Intra-Community supply of goods

GENERAL PRINCIPLES

Trade between economic operators registered for VAT purposes within the territory of the European Union is subject to the rules in force in the country in which the buyer is established. A seller registered as a taxable person in Estonia does not add VAT to goods that are delivered to a buyer registered as a taxable person (or which the buyer transports) to another Member State. Although the supply is deemed to have been effected in the country of departure of the transfer of the goods (taxed at the 0% rate), taxation is carried out at the country of destination of the goods and in accordance with the VAT rates in force in the country of destination. In addition to the transfer of goods, it is also regarded as intra-Community supply when a taxable person transports the goods to another Member State for them to be used for business purposes there.

Sales can be regarded as intra-Community supply only if:

- ✓ the seller is certain that the buyer is registered as a taxable person in another Member State and the seller has indicated on the invoice both his own number of registration as a taxable person and the number of registration as a taxable person allocated to the buyer in another Member State; and

- ✓ the goods are moved from one Member State to another Member State; and

- ✓ the invoice refers to **Article 138 of Council Directive 2006/112/EU** or to the corresponding clause of subsection 3 or 4 of § 15 of the VAT Act which is the basis for the application of the VAT rate. According 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 (e.g. a triangular transaction, the sale of a new means of transport, etc.).

As an exception from the above, the transfer of excise goods or a new means of transport to a person of another Member State, i.e. both a person registered as a taxable person and a person not registered as a taxable person together with the transfer of excise goods from Estonia to another Member State, excluding the transfer of excise goods to a natural person for personal purposes, is deemed to be intra-Community supply of goods pursuant to **clause 2 of subsection 1 of § 7 of the VAT Act**.

As of 1 January 2020, the transfer of goods transported from Estonia to another Member State as call-off stock is deemed to be intra-Community supply of goods (clause 4 of subsection 1 of § 7 of the VAT Act, the definition of call-off stock is laid down in subsection 3^1 of § 2 of the VAT Act).

The supply of goods is not deemed to be intra-Community supply of goods effected in Estonia if at the time of sale the goods are not located in Estonia but in another Member State. In such a case, the seller of the goods must take into account the tax laws of the Member State in which the goods are actually located and the seller must know whether he is required to register as a taxable person in the other

Member State where the goods are actually located at the time of sale (except for a triangular transaction).

Example
When an Estonian taxable person sells goods to a Finnish taxable person and at the time of transfer the goods are located in a Swedish warehouse, the sale is taxed in accordance with the Swedish tax law and the seller must know whether he is required to register as a taxable person in Sweden. He must also be aware of the tax rules in force in Sweden.

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