funds shall conform to economic and financial stability. The budget bill shall contain a description of the intended treatment and allocation of the funds. The minister shall consult the Central Bank of Iceland when assessing the impact this may have on economic and financial stability and present the matter before the Economic Affairs and Trade Committee when the budget bill is being prepared.

Article 2
Taxable entities

The duty to pay tax, as further provided for in this Act, applies to legal persons which previously operated as commercial banks or savings banks, cf. Article 4 of Act No. 161/2002 on Financial Undertakings, and are subject to winding-up proceedings, cf. Article 101 of Act No. 161/2002, or have completed winding-up proceedings, cf. Article 103 a of the said Act, on the basis of a district court ruling that they shall be made subject to bankruptcy proceedings. The same applies to legal persons which previously operated as commercial banks or savings banks, cf. Article 4 of Act No. 161/2002 on Financial Undertakings, and have completed winding-up proceedings, cf. Article 103 a of the said Act, through composition but have not been able to realise payments in accordance with the composition or debt instruments issued in relation to the composition, due to restrictions on foreign exchange transactions and cross-border capital movements, in accordance with Act No. 87/1992, on Foreign Exchange.

Article 3
Tax base

The tax base comprises the total assets of a taxable entity on 31 December 2015. Assets shall be valued at fair value or cost in accordance with Act No. 3/2006 on Annual Accounts and applicable accounting rules.

Shares in unlisted associates and subsidiaries shall be valued at a price corresponding to the participation of a taxable entity in the equity of the undertaking concerned as it is published in the 2015 annual accounts, but never below the nominal value unless the equity is deemed lost and the book value is negative. Shares listed on a regulated market, a multilateral trading facility or a comparable market in a country outside the European Economic Area shall be valued at market price. Shares in other undertakings shall be valued at cost, but never below the nominal value.

Other shares according to point 2(a) of Article 2(1) of Act No. 108/2007 on Securities Transactions, listed on a regulated market, a multilateral trading facility or a comparable market in a country outside the European Economic Area shall be valued at market price.

Lending, claims, money market loans and any claim-related rights, other than those covered by paragraph 3, shall be valued at fair value.

When valuing bank deposits, accrued interest and indexation shall be included.

Other assets shall be valued at fair value or cost in accordance with the taxable entity's previous financial statements.

If assets are denominated in a currency other than the Icelandic króna their value shall be converted based on the mid-rate rate of the currency in question as recorded by the Central Bank of Iceland on 31 December 2015.

Article 4

Tax rate

The Stability Tax is 39% of total assets of a taxable entity according to Article 3.

Article 5

Deductible items

A taxable entity, pursuant to Article 2, may deduct from the Stability Tax, according to Article 4, investments described in paragraph 2, if they are made in its own name and paid for with its own cash in foreign currency after 30 June 2015 up to and including 31 December 2015.

Investments giving the right to a deduction are:

1. Initial investments in a bond issued in foreign currency by a domestic commercial bank or savings bank where the issuance is pursuant to the framework of GMTN (*Global Medium Term Note*) or EMTN (*Euro Medium Term Note*) programs where the maturity date of the principal is no sooner than seven years from the date of issue of the bond.

2. Initial investments in a subordinated loan in foreign currency granted to a domestic commercial bank or savings bank where the credit period is at least 10 years and the subordinated loan fulfils conditions to be considered a CET 2 instrument in the calculation of a commercial or savings bank's own funds, cf. Article 84, paragraph 6, point 1 of the Act on Financial Undertakings.

The maximum deductible investment amount is 20% of total assets according to Article 3.

Despite the provisions of paragraph 3 the maximum deductible investment amount cannot exceed 50bn ISK and can never be higher than the calculated tax according to Article 4.

The amount of deductions based on investments according to paragraph 2 shall be converted to Icelandic krónur at the mid-rate of the currency in question as recorded by the Central Bank of Iceland on the date of issue.

Article 6

Levying, due dates, supervision, complaints, collection and penalties

The Stability Tax shall be levied on 15 April 2016 and documents for its calculation and levying shall be submitted to the Directorate of Internal Revenue before the end of March the same year in the format decided by the Directorate. The documents shall comprise the annual accounts for the year 2015 and a special report on assets, and evaluation of specific asset classes, tax base according to Article 3 and deductible items according to Article 5. Taxable entities shall pay the levied tax in four equal payments on the following due dates: 1 May, 1 June, 1 July and 1 August 2016. The final due date is the last work day of each of these months.

Levying according to paragraph 1 is subject to a complaint to the Directorate of Internal Revenue according to Article 99 of Act No. 90/2003 on Income Tax.

The decision of the Directorate of Internal Revenue on a complaint according to paragraph 2 is a final decision at the administrative level.

In other respects than provided for by the Act, levying, supervision, complaints and collection of the tax are governed by the provisions of Act No. 90/2003, on Income Tax, cf. Chapters IX–XIV of the said Act, as applicable. Chapter XIII of the Act on Income Tax is applicable concerning penalties and procedure.

Article 7 *Levied tax*

Tax according to the Act is not considered an operational expense according to Article 31 of Act No. 90/2003 on Income Tax.

Article 8 *Priority of claims*

When winding-up the estate of a financial undertaking, any tax claim based on the Act shall have priority according to point 2 of Article 110 of Act No. 21/1991 on Bankruptcy etc. The same applies if winding-up proceedings are concluded with composition or bankruptcy.

Article 9 *Judicial procedure*

Legal proceedings that may arise due to the Act shall be subject to expedited procedure according to the rules of Chapter XIX of Act No. 91/1991 on Civil Procedure.

Article 10 *Authority to issue regulations*

The minister is authorised to provide for the enforcement of this Act in more detail by issuing regulations.

Article 11 *Entry into force*

This Act shall enter into force forthwith.

Article 12 *Amendments to other acts*

Upon entry into force of this Act the following amendments are made to Act No. 87/1992 on Foreign Exchange, with subsequent amendments:

1. The following two new paragraphs are added to Article 13n, worded as follows:

A taxable entity according to the Act on Stability Tax or a legal person established in relation to the realisation of the composition of a taxable entity shall be exempt from the restrictions of Article 13b(2) and the first sentence of Article 13c(2) due to distribution to creditors upon bankruptcy or due to payment according to a confirmed composition agreement. The exemption provided by the first sentence is subject to conditions of proof that full payment of the tax levied according to the Act on Stability Tax has taken place and that the period of limitation has passed, without dispute, or when a conclusive court finding, confirming the enforcement of the Act on Stability Tax, is available. Before a taxable entity carries out cross-border capital movements and foreign exchange transactions based on the exemption of the first sentence, it shall have obtained a confirmation by the Central Bank of Iceland that the conditions of the provision are met. If the Central Bank deems that the conditions of the second sentence are not met it shall refuse confirmation. Entities benefiting from the exemption under the first sentence shall also be exempt from Articles 13e, 13f(1), 13g, 13h and 13l. The Central Bank will set more detailed rules on the implementation of this provision.

A taxable entity according to the Act on Stability Tax shall be exempt from the provision of Article 13e due to investments pursuant to Article 5 of the Act on Stability Tax.

2. A new paragraph is added after the second sentence of Article 15(3) and is worded as follows: Despite the provision of the second sentence, fines due to breaches by legal persons of Article 13b and 13c can amount to up to five times the amount of the capital movement or the foreign exchange transaction.

3. The following is added to sentence 6 of Article 15h(1): in other instances than when they are imposed on the basis of Article 15i.

4. A new Article, Article 15i, is added after Article 15h and is worded as follows:

If the Central Bank of Iceland deems any conduct to be contrary to the provisions of this Act it can demand that the unlawful conduct be discontinued forthwith. The Central Bank can also require corrective measures or rectifications to the measures considered contrary to the provisions of this Act. The Central Bank is authorised to levy per-diem penalties according to Article 15h until its demands have been met.

[Interim provision]

Notwithstanding Article 2, entities which previously were operating as commercial banks or savings banks, cf. Article 4 of the Act on Financial Undertakings No. 161/2002, but are undergoing winding-up proceedings, cf. Article 101 of the said Act, shall not be considered taxable entities according to this Act if they have concluded the proceedings with a confirmed composition before 15 March 2016.

The same time limit applies to determination of taxability of those entities that fall under the second sentence of Article 2 of this Act.

The extended time limit to conclude winding-up proceedings in accordance with paragraph 1 is subject to the condition that entities that fall under the scope of the provision have received a resolution on a composition proposal at a meeting called for on the basis of the second sentence of Article 103 a (3) of the Act on Financial Undertakings No. 161/2002 and have put forward a written claim of confirmation of the composition agreement before a

District Court judge in accordance chapter IX of Act No. 21/1991 on Bankruptcy etc., before 31 December 2015.

Determination of the tax-base in accordance with this provision shall be based on total assets of a taxable entity as of 31 December 2015. Deduction from Stability Tax shall be in accordance with Article 5.]*

** Act No 107/2015 which entered into force on 5 November 2015.*