

Intra-Community acquisition of goods

Intra-Community acquisition of goods is (subsections 1, 2, 5, 6 and 7 of § 8 of the VAT Act):

- ✓ the acquisition of goods from a taxable person of another Member State together with the transportation of these goods from the other Member State to Estonia and the acquisition of a new means of transport from a taxable person of another Member State together with the transportation of that means of transport from the other Member State to Estonia;
- ✓ the transport of goods used for business purposes from another Member State to Estonia for the purpose of business being carried out in Estonia;
- ✓ the acquisition of goods from a taxable person of another Member State if the taxable person uses its number of registration as a taxable person in Estonia when acquiring the goods and if the goods are delivered from the Member State of the transferor to another Member State, unless the taxable person proves that value added tax on the intra-Community acquisition of goods will be paid in the Member State to which the goods are delivered, or the taxable person was the reseller in a triangular transaction.

As of 1 January 2020, the acquisition of goods delivered to Estonia as call-off stock (i.e. the transfer of those goods in Estonia) is deemed to be an intra-Community acquisition of goods (subsection 6 of § 8 of the VAT Act).

The intra-Community acquisition of goods also arises in Estonia if the goods delivered to Estonia as call-off stock by a person of another Member State have not been transferred within 12 months or returned to the Member State of dispatch within 12 months of their arrival in Estonia. The goods will be deemed to have been intra-Community acquisitions on the day following the expiry of a period of 12 months. In this case, the person of another Member State is required to register as a taxable person in Estonia and to declare the intra-Community acquisition of goods (subsection 7 § 8 of the VAT Act).

As a general rule, intra-Community acquisitions of goods is taxed in the Member State to which the buyer has delivered the goods. If the goods have been acquired for business purposes, the taxable person has the right to declare the VAT due on the acquired goods as deductible input VAT.

Example

Estonian taxable person E purchases goods with the value of 500 euros from Finland and delivers the goods to Estonia, its country of residence. The goods are subject to taxation under the Estonian Value Added Tax Act.

E must submit a return as follows:

- ✓ VAT return: the value of the goods 500 euros in line 1 "Acts and transactions subject to tax at a rate

- ✓ of 20%” and 100 euros in line 4 “Total amount of value-added tax (20% of line 1 + 9% of line 2” and, in the case of goods acquired for taxable supply, also in field 5 “Total amount of input VAT subject to deduction pursuant to law”.
- ✓ The intra-Community acquisition of goods is also declared in informative fields 6 “Intra-Community acquisitions of goods and services received from a taxable person of another Member State, total, incl” and 6.1. “Intra-Community acquisitions of goods”.
- ✓ The acquisition of goods is not declared in the report on intra-Community supply.

The intra-Community acquisition of goods also takes place in Estonia if the buyer uses the taxable person’s number issued in Estonia to acquire the goods and the transport of the goods has begun in one Member State but ends in another Member State than Estonia.

Example

Taxable person A purchases goods from Germany and arranges the transport of the goods directly to France. If A uses the number of registration as a taxable person issued in Estonia for the acquisition of the goods, the goods are subject to taxation in Estonia under the Estonian tax law, unless the taxable person proves that the VAT on the intra-Community acquisition is paid in the Member State to which the goods were delivered, i.e. in France.

A must submit a return 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 20% (or 9%)”, VAT calculated on that in field 4 “Total amount of value-added tax (20% of line 1 + 9% of line 2)” and line 5 “Total amount of input VAT subject to deduction pursuant to law”.
- ✓ The intra-Community acquisition of goods is also declared in informative fields 6 “Intra-Community acquisitions of goods and services received from a taxable person of another Member State, total, incl” and 6.1 “Intra-Community acquisitions of goods”.
- ✓ The acquisition of goods is not declared in the report on intra-Community supply.

NB! Subsection 5 of § 8 of the VAT Act and Articles 41 to 42 of Directive 2006/112/EC provide for the special case of intra-Community acquisitions described in this example, but do not regulate the deduction of input VAT on such intra-Community acquisitions. In the light of the judgement of the Court of Justice in Joined Cases C-536/08 and C-539/08, the VAT calculated is not automatically deductible as input VAT in this example, but tax authorities have the right to require from taxable person A proof that the supply of goods acquired from Germany and delivered to France was generated in France (for example, exports from France) in order to allow it. **If A resells the goods acquired from Germany to a French taxable person, the goods are transported from Germany to France directly to the final acquirer and A does not have a VAT number in France, then this is a triangular transaction. The intra-**

Community acquisition of goods is not declared in the VAT return, and only the resale in the triangular transaction is declared in the report on intra-Community supply.

SPECIAL ARRANGEMENTS FOR TAXATION

When a buyer transports goods directly to another Member State and it is not the Member State that issued the taxable person's number the buyer used, the goods may also be taxed in the Member State to which the goods were delivered.

If a taxable person proves that VAT has been paid in the Member State to which the goods were delivered or that the goods were acquired for resale to a taxable person of another Member State in a triangular transaction, he is not required to pay VAT in Estonia.

If the VAT on the intra-Community acquisition of goods was paid to the country of delivery of the goods later than the VAT was paid in Estonia, a right to a refund of VAT overpaid in Estonia arises. The buyer must prove that VAT has been paid on the acquisition in the country to which the goods were delivered. The taxable person should correct the return already submitted. In order to amend information submitted in a VAT return concerning a previous taxable period, the person is required to submit a new VAT return with the amended information (subsection 5 of § 27 of the VAT return). The above-mentioned double payment of VAT may occur when the seller's report on intra-Community supply is compared with the acquisition of goods from Member States declared by the buyer.

A consumer who is a natural person cannot be a party to intra-Community trade. He or she is not a taxable person in respect of goods acquired from other Member States, except for the acquisition of new means of transport. The acquisition of new means of transport is subject to a special rule whereby new means of transport are taxed in the country where they are used.