

Transfer of goods with transport to a third country

The export of goods is the case where the transferor of the goods or the foreign acquirer of the goods transfers and delivers Union goods to a destination outside the customs territory of the Union (clause 1 of subsection 1 of § 5 of the VAT Act).

It is therefore important, in the case of exports, that the transfer of goods also takes place when transporting goods to a country outside the Union. For the purposes of the VAT Act, export arises for the transferor of goods, even if the actual transporter of the goods from the Union or the declarant is a person authorised by the transferor or a foreign buyer.

The transferor can treat a transaction as export of goods if he can prove that the goods were delivered to a destination outside the Union. As a general rule, export is where the transferor arranges for taking the goods out from the Union. The transferor can also treat a transaction as export if the goods are taken out of the Union by a foreign buyer. If a buyer who is a foreign person (buyer 1) resells goods to another foreign person (buyer 2), but lodges in his own name (i.e. on behalf of the buyer 1) or has his authorised representative lodge an export customs declaration for such goods, the transferor of goods who is a taxable person in Estonia can also treat the sale of the goods as export of goods subject to 0% tax rate. The condition for the application of the 0% rate is that the Estonian company obtains from buyer 1 a copy of the customs declaration made out by him or on his behalf by his authorised representative or the number of the declaration by which the goods have left the customs territory of the Union. The Estonian company must also have documents to prove that the goods declared on the customs declaration were the ones which it sold to buyer 1 before the declaration was lodged, and the quantities of goods recorded in the export declaration must not be less than those indicated in the transfer documents.

If buyer 1 sells goods in Estonia before exporting them to the next person and the customs declaration is lodged in the name of the next person, the Estonian company can no longer treat the transaction as the export of goods subject to 0% tax rate, but must tax the goods at the rate established in accordance with the Estonian VAT Act. The company must also tax the goods at the rate established in accordance with the Estonian VAT Act if it is unable to obtain from buyer 1 the documents certifying that the goods were taken out of the Union.

The export of goods is also the case if, for example, an Estonian taxable person purchases goods from another Member State and exports the goods to a third country in such a way that the goods do not come through Estonia. In that case the supply is not Estonian and the export must not be declared in the Estonian VAT return.