Intra-Community transfer of goods

Intra-Community transfer of goods means the transfer of possession of goods (a movable) together with the right to use the goods and related benefits as the owner, where the seller, buyer or a third party on their behalf transports the goods from Estonia to another Member State. The seller of the goods must keep the accompanying documents and the documents proving that the goods have been transported to another Member State. If necessary, he must be able to prove to the Estonian Tax and Customs Board with these documents that the goods have been transported from Estonia to another Member State. If the cost of transport increases the selling price of the goods, they together constitute the taxable value of the intra-Community supply of goods and, in that case, the cost of transport is not to be declared as a separate service in the report on intra-Community supply.

The goods can be handed over to the buyer already in Estonia and the buyer can take care that the goods are taken to another Member State, for example by the buyer's car. In this case, the seller must have proof that the goods have been moved to another Member State. The intra-Community supply of goods must be certified by documents certifying the transfer of the goods and the transport of the goods to another Member State. For example, a free-form certificate issued by the buyer showing who is transporting the goods, when the goods will leave Estonia, the means of transport (e.g. car registration number ABC111, the name of the ship, etc.), the destination of goods, and other documents, such as cargo insurance documents, etc., which additionally prove that the goods have been taken out of Estonia.

Example
A company based in Estonia sells a machine to a Latvian company. A company based in Estonia sells a machine to a Latvian company. The machine is transported from Estonia to Latvia. This is an intra-Community supply of goods.

The Estonian company must declare the sales as follows:

- ✓ the value of the sale of the machine must be declared as intra-Community supply of goods in line 3 "Acts and transactions subject to tax at a rate of 0%", in line 3.1 "Intra-Community supply of goods and services provided to a taxable person of another Member State / taxable person with limited liability, total" and line 3.1.1 "Intra-Community supply of goods" of a VAT return.

- ✓ the value of the sale must be declared in the report on intra-Community supply.

The invoice must show the VAT numbers of both the Estonian and the Latvian companies **and a reference to Article 138 of Council Directive 2006/112/EC**. Pursuant to subsection 8^1 of § 37 of the VAT Act, the reference provided for in subsection 8 of the same section may also be replaced by another clear and unambiguous notation.

Example
A taxable person located in Estonia (company A) sells goods to another taxable person located in

Estonia (company B), which sells and delivers the goods to a Lithuanian taxable person (company C). Despite the fact that all three are registered as taxable persons and the goods are taken out of Estonia, no intra-Community supply of goods is effected when company A transfers the goods. Therefore, company A must impose VAT on the goods according to the tax rate applicable in Estonia. When company B sells the goods and delivers them to Lithuanian company C, intra-Community supply of goods is effected.

Company A must declare the transaction as follows:

- ✓ VAT return: the taxable value of goods in line 1 (or line 2) "Acts and transactions subject to tax at a rate of 24% (or 9%)", VAT in line 4 "Total amount of value-added tax (24% of line 1 + 20% of line 1^1 + 22% of line 1^2 + 9% of line 2 + 5% of line 2^1 + 13% of line 2^2)";

- ✓ Report on intra-Community supply: not submitted in case of domestic supply.

Company B must declare the transaction as follows:

- ✓ VAT return: the taxable value of goods sent to Lithuania in line 3 "Acts and transactions subject to tax at a rate of 0%" and in line 3.1 "Intra-Community supply of goods and services provided to a taxable person of another Member State / taxable person with limited liability, total" and field 3.1.1 "Intra-Community supply of goods".

- ✓ In line 5 "Total amount of input VAT subject to deduction pursuant to law", the amount of VAT included in the price of the goods purchased from company A.

- ✓ The value of the sale must be declared in the report on intra-Community supply.

- ✓ On the invoice, company B must indicate both his own and the Lithuanian taxable person's VAT number and **the reference to Article 138 of Council Directive 2006/112/EU.**

In certain cases, the supply of services together with the goods does not constitute intra-Community supply of goods, but the place of taxation of the services is determined on the basis of the tax legislation of the country of the supplier. If the service is deemed to have been provided in another Member State, the Estonian economic operator must know whether he is required to register as a taxable person in that other Member State or not.

Example
A taxable person sells parts of construction works to a buyer from another Member State who is a taxable person and who resells them to the consumer. The Estonian taxable person sells installation service directly to the consumer. In this case, the sale of the construction material is treated as intra-Community supply of goods, but the installation is treated as a service related to immovable property

located abroad.

The sale of parts of constructions works must be declared as follows:

- ✓ in lines 3 “Acts and transactions subject to tax at a rate of 0%”, 3.1 “Intra-Community supply of goods and services provided to a taxable person of another Member State / taxable person with limited liability, total” and 3.1.1 “Intra-Community supply of goods” of a VAT return;

- ✓ the sale of parts of construction works must be declared in the report on intra-Community supply.

If the service provider does not have to register as a taxable person and provides services related to immovable property under the Estonian taxable person’s number in another Member State, the installation service is supply taxed at a 0% rate, since the place of supply is not Estonia (subsection 4 of § 10 of the VAT Act) and the supply is declared in line 3 “Acts and transactions subject to tax at a rate of 0%,” of a VAT return.

The sale of goods from Estonia can only be considered as intra-Community supply of goods if the conditions set out in subsection 1 of § 7 of the VAT Act are met. In other cases, the sale of goods must be taxed in Estonia as domestic supply. The sale of goods to a buyer in another Member State must normally be taxed in Estonia even if the buyer is:

- ✓ an economic operator not disclosing its number of registration as a taxable person allocated in another Member State;

- ✓ an economic operator who is not a taxable person / taxable person with limited tax liability in any Member State;

- ✓ a natural person.

If the seller in Estonia is not convinced that the goods acquired by the buyer will be taken out of Estonia, the sale must not be treated as intra-Community supply of the goods and is subject to VAT at the time of the sale. A foreign taxable person may apply for a refund of VAT on the basis of § 35 of the VAT Act titled “Refund of input value added tax in other cases”.

In the case of the sale of goods to a buyer from a third country who is not registered as a taxable person in any Member State, the conditions imposed on the intra-Community sale of goods are not fulfilled and the sales are therefore not considered intra-Community sale of goods, despite the fact that the goods are actually moving from Estonia to another Member State.

Example
A Norwegian company orders goods from an Estonian company and the goods must be delivered

directly to Finland. Invoice for the goods is issued to the Norwegian company. The goods are taken to another Member State, but since the conditions for the buyer are not met, no intra-Community supply of goods is effected. Since the goods remain within the territory of the Union, no export of goods to a third country takes place either. The seller in Estonia must treat the sales as domestic supply and add VAT in accordance with the provisions of the Estonian VAT Act. The buyer can ask for a refund of the VAT as a non-resident. When the Norwegian company is registered as a taxable person in a Member State and acquires goods under its number of registration as a taxable person, the sale must be treated as intra-Community supply of goods.

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