

Exempt supply in a regular business, incl. services related to immovables

The VAT Act enacts also the list of other services and goods, exempt from VAT, which have no social nature but are provided in the course of regular business.

The following goods and services are exempt from VAT:

1) **insurance services**, including reinsurance and insurance mediation. Essential point of the insurance mediation is set out in Article 2 of the Insurance Activities Act. Insurance services, including reinsurance and insurance mediation, are exempt from VAT if their content is in accordance with the provisions of the Insurance Activities Act.

For the purposes of the Insurance Activities Act, acting as insurance broker or insurance agent is called “insurance mediation”. Criteria of the insurance mediation which are essential for the determination of the insurance mediation service are stipulated in Articles 174, 175 and 176 of the Insurance Activities Act.

Following the judgment of the Court of Justice in Case C-42/22 – in a situation where an insurance undertaking has fully compensated the normal price of a vehicle in the event of complete write-off or damage to the vehicle and the ownership of the vehicle is transferred to the insurance undertaking, **the realisation of such a vehicle by the insurance undertaking cannot be regarded as part of the insurance business and thus as supply exempt from tax**. The supply of such a vehicle by the insurance undertaking registered for VAT purposes is subject to VAT. Since previously the tax authority was of the opinion that such activity is part of tax-exempt insurance services and the opinion has changed due to the fact that the decisions of the Court of Justice are part of the European Union law, which the Estonian tax authority is guided by in its activities, the new interpretation must be applied no later than 1 July 2024. Read more: [Transfer of written-off vehicles by insurance companies](#)

2) **the leasing or letting of immovables or parts thereof, establishment of a usufruct on immovables or parts thereof**. Tax exemption is not applied on the provision of accommodation services, the leasing or letting of or establishment of a usufruct on multi-storey car parks and premises for parking vehicles, and the hiring or leasing of or establishment of a usufruct on permanently installed equipment or machinery or safes.

As a rule, the leasing or letting of immovables or parts thereof, establishment of a usufruct on immovables or parts thereof is exempt supply. A taxpayer can add VAT to the taxable value of such services (except the leasing or letting of dwellings and establishment of a usufruct on dwellings) if he has notified the tax authority about it. The abovementioned services are treated as services connected with an immovable where the legislation of the country of location of the immovable shall be applied. Thus, if the taxpayer has notified the tax authority about addition of VAT to the taxable value of the

services – it's not important who is the recipient of the service, an Estonian person or a non-resident.

If the taxpayer has notified the tax authority about addition of VAT to the taxable value of the services – he must tax such supply for at least two years as of the first taxable period.

The leasing of immovables shall be distinguished from the **accommodation service** which is taxable supply.

The establishment of a usufruct on immovables is also exempt supply, according to clause 2 of subsection 2 of § 16 of the VAT Act. The taxpayer can add VAT to the taxable value of such service, if he has notified the tax authority about it in writing before the supply was effected, during the same taxable period or earlier.

3) **immovables or parts thereof**. The tax exemption is not applied to the immovable property, the essential part of which is a construction work for the purposes of the Building Code or a part of a construction work, which is transferred before the initial use of the building or its part, or for the first time within one year after the initial use (amendment entered into force 1 January 2025); or to immovable property, the essential part of which is a significantly improved construction work or its part, which is transferred before re-commissioning of the construction work or its part following improvement or for the first time within one year after re-commissioning (amendment entered into force 1 January 2025); or to building land. The construction work or its part is considered to have been significantly improved if the expenses related to the improvements exceed at least 10 per cent of the acquisition cost of the construction work or its part before the improvement.

The costs related to the improvements shall be compared only with the value of the improvable construction work itself, located on an immovable – not with the total value of the immovable (the price of land + construction work).

The definition of immovable in the VAT Act

The definition of **immovable** is enacted in subsection 3 of § 2 of the VAT Act. **Immovables**, as defined in the General Part of the Civil Code Act, right of superficies, utility networks and utility works, as defined in the Law of Property Act, structures as movables, as defined in the Law of Property Act Implementation Act, and apartment ownership and right of superficies in apartments, as defined in the Apartment Ownership Act and the Apartment Associations Act are deemed to be immovable for the purposes of the VAT Act.

As a rule, supply of immovables is exempt from VAT – but supply of new and significantly improved construction works and plots with no buildings is not exempt. Supply of structures as movables is also taxable or exempt according to the rules concerning immovables. According to subsection 1 of § 3 of the Building Code, construction work means a structure that is created as a result of human action and that is attached to or supported by the ground underneath and whose purpose of use, aim, manner of use or durability make it distinguishable from other structures. Construction works are divided to

buildings and civil engineering works. A building is a construction work that has an interior space that is separated from the external environment by the roof and other parts of the building envelope. A civil engineering work is any construction work other than a building. The definition of construction work is not directly related to the existence of the use and occupancy permit or to the entry in the register of construction works. As far as a building located on a plot of land is a “versal thing”, i.e. it has roof, interior space and parts of the building envelope – we have a plot of land where a construction work is located. As a rule, the transfer of a plot of land with a construction work after the commencement of use of the construction work is exempt supply according to clause 3 of subsection 2 of § 16 of the VAT Act.

For the purposes of the VAT Act, right of superficies as defined in the Law of Property Act is also treated as immovable. Thus, for the taxation purposes establishment of superficies to the land is treated like the transfer of the immovable.

The transfer of the new construction work and land under it

If an essential part of an immovable is a construction work or a part thereof which has been significantly improved (the costs related to the improvements exceed at least 10% of the acquisition value of the construction work or the part thereof before the making of the improvements) – such immovable is also taxable as a new construction work.

For example, if the acquisition cost of a construction work or a part thereof (without the cost of the land) was 100,000 euros before the improvement and the expenses related to the improvement were incurred for at least 110,000 euros (acquisition cost 100,000 euros + 10% of it) and the construction work or part thereof is transferred before the re-commissioning following the improvement or for the first time within one year after the re-commissioning following the improvement, the tax exemption does not apply upon the transfer. If the improvement costs are equal to the acquisition cost of the construction work or are less than 110,000 euros in the given example, there is no obligation to tax the supply of the construction work or a part thereof even if the improved construction work or a part thereof is not re-commissioned before the transfer or is re-commissioned within one year before the first transfer following the improvement.

The definition of building land in the VAT Act

According to clause 1 of subsection 3 of § 2 of the VAT Act, building land is deemed to be such immovable within the meaning of the General Part of the Civil Code Act, that does not contain any construction work, except utility networks or utility works, and which is designed for building pursuant to the design specifications, a detailed spatial plan or special spatial plan of the state or local government or for which a building notice has been submitted or the intended purpose of the cadastral unit of which is over 50% residential land or commercial land or these jointly.

According to clause 3 of subsection 2 of § 16 of the VAT Act, tax exemption is not applied to a building land. If there are only such utility networks and utility works, as defined in the Law of Property Act, on the immovable which are already in use – for the purposes of the VAT Act it is a plot of land with no

construction works and the transfer of such immovable is taxable. Utility networks and utility works, as defined in the Law of Property Act, are separate immovables, the owner of which is a third party and which can't be transferred by the owner of the plot of land.

4) valid postal payment means of the Republic of Estonia if sold at their nominal value.

Tax exemption is not applied for postage stamps, sold for philately interest, as well as for valid postage stamps, sold at price higher than their nominal value.

5) securities, except securities or holdings, which grant the holders thereof the right of ownership or the right to use and dispose as an owner of the immovables or parts thereof specified in the second sentence of clause 3 of subsection 2 of § 15 of the VAT Act, and since 01.05.2018 also except a greenhouse gas emission allowance for the purposes of subsection 1 of § 137 of the Atmospheric Air Protection Act.

The definition of security is enacted in subsection 1 of § 2 of the Securities Market Act. Security is a transferable proprietary right – thus, security is a service.

Upon the transfer of securities, the value of exempt supply is comprised of the total consideration received for the security (incl. the cost of the security itself). Tax exemption is not applied to securities which grant the holders thereof the right of ownership or the right to use and dispose as an owner of a new immovable or a part thereof. The supply of such holdings and securities shall be taxable because its actual economic content is a transaction, similar to the transfer of a new immovable. One such example is the transfer of the holding of a member of a building association. The holding of a building association does not give to a member of this building association the right of ownership of a fixed part of a building (for example, an apartment), but actually a member of a building association can use and dispose his membership, which give him the sole use of the apartment, as the owner – for example, he can transfer and pledge his membership. A bearer security is not issued about the membership, but as a rule, a person can become a member of a building association through the transaction certified by a notary.

If there is only the transfer of the holding or securities (incl. if holding or securities are transferred as non-monetary contribution) which does not involve the transfer to another person of the legal ownership or the ownership in property law of the immovable, i.e. this another person can't use and dispose the immovable as the owner – in such case it's a regular exempt supply of securities.

6) lottery tickets and the organisation of gambling, except the organisation of commercial lotteries and the organisation of such games of skill the only possible prize of which is the possibility to participate again in the same game.

The gambling service includes the organisation of a lottery and the transfer of lottery tickets. The organisation of gambling is regulated in the Gambling Act. Only a person who has a correspondent operating permit can organise the gamblings. Tax exemption is not applied to the organisation of

commercial lotteries and the organisation of such games of skill the only possible prize of which is the possibility to participate again in the same game.

7) **investment gold**, services relating to the transfer of investment gold or entry into a corresponding transfer agreement, or services relating to the supply thereof which are provided by an agent acting in the name and for the account of another person.

Special arrangements for imposing value added tax on investment gold, specified in Articles 344–356 of the EU VAT Directive, is the basis for exemption from VAT of the investment gold. In subsection 7 of 32 of the VAT Act is specified, input VAT of which goods and services is deductible for a person who supplies investment gold exempt from VAT – irrespective of the fact that the goods and services are acquired for the exempt supply. According to clause 4 of subsection 3 of 16 of the VAT Act, in certain cases a VAT payer can opt for taxation of the supply of the investment gold and the services related to the investment gold.

8) **goods, upon the acquisition of which there was no right for deduction of input value added tax**, unless the goods were acquired before the registration of the acquirer as a taxable person or if, at the time of acquisition of the goods, the input value added tax had been deducted in part.

Tax exemption is not applied upon the transfer of the goods which were acquired before the registration of the acquirer as a taxable person – in such case the right to deduct input VAT is applicable later (if the goods were acquired for the resale or as a raw material – subsection 5 of 29 of the VAT Act). Tax exemption is also not applied, if the VAT payer had the right of partial deduction of input VAT upon the acquisition of the goods.

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